



Australian Government

Independent Review of Australian Small Business and Family Enterprise Ombudsman

Ms Judy O'Connell, Independent Reviewer

June 2025

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In the spirit of reconciliation, the Treasury acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples.

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Glossary

Term	Definition
AADA	Australian Automotive Dealer Association
AAT	Former Administrative Appeals Tribunal
ABS	Australian Bureau of Statistics
ACCC	Australian Competition and Consumer Commission
ACCI	Australian Chamber of Commerce and Industry
ACT	Australian Capital Territory
ADR	Alternative Dispute Resolution
Advocacy team	Policy and Advocacy team
AFCA	Australian Financial Complaints Authority
AMDRAS	Australian Mediator and Dispute Resolution Accreditation Standards
APS	Australian Public Service
ART	Administrative Review Tribunal
ASBFEO	Australian Small Business and Family Enterprise Ombudsman
ASBO	Asbestos and Small Business Ombudsman (United States)
ASIC	Australian Securities and Investments Commission
Assistance team	Information and Assistance team
ATO	Australian Taxation Office
CA ANZ	Chartered Accountants Australia and New Zealand
CAFBA	Commercial & Asset Finance Brokers Association of Australia
CALD	culturally and linguistically diverse
Case Manager	ASBFEO Case Manager
COSBOA	Council of Small Business Organisations Australia
Data team	Economic and Data Analytics team
DISR	Department of Industry Science and Resources
DRA	Disputes Resolution Adviser
EM	Explanatory Memorandum
EPA	Environmental Protection Agency (United States)
ESG	environmental, social and governance
FBA	Family Business Association
FOSSB	Financial Ombudsman Service for Small Business (United Kingdom)
FRAG	Federal Regulatory Agency Group
Franchising Review	2023 Independent Review of the Franchising Code of Conduct
FWO	Fair Work Ombudsman
IGTO	Inspector-General of Taxation and Taxation Ombudsman
IPA	Institute of Public Accountants

Term	Definition
ISO	International Organization for Standardization
ITECA	Independent Tertiary Education Council Australia
MBIE	Ministry of Business, Innovation and Employment (New Zealand)
McCluskey Review	2017 Review of the Australian Small Business and Family Enterprise Ombudsman
McGregor Review	2021 Review of the Australian Small Business and Family Enterprise Ombudsman
MPS	National Mediation Accreditation System Practice Standards
MTAA	Motor Trades Association of Australia
NANA	Newsagents Association of NSW & ACT Limited
NECA	National Electrical and Communications Association
NT	Northern Territory
OIA	Office of Impact Analysis
Ombudsman, the Ombudsman	The ASBFEO Ombudsman, currently the Hon Bruce Billson
ONO	Office of the National Ombudsman (United States)
OPO	Office of Procurement Ombudsman (Canada)
OSBC	Office of the Small Business Commissioner (United Kingdom)
OSSB	The Financial Ombudsman Service for Small Business (United Kingdom)
PGPA Act	Public Governance, Performance and Accountability Act 2013 (Cth)
Public Service Act	Public Service Act 1999 (Cth)
QSBC	Queensland Small Business Commissioner
Review team	Ms Judy O’Connell and the Secretariat
Review, the Review	2025 Independent Review of the Australian Small Business and Family Enterprise Ombudsman
SA	South Australia
SBA	Small Business Administration (United States)
SBCs, SBC	Small Business Commissioners, Small Business Commissioner
SBDC (WA)	Small Business Development Corporation (Western Australia)
SBDH	Small Business Debt Helpline
SBTC	Small Business Tax Concierge
The Act, ASBFEO Act	Australian Small Business and Family Enterprise Ombudsman Act 2015 (Cth)
ToR	Terms of Reference
UK	United Kingdom
US	United States
VSBC	Victorian Small Business Commission

Letter of Transmittal

18 June 2025

The Hon Dr Anne Aly MP
Minister for Small Business, Multicultural Affairs and International Development
Parliament House
CANBERRA ACT 2600

Dear Minister

I am pleased to submit the report of the third independent review of the Australian Small Business and Family Enterprise Ombudsman (ASBFEO).

