

## Minutes – SME Advisory Group

5 October 2023, Meeting held at The Financial Ombudsman Service, Exchange Tower, London, E14 9SR and on Microsoft Teams

<b>Financial Ombudsman Service attendees</b>	<b>Industry attendees</b>
<p><b>James Dipple-Johnstone (chair)</b>, Deputy Chief Ombudsman</p> <p><b>Andy Wright</b>, Ombudsman Leader</p> <p><b>Dara Meunier</b>, Stakeholder and Regulatory Liaison Lead</p>	<p><b>Andrea Macleay</b>, Senior Policy Advisor, Federation of Small Businesses (FSB)</p> <p><b>Simon Goldie</b>, Director of Advocacy, Finance and Leasing Association (FLA)</p> <p><b>Mike Conroy</b>, Director Commercial Finance, UK Finance</p> <p><b>Liz Barclay</b>, Small Business Commissioner (SBC)</p> <p><b>Richard Bearman</b>, Managing Director Small Business Lending, British Business Bank (BBB)</p> <p><b>John Davies</b>, Chairman, Association of Alternative Business Finance (AABF)</p> <p><b>Alex Veitch</b>, Director of Policy and Public Affairs, British Chambers of Commerce (BCC)</p> <p><b>Mervyn Skeet</b>, Director, General Insurance Policy, Association of British Insurers (ABI)</p>
<p><b>Apologies</b></p> <p><b>Scott Kennerley</b>, Director of Financial and Postal Services, Consumer Council Northern Ireland (CCNI)</p> <p><b>Grace Brownfield</b>, Senior Influencing Manager, Money Advice Trust/Business Debtline (MAT)</p> <p><b>Stephen Hadrill</b>, Director General, Finance &amp; Leasing Association (FLA)</p>	

Item	Agenda
1.	<b>Welcome and introductions</b>
2.	<b>Financial Ombudsman Service updates</b>
3.	<b>External developments affecting our small business work</b>
4.	<b>Small business casework update, including Bounce Back Loan Scheme and Business Interruption Insurance</b>
5.	<b>Open discussion – insight from small business representative groups on the issues affecting small businesses</b>
6.	<b>Main discussion – how has industry been preparing for the Consumer Duty as it affects business customers</b>
7.	<b>Closing remarks and AOB</b>

## **1. Welcome and introductions**

1.1 The chair (James Dipple-Johnstone) welcomed attendees.

## **2. Key updates from the Financial Ombudsman Service**

2.1 The Financial Ombudsman Service highlighted:

- The implementation of our new operating model with a host of digital improvements to improve the pace of our decision making, whilst maintaining our quality.
- The expansion of our business hub team to continue offering free, informal guidance to financial businesses and professional consumer representatives.
- Recent successes in judicial reviews reinforcing the quality of our decision making.

## **3. Update on external developments affecting our small business work**

3.1 The Financial Ombudsman Service provided the following updates:

- In March, the Financial Conduct Authority (FCA) launched a post-implementation review of the changes it made to our jurisdiction in 2019, looking at whether the thresholds it had set for small businesses were at the right level and remained appropriate. We have provided extensive background information and data to the FCA to help its review.
- In June, the Treasury Select Committee (TSC) also launched an inquiry, looking at SME Finance. The issues fall into two broad areas: access to finance and regulatory protections. We have submitted our written response to the TSC, and we continue to engage with them as needed.

3.2 The group commented on both the FCA and TSC reviews into our jurisdictional perimeter:

- Several attendees expressed concern about the imminent closure of the Business Banking Resolution Service (BBRS) and support for the expansion of our jurisdiction to encompass cases currently in the remit of the BBRS. The group affirmed the many benefits of alternative dispute resolution for small businesses through our service.
- There were concerns that small businesses may feel intimidated and ill-equipped to pursue dispute resolution through the courts due to the time and cost. This could discourage engagement with financial services, for example limiting borrowing, which would limit growth.

## **4. SME casework updates**

4.1 The Financial Ombudsman Service provided the following updates:

- From the 1<sup>st</sup> April to 30 September of this year, our small business team resolved 2,134 complaints.
- In that same period, we resolved 630 complaints from the larger small businesses which came into our jurisdiction in 2019. The average uphold rate on complaints from

these larger businesses had stayed the same at 33%.

