



Australian Government



Australian
Small Business and
Family Enterprise
Ombudsman

Quarterly Report

Q1 (January - March) 2022

Australian Small Business and
Family Enterprise Ombudsman

Message from the Ombudsman



If the first quarter of 2022 is an indicator of things to come, this is going to be an incredibly busy year for the ASBFEO.

In January, we launched our Small Business Natural Disaster Preparedness and Resilience Inquiry. The Inquiry was referred to my agency by the Minister for Employment, Workforce, Skills, Small and Family Business, the Hon Stuart Robert MP, in late December 2021.

Throughout February, we hit the road to hear from small and family businesses impacted by natural disasters at 36 feedback sessions across five states. Their stories were both inspiring and harrowing.

These stories were supported by our online survey which attracted over 2,000 responses across Australia, with small and family businesses sharing their insights about how best the Government can support them to prepare for, contend with and recover from a natural disaster.

Our final report – delivered to the Minister by the due date in March – was informed by this lived experience. Through their personal journeys, we learnt the true cost of natural disasters and the time it takes for small and family businesses to get back on their feet. We also learnt this recovery time could be reduced by being better prepared, taking sensible risk mitigation action and bolstering resilience.

In recent years, many small and family businesses have experienced rolling disasters. The 2019-20 bushfire season was closely followed by the COVID-19 global pandemic. This was on top of ongoing drought conditions and record-breaking flooding in New South Wales and south-east Queensland.

In the aftermath of these natural disasters, we have seen massive clean-up efforts and lengthy and hard-going recovery periods. We have also heard the inevitable question about how will small and family businesses and the communities they contribute to, bounce back? And, what – if anything – could have been done to better prepare.

Throughout the course of our Inquiry, we found community engagement, local leadership and decision making, informed by local knowledge and community connectedness, is critical.

Often it is the local business owners who are the community leaders, who have experienced natural disasters in their region, that can best guide and support their business peers in preparation and planning. These community leaders can help ensure local government messaging is practical and targeted.

That strong sense of community connectedness, including collegiate business relationships – which we have described in our final report as ‘socio-commercial capital’ – leads to more resilient and unified communities that work together to prepare for and respond to natural disasters.

As natural disasters occur more frequently – which the United Nations considers almost certain and with increased severity – small and family businesses could be greatly assisted by improved education and engagement programs to help them prepare accordingly.

Our final report has offered a range of policy proposals addressing these issues. My Agency stands ready to work with disaster recovery agencies and stakeholders, to ensure continuous improvements are made to keep pace with these rolling disasters that are significantly impacting on our small and family business community.

Finally, I want to thank everyone who participated in this Inquiry for their valued and heartfelt contributions, which at times were personally challenging for them.

A handwritten signature in dark ink, which appears to read 'Bruce Billson'.

The Hon. Bruce Billson

Australian Small Business and Family Enterprise Ombudsman

Key Activities

Assistance

- Received 1,334 contacts to our Office, of which 1,078 were requests for assistance directly related to small business disputes.
- Provided assistance to small businesses across a range of payment, contract and franchising disputes and those affected by and recovering from disasters including COVID-19 related issues and flooding.
- Provided assistance to franchise participants, including assisting with 116 franchise related disputes.
- Commenced a training program for case managers to support dispute resolution triage and preparation for alternative dispute resolution processes.

Advocacy

- Completed an Inquiry into Small Business Natural Disaster Preparedness and Resilience.
- Worked to address supply chain issues, including facilitating multiple critical industry forums.
- Facilitated a meeting of the National Policy Forum with the Shadow Minister for Small Business to enable sharing of industry concerns to further small and family business outcomes.
- Welcomed the adoption of recommendations of this Office, including the recent changes to the Commonwealth Procurement Rules, and in the final report from the House of Representatives Standing Committee on Employment, Education and Training's inquiry into the Fair Work Commission Annual Report 2019-20.