In accordance with the terms of reference for 2025 Independent Review of the Australian Small Business and Family Enterprise Ombudsman (the Review), I have considered the matters prescribed in section 95 of the *Australian Small Business and Family Enterprise Ombudsman Act 2015* (Cth) (the Act) relating to assistance and beyond these matters also assessed whether ASBFEO's assistance and dispute resolution function is fit-for-purpose within the broader dispute resolution ecosystem; ASBFEO's effectiveness and efficiency in undertaking its function including in the franchising sector; and the suitability of the nomenclature and branding attached to the statutory office. I have done so having regard to the two previous reviews of ASBFEO in 2017 and 2021 and the findings of the 2023 Independent Review of the Franchising Code of Conduct.

The Review consulted broadly with approximately 50 stakeholders who shared their views and insights into ASBFEO's functions and effectiveness through 45 meetings and 3 roundtables. The Review also received 34 written submissions and conducted 2 surveys. In addition, the Review met with ASBFEO numerous times who were very generous with their time and provided extensive information throughout the Review. I would like to express my gratitude to all parties involved for their professionalism and constructive way in which they engaged with myself and the Secretariat.

It is clear that ASBFEO's assistance and advocacy functions are highly valued by small businesses, but some targeted improvements could increase its effectiveness and efficiency. Most key stakeholders and state and federal government agencies overwhelmingly supported ASBFEO's advocacy role. However, the advocacy function has a very broad and complex agenda. To ensure advocacy efforts deliver impact in the areas of greatest concern for small businesses, I have recommended ASBFEO employ a more formal approach to developing a disciplined advocacy agenda.

This formal approach to setting priorities in the advocacy space will also benefit ASBFEO's Economic and Data Analytics team (Data team). Due to the high regard stakeholders have for their data work, the team are dealing with a high volume of requests for data analysis across a range of areas. The Review finds the Data team need to support ASBFEO's core assistance and advocacy functions, before taking on additional work.

ASBFEO's assistance function is vital for small businesses needing low-cost dispute resolution. ASBFEO has advanced its assistance function over the past 10 years. The Contact Centre is working effectively; however, ASBFEO's mediation services are underutilised, and disputes are often not fully

resolved. To be fully effective in providing a low-cost dispute resolution service, the Government should consider amending the Act to enable ASBFEO to conduct Alternative Dispute Resolution (ADR). This includes allowing ASBFEO Case Managers to negotiate resolutions with parties before mediation and procure a mediation panel to appoint mediators. Increased requests for assistance resulting from ASBFEO conducting ADR may warrant additional funding.

ASBFEO has developed an informative website, and a strong media and social media presence. However, a large proportion of small businesses are unaware of the services ASBFEO offers. Small Business Commissioners or professional advisers are usually the first point of contact for a dispute however a large number of professional advisers are also unaware of ASBFEO's services. The Review recommends that the communication and engagement strategy be updated with a greater focus on the assistance function especially among industry associations and legal and accounting professions and special interest groups, including small businesses run by First Nations people and members of the multicultural community.

There was overwhelming support for a name change for ASBFEO as the current name is difficult to pronounce and does not reflect its functions. The Review recommends that the name be changed to incorporate the term Commissioner to better reflect the role of ASBFEO. Rebranding will require additional funding to promote awareness of the new brand.

The Review also assessed the efficacy of ASBFEO's role in the franchising sector with regard to the findings of the 2023 Independent Review of the Franchising Code of Conduct (Franchising Review). The Franchising Review recommended improvements to access justice and guidance material for franchisees. As these recommendations have only been recently implemented or are still to be implemented it is too early to assess their effectiveness. Therefore, the Review recommends the implementation of these recommendations be evaluated as part of the next statutory review of the ASBFEO, however low-cost legal advice should be reviewed after 2 years of implementation.