- Our small business queues are minimal, with most cases being on desk with an investigator within a week of the customer casefile being provided by the financial business.
- There were no significant trends to note but the following observations were made:
  - We have seen a slight uptick in commercial account closure complaints, which have been driven mainly by increased KYC activity by one or two banks.
  - We have also seen a slight increase in complaints about commercial lending (outside of BBLs), partly due to increased recoveries action, but volumes are low.
  - The volume of complaints from guarantors of business lending have also increased slightly, but are still low (about 5 per month).
  - We also continue to see increasing complexity in our merchant services complaints.
- The team has now received almost 4,300 complaints relating to Business Interruption Insurance, of which it has resolved about 4,230. We are now receiving 1 or 2 new cases per week.
- The team has now received over 4,100 complaints relating to Bounce Back Loans, of which it's resolved over 3,900. There continues to be about 10 new cases per week.

#### 4.2 The group shared some insight relevant to these issues:

- The group expressed widespread concern about whether guarantors of business lending are provided with clear communication upfront about their potential liability, and the personal security provided. There was also concern about the lack of reminders provided to guarantors – particularly as guarantors often remain liable after their own involvement in the business has finished. The group agreed that there needs to be a balance between giving enough information so customers can understand agreements while not putting barriers in place (eg an obligation to obtain legal advice) which might limit access to finance. The group predicted a growing volume of complaints coming to us from guarantors of business lending.
- The group agreed with the observation of increasing complexity in the provision of services to merchants for taking payments. There was agreement on the need for further conversations with the FCA and industry to help understand where regulation applies.

## 5. Open discussion: insight from small business representative groups on the issues affecting small businesses

### 5.1 The group discussed account closures and access to finance:

- The group noted that many banks had taken the decision to close accounts for customers not resident in the UK. The small business groups added that many businesses which had found alternative geographic markets outside of the EU post-Brexit had faced their accounts being blocked or closed as risk flags had been triggered – which was proving a dampener on trade in certain international markets. The group agreed that banks sometimes simply didn't understand what the business does.

- There was also concern from the small business representatives that small businesses were not always given enough notice to open another bank account elsewhere, sometimes forcing a period of trading inactivity.
- Some members in the group raised concerns about the availability of credit to small businesses, saying that many businesses were having to look at alternative borrowing options which were more expensive. Others highlighted how covid and new technology had changed many businesses' expectations around access to finance, with borrowers expecting easy and instant access to funds without understanding the complexity of the rules, liabilities and obligations banks operate under.
- The group agreed that early engagement between the lender and customer is key when a business' financial circumstances change, which could prevent default. But it was noted that this is made more difficult by banks centralizing their lending functions, with most small businesses not having a relationship manager. It was also noted that some small businesses don't have capacity to engage with banks early on because they are so small and focused on their trade.
- The group observed that accessing professional advice is now very difficult. However, it was also noted that some small businesses are moving away from challenger banks to larger banks to gain tools for managing their business better.

## **6. Main discussion: how has industry been preparing for the Consumer Duty as it affects commercial customers**

6.1 The group shared their preliminary insights on the implementation of the Consumer Duty and its impact on small businesses:

- Both the insurance and banking representatives set out the efforts undertaken by their members to ensure compliance with the Consumer Duty for business customers, reviewing the customer journey, communication, and their fair value assessments.
- The group was positive about the anticipated benefits of the Consumer Duty, but noted some challenges:
  - There is wide concern among regulated firms about constantly moving the regulatory goal posts as the FCA, and the regulatory system, work on the basis of industry best practice.
  - If the cost of compliance becomes too high, it will cause some providers to exit some markets, reducing competition and weakening outcomes for customers.
  - Even where businesses have already complied with the Consumer Duty in their standards, they may not have documented all the relevant steps. This review and documentation process was itself resulting in significant cost for regulated firms.
  - The journey for a business customer to access finance will take longer under the Consumer Duty due to increased checks and criteria.

## **7. Closing remarks and AOB**

7.1 The chair thanked everyone for coming and closed the meeting.