Outreach

- Major media appearances: 3AW, The Age, AFR, Money News with Brooke Corte, ABC radio, Kochies Business Builders and AusBiz.
- Key media topics: Small Business Natural Disaster Preparedness and Resilience Inquiry, insurance accessibility, impacts of fake online reviews, payment times, benefits of digitisation including invoicing, 2022-23 Budget.
- Events: The Ombudsman hosted 36 small and family business feedback sessions as part of the Small Business Natural Disaster Preparedness and Resilience Inquiry. This was in addition to eight presentations and webinars; in particular, a webinar with Buy From The Bush Founder Grace Brennan and a separate Boost for Facebook small and family business session in Dubbo, NSW.
- The Ombudsman also presented the 2021 Small Business Champion Awards.



Assistance: Supporting Small and Family Businesses

Industry Codes | Franchising - Horticulture - Oil - Dairy

- We are assisting franchise participants under the Franchising Code of Conduct to understand and utilise the mandatory dispute resolution process, including arranging alternative dispute resolution (ADR) processes and appointing independent ADR practitioners to disputes when requested:
 - We responded to 116 enquiries from franchising participants in the March quarter of 2022.
 - We actively case managed 31 franchise cases, of which 26 were initiated by franchisees and 5 by the franchisor.
- We continued to provide a list of produce assessors to support the Horticulture Code of Conduct and responded to one enquiry relating to the Horticulture Code in the March quarter of 2022.



61% resolved at mediation*



98% of parties acted in good faith*



\$2,746 average cost of mediation*

*All figures based on ADR practitioner reports over the past 12 months

Small Business Tax Concierge Service

- In March quarter of 2022, the Small Business Tax Concierge Service received 21 inquiries from small businesses seeking assistance with negative decision letters received from the Australian Taxation Office (ATO).
- We worked with these small businesses and the ATO to allow their taxation issue to be readdressed by the ATO or referred to independent tax lawyers to provide a subsidised advice about appealing the ATO decision.



Assistance: Supporting Small and Family Businesses

1,334 contacts received via:

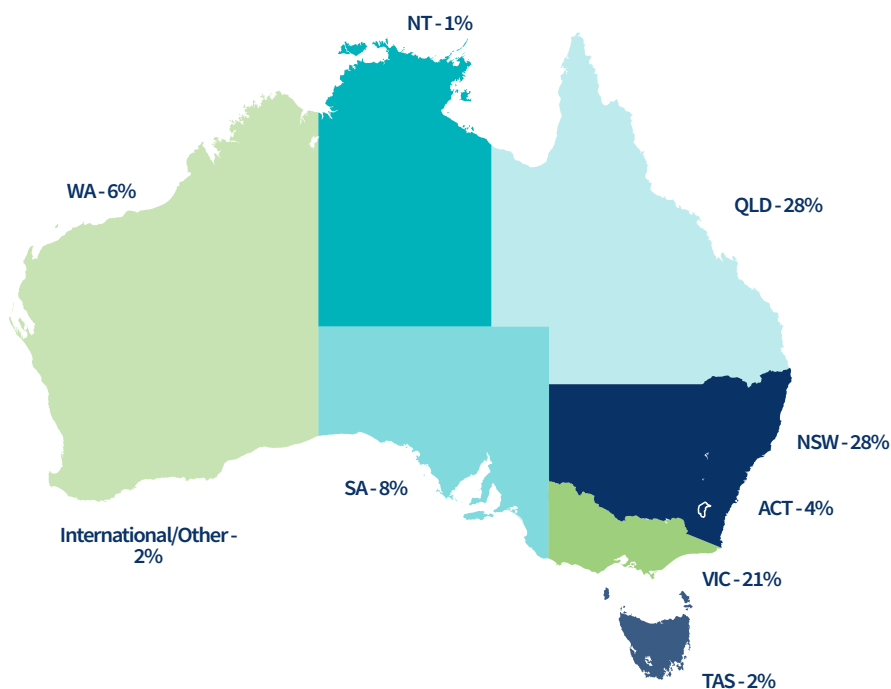


10,392
visits to assistance website info

275
small businesses supported by a case manager

82%
of contacts came from small and family business owners

Contacts by state / territory



Case Management Outcomes

60%

provided active case management support, including providing information to progress dispute.

34%

referred to a more appropriate agency (usually relevant small business commissioner, or alternative government agency).

6%

referred to an alternative dispute resolution process (mostly mediation) of which the majority resolved or partially resolved.