Finally, I would like to thank the Treasury secretariat (Michelle Calder, Nerida Cole, Petra Petersen and Eilish Kochel) for their highly professional support, analysis and management of the Review. I would also like to thank ASBFEO for sharing their insights and providing extensive information throughout the Review.

I wish the Government well in considering the recommendations of this Review and thank you for the opportunity to work on this important Review.

Yours sincerely

A handwritten signature in blue ink, reading "Judy O'Connell". The signature is written in a cursive, flowing style.

Ms Judy O'Connell
Independent Reviewer

Executive summary

Since its inception almost 10 years ago, Australian Small Business and Family Enterprise Ombudsman (ASBFEO) has grown to provide an essential service to small businesses through its assistance and advocacy roles. The Ombudsman's independence gives stakeholders confidence that it can appropriately represent the views of small businesses, and its assistance function provides a mechanism for efficient dispute resolution.

A review is required every 4 years under section 95 of the *Australian Small Business and Family Enterprise Ombudsman Act 2015* (Cth) (ASBFEO Act, the Act), to assess whether the ASBFEO's assistance and dispute resolution function is fit-for-purpose within the broader dispute resolution ecosystem. This is the third review of ASBFEO as previous reviews were conducted in 2017 and 2021, therefore it is timely to undertake a comprehensive review of its operations including the advocacy and assistance functions, the roles of the franchising sector and assessing the nomenclature and branding of the office.

ASBFEO has matured in its approach to advocacy and assistance over the past 10 years. Small businesses and the broader community highly value its role, and this has been recognised nationally and internationally. ASBFEO received the ICSB LightHouse Award 2024–2025 from the International Council for Small Business, and the 2025 Ombudsmen and Commissions Alternative Dispute Resolution Group of the Year award from the Australian Dispute Centre.

Stakeholders and state and federal government agencies overwhelmingly supported ASBFEO's advocacy role. ASBFEO is highly regarded and respected by stakeholders. It understands small business issues and advocates effectively in forums. The Ombudsman is very generous with his time and willingness to attend conferences and small business events. Those who attend the ASBFEO forums highly value their participation.

ASBFEO's engagement with policy and regulatory reform has been broad reaching, including government departments and regulators, parliamentary committees and industry associations. Stakeholders who participated in the 2025 Independent Review of the Australian Small Business and Family Enterprise Ombudsman (the Review) perceived the advocacy function as the primary focus for ASBFEO. A more structured approach to setting advocacy priorities is needed to capitalise on this role into the future. This should include gathering intelligence from stakeholders, defining its role with other key agencies, documenting a framework for prioritising topics, and measuring advocacy outcomes.

Stakeholders applauded ASBFEO's research and data function, with many associations and government agencies using it to inform their policies and advocacy agendas. This has put pressure on the Economic and Data Analytics team's (Data team) resources. A framework for advocacy work will also help ASBFEO's Data team align data requests and research to the priorities of the assistance and advocacy functions.

The Review considered the types of assistance requested by small businesses, and whether that assistance was convenient and effective. Consultation emphasised the vital need for ASBFEO's assistance function, especially low-cost dispute resolution and highlighted the limitations in ASBFEO's ability to conduct Alternative Dispute Resolution (ADR). ASBFEO's mediation services are underutilised, and disputes are often not fully resolved. Current legislation prohibits ASBFEO from conducting ADR. The Review determined that amending legislation to enable ASBFEO to conduct ADR

services at the pre-mediation stage and to procure a panel of independent mediators is necessary, as this would enable ASBFEO to be more effective in providing a low-cost dispute resolution service.

ASBFEO's role is to assist small businesses without duplicating the work of other agencies. However, referring small business dispute cases to other agencies accounts for approximately a quarter of the Information and Assistance team's (Assistance team) workload. Reviewing the process to transfer the documents and information regarding a dispute case to other agencies, and revising the Contact Centre referrals process would help enable the timely transfer of cases.