How we helped callers to our info line

49%

given information and directed to the Dispute Support Tool.

24%

referred to ASBFEO case management.

19%

referred to more appropriate agency.

8%

referred to Small Business Commissioner.



98% of calls answered within 10 seconds



Over **98%** customer satisfaction rating

A Voice on Policy and Legislation

Small Business Natural Disaster Preparedness and Resilience

- The Small Business Natural Disaster Preparedness and Resilience Inquiry followed recommendation 10.1 of the Royal Commission into National Natural Disaster Arrangements which states that ‘state and territory governments should continue to deliver, evaluate, and improve education and engagement programs aimed at promoting disaster resilience for individuals and communities’.
- It is clear from this work that preparation is key to small and family businesses building resilience and coming through natural disasters in the best possible shape.
- Governments at all levels have a role to play in ensuring people have the information they need to make informed decisions about how to manage the risks they face from natural disasters and how to be in the best position possible when a natural disaster occurs.
- To support small and family business preparedness and resilience community engagement, local leadership and decision making, informed by local knowledge and strong socio-commercial capital is critical.
- Small and family business owners need greater clarity around how to seek support and certainty of support, so that they can adequately prepare for a natural disaster.

Industrial relations

- Industrial relations remain highly complex and challenging for small and family business owners to navigate. We continue to advocate for simplification of the system and increased support for small and family business.
- The final report from the House of Representatives Standing Committee on Employment, Education and Training’s inquiry into the Fair Work Commission Annual Report 2019-20 provided recommendations in line with the submission from this Office, that:
 - Australian governments should strive to provide clear, consistent and timely advice to employers and employees about policies that may give rise to workplace disputes
 - the Australian Government could consider a mechanism that would allow the Commission to dismiss vexatious claims as a way of reducing time and cost to businesses, in responding to claims that are clearly without merit; with appropriate safeguards to protect the rights of employees.
- The 2022-23 Budget also reflected work done by this Office through the inclusion of a \$5.6 million commitment for the Fair Work Commission to establish a dedicated unit to support small and family businesses, including with unfair dismissal and general protections disputes.

Australia’s productivity

- Small and family businesses have a key role to play in lifting Australia’s productivity, with 97% of all businesses in Australia being small businesses and these businesses employing over 41% of the workforce in 2018-19.¹
- This Office is preparing input to the Productivity Commission’s five yearly inquiry into Australia’s productivity, recommending prioritisation of key areas impacting small and family business productivity, including:
 - addressing sector impediments, making it easier to start, grow, and transform a small and family business in Australia
 - enhancing small and family business opportunities through government procurement, support for small business investment in assets, and digital engagement
 - supporting transformation, allowing small and family businesses to take full advantage of new and unexpected opportunities as they arise.

¹ Australian Small Business and Family Enterprise Ombudsman, [Small Business Counts December 2020](#), p 5

Advocacy: A Voice on Policy and Legislation

Government procurement

- The House of Representatives Standing Committee on Infrastructure, Transport, and Cities released their report following the inquiry into procurement practices for government-funded infrastructure. The report endorsed feedback from this Office, recommending:
 - that where possible, consideration should be given to unbundling projects into packages of less than \$500 million to increase competitiveness by tier two and three companies.
 - making industry sustainability criteria within the early stages of procurement design that encourage tier one contractors to partner/joint venture with a non-tier one company in the head contract a condition of Australian Government funding for major infrastructure projects over \$500 million.
- Significant changes, in line with advocacy from this Office, to the Commonwealth Procurement Rules (CPRs) come into effect from 1 July 2022, including:
 - the unbundling of major projects
 - insurance requirements in contracts to be limited to reflect the actual risk borne by suppliers, and suppliers not to be directed to take out insurance until a contract is to be awarded
 - Defence will be able to limit tenders to SMEs for contracts worth up to \$500,000.
- This Office continues work into opportunities to increase access for women owned and women led small and family businesses to networks and procurement.



Major Input into Policy, Inquiries and Legislation

Enhancing digital engagement

- Submitted on supporting business adoption of eInvoicing recommending:
 - mandating of eInvoicing only be used alongside a 'pull' (incentives) system, with the active reinforcement of small business early adopters
 - the broad participation of government agencies in eInvoicing
 - the inclusion of all actively operating businesses, including sole traders, trusts, and partnerships, after an initial 2-year period.
- Supported the Fair Work Commission (the Commission) to continue to hold proceedings online as the default option and provide an alternative for exceptional circumstances, and recommending the Commission introduce a small business division and provide guidance for parties in dispute, including guidance specific to using technology.
- Supported the introduction of the Social Media (Anti-Trolling) Bill, whilst highlighting that the Bill could be complemented by further regulatory and administrative actions, to help address the legal and financial barriers that small and family business complainants face, when seeking to bring defamation actions in court.



Advocacy: A Voice on Policy and Legislation

Right-sized regulation

- Responded to the review of the Privacy Act 1988 supporting the retention of the small business exemption, with the use of exceptions to the exemption for high-risk activities. This was alongside support for a voluntary accreditation scheme for small businesses and recommending the use of a similar scheme for digital service providers.
- Recommended the Quality of Advice Review should seek to 'right-size' regulations, whilst balancing consumer protections, to reduce the regulatory barriers for financial advisers.
- Responded to the Treasury's consultation on the Regulatory Impact Statement on supporting business through improvements to mandatory standards regulation under the Australian Consumer Law. The submission supported the proposal to make it easier to mandate trusted overseas standards along with mandatory standards being kept in sync with underlying voluntary Australian and trusted overseas standards.

Essential services

- Recommended the small business definition within the Banking Code move to one out of the three criterion, and if not possible, look at a debt value by facility, rather than total combined entities.
- Recommended the Banking Code Compliance Committee consider an inquiry into de-banking in line with the banks' performance in accordance with the Code's Statement of Guiding Principles, ensuring banking services are accessible and inclusive, while provided in a fair and ethical manner.
- Continued to engage with the Cyclone and Related Flood Damage Reinsurance Pool Taskforce in developing the appropriate inclusion of small business and marine industry policies in the pool.

Submissions

Recipient	Number	Recipient	Number
Department of Treasury	10	Australian Securities and Investments Commission (ASIC)	3
Department of Industry, Science, Energy and Resources	1	National Transport Commission	1
Australian Bureau of Statistics	1	Select Legal and Constitutional Affairs Committee	1
Fair Work Commission	1	Australian Competition and Consumer Commission (ACCC)	1
Banking Code Compliance Committee	1	Australian Banking Association	1
Senate Economics Legislation Committee	1	Food Standards Australia New Zealand (FSANZ)	1
Inspector General of Taxation	1		

Outreach: Communications and Stakeholder Engagement

- As part of the Small Business Natural Disaster Preparedness and Resilience Inquiry, the Ombudsman hosted 36 small and family business feedback sessions across five states.
- The ASBFEO engaged an external market research firm (fiftyfive5) to conduct a survey with natural disaster impacted small and family businesses across Australia.
- This survey attracted over 2,000 respondents who shared their insights about how best the Government can support small and family businesses to prepare for, contend with and recover from a natural disaster.
- Representing Australia's small and family businesses, the Ombudsman attended a total of 82 meetings with Government and key external stakeholders; including 4 meetings with Ministers. This is in addition to the 36 Inquiry feedback sessions.
- The Ombudsman also met and collaborated with state-based Small Business Commissioners, in an effort to support the nation's vital small and family business community.
- The Ombudsman gave 25 media interviews, which resulted in 262 media mentions across radio, print and online.
- A number of the media interviews were with local radio stations in natural disaster impacted areas in regard to the upcoming small and family business feedback sessions being hosted by ASBFEO in each local community.
- The ASBFEO promoted each individual Small Business Natural Disaster Preparedness and Resilience Inquiry feedback session, through distribution and publishing of a localised media release, targeted social media posts and through stakeholder networks.
- The ASBFEO online survey and online submissions were also promoted via a media release as well as through targeted social media posts.
- For the 2022-23 Budget, the ASBFEO produced and distributed a Budget night newsletter, media release, 2022-23 Budget placemat as well as social media; detailing measures relevant to small and family business owners.
- 20 videos were published to social media, including a message marking International Women's Day, focusing on the issue of access to finance. The Ombudsman also recognised the significant contribution migrant small and family business owners make to the community and the broader economy on Harmony Day.
- The Ombudsman co-presented the online launch of a new report – Buy from the Bush: Using Digital Tools to Crisis-Proof Rural Australia – with Buy From the Bush Founder Grace Brennan and a number of small and family business owners.
- The Ombudsman also attended a Boost with Facebook session with Buy From the Bush's Grace Brennan, Meta and a number of small and family businesses in Dubbo.

Traditional and Social Media



3,147
newsletter subscribers



6,149 followers
136 posts



Ombudsman
7,311 followers
21 tweets

ASBFEO
2,095 followers
91 tweets



375 followers
71 posts



49
media releases



57,675
visits to the website



2 videos published
470 subscribers



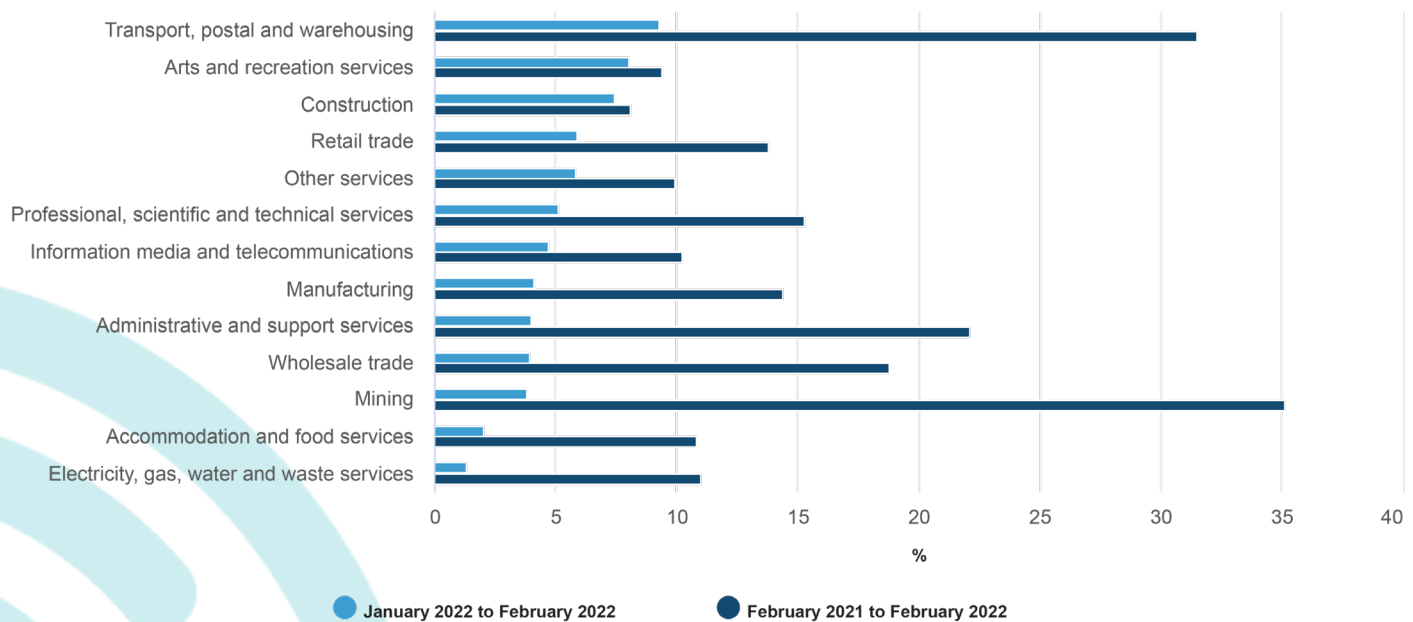
Ombudsman
3,498 followers
27 posts

ASBFEO
3,835 followers
129 posts



262
mentions

Business turnover indicator, change in turnover, seasonally adjusted

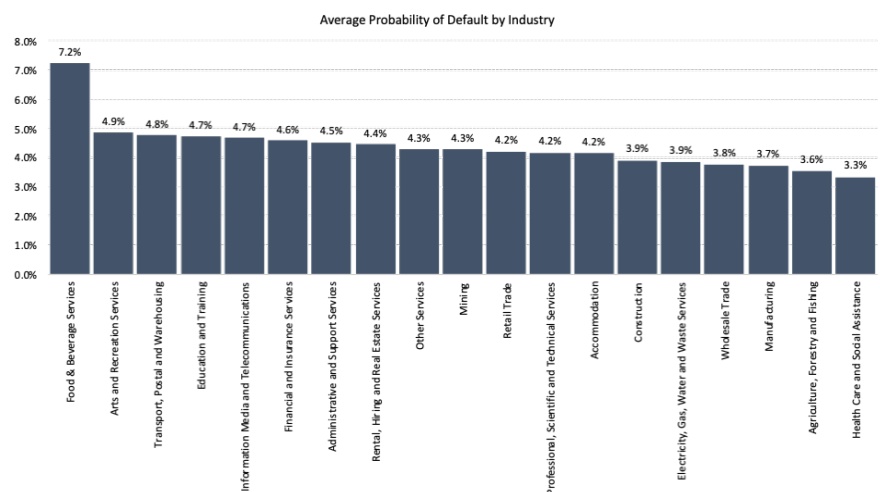


Source: Australian Bureau of Statistics, Monthly Business Turnover Indicator, February 2022

- According to figures released by the Australian Bureau of Statistics, seasonally adjusted business turnover increased in February 2022.²
- Most industries saw business turnover recover from the falls seen during the peak of the Omicron variant in January 2022.
- The largest rises were in Transport, postal and warehousing (9.3%), Arts and recreation services (8.0%) and Construction (7.4%).²
- Through the year, the largest rises were recording in Mining (35.1%) followed by Transport, postal and warehousing (31.5%).²

Default indicator surges in hospitality

- The probability of default in the hospitality industry is forecast to increase from 6.7 per cent to 7.2 per cent from February to March due to staff shortages, supply chain shortages and fuel price increases.
- Given that hospitality spend is viewed as discretionary spending, it is expected to suffer further when rising inflation and interest rates prompt consumers to tighten their belts.
- The Arts and Recreation and Transport industries both saw their probability of default increase by 0.3 per cent.



Source: CreditorWatch RiskScore Credit Rating Average Probability of Default by Industry

² Australian Bureau of Statistics, *Monthly Business Turnover Indicator*, February 2022.

Assistance

- Continue case manager and phone agent training so we are providing consistent and effective assistance in response to small business requests.
- Publish the alternative dispute resolution (ADR) practitioner list to allow small businesses easier access to ADR practitioners and ADR processes.
- Continue to assist small businesses with dispute resolution options under the Franchising Code of Conduct, and streamline the processes for agreed arbitration and multiparty disputes under the Code.
- Promote the Dairy, Horticulture and Oil Codes of Conduct to encourage participants to contact us for assistance early when in dispute.
- Review our small business contact data and examine options to make this data more broadly available to small business and family enterprises, stakeholders and policy makers.

Advocacy

- Developing the My Business Future Initiative to make it easier for small business owners to access and navigate expert business advice and support.
- Advocacy work continues around the challenges for small and family businesses in navigating the complex insolvency system.
- Research into unfair business practices impacting small and family businesses.
- Ongoing work on improving small and family business access to Commonwealth procurement.

Outreach

- Phase two of website redevelopment, with an overall improvement of functionality and usability. This includes focusing on assisting small and family businesses to resolve disputes, improvement of engagement activities, and inclusion of a data hub.
- Focus on social media and promoting awareness of the role of ASBFEO and best practice to small and family businesses, particularly with regional and CALD communities.
- Raising awareness of the My Business Future Initiative.
- Promotion of Assistance Team outcomes, arising from assistance requests made by small and family businesses, and promotion of alternative dispute resolution processes the ASBFEO administers on behalf of the Franchising, Dairy, Horticulture, Oil and Food and Grocery Codes.
- Promote work of the Advocacy Team by highlighting key issues facing small and family businesses through the sharing of submissions, research reports and key findings/recommendations made by the ASBFEO to address these issues.

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