ASBFEO has recognised that its reporting function needs further work to allow the tracking and extraction of intelligence from a dispute case. ASBFEO's ambition is to achieve International Organization for Standardization (ISO) accreditation for the assistance function, and the Review commends this. The accreditation when finalised will provide small businesses confidence that ASBFEO's assistance services meets the international standards and expectations of delivering high quality ADR processes.

Stakeholders highlighted the important role that ASBFEO plays in the franchising sector. ASBFEO provides access to low-cost dispute resolution under the Franchising Code of Conduct and advocates effectively for franchisees, representing their views in policy forums. ASBFEO is currently implementing some of the recommendations from the 2023 Independent Review of the Franchising Code of Conduct (Franchising Review); providing low-cost legal advice before formal ADR, publicly naming franchisors who have not participated in meaningful ADR and improving guidance material for franchisees. As these measures have only been recently implemented or are still to be implemented, it is too early to assess their effectiveness and should be evaluated later.

Small business owners and some small business associations still lack awareness of ASBFEO. Although Small Business Commissioners (SBCs) or professional advisers are usually the first point of contact for a dispute, it is still essential for the small business community to understand the support and assistance ASBFEO can provide. An updated communication and engagement strategy focusing on the assistance function would support greater recognition.

There was overwhelming support for a name change for ASBFEO as the current name is difficult to pronounce and does not reflect its functions. Stakeholders supported a name change that incorporated the term 'Commissioner' to better reflect the role of ASBFEO. An awareness campaign would be necessary to promote awareness of the new name and require additional funding.

Recommendations

Recommendation 1: Australian Small Business and Family Enterprise Ombudsman (ASBFEO) should consider a biannual forum with agencies that do not typically focus on small business matters but may benefit from an improved understanding of the issues small businesses encounter. The structure could be similar to the Federal Regulatory Agency Group (FRAG) forum and include agencies such as the Tax Practitioners Board and the Department of Agriculture, Fisheries and Forestry.

Recommendation 2: ASBFEO should review its agenda for the advocacy function to ensure it includes a clear prioritisation of the advocacy and data research program, including:

- a mechanism to gather intelligence from a broader range of small business stakeholders, including stakeholders representing small businesses run by women, First Nations people, members of multicultural communities; based in regional and remote areas
- a re-evaluation of the 4-pillar process, and development of a methodology to enable prioritisation of key issues to be addressed in the forward work plan, while accommodating emerging issues
- evaluating advocacy activities by developing success measures that can be recorded and tracked by the Economic and Data Analytics team (Data team).

The Australian Government may also wish to explore the possibility of issuing a Statement of Expectations to ASBFEO.

Recommendation 3: ASBFEO should refocus the efforts of its Data team to support ASBFEO's core functions – advocacy and assistance – and align with the overall organisational and advocacy priorities (refer to previous recommendation).

Recommendation 4: ASBFEO should request the Australian Bureau of Statistics (ABS) Methodology team formally review the Small Business Pulse Index to ensure it follows an approved methodology.

Recommendation 5: ASBFEO should review current guidance materials and tools for dispute resolution to ensure they are more user friendly, provide better guidance on mediation processes and include more case studies.

Recommendation 6: ASBFEO should improve the process of transferring assistance cases to other agencies to reduce the number of cases that ASBFEO double-handles by:

- Evaluating a sample of dispute cases the Contact Centre sent to the Case Management team, which were then referred to another agency.
- Reviewing the internal procedures for the Contact Centre to ensure that most cases that should be transferred to other agencies, are sent directly from the Contact Centre.
- Upgrading the current websites dispute support online reference tool.
- Educating agencies that transfer dispute cases to ASBFEO on the types of cases that ASBFEO can act on.

Recommendation 7: The Australian Government should consider amending the *Australian Small Business and Family Enterprise Ombudsman Act 2015* (Cth) to enable ASBFEO to undertake Alternative Dispute Resolution (ADR) by:

- Allowing Case Managers to negotiate a resolution before mediation (pre-mediation), including:
 - assessing if there is a legitimate dispute
 - talking to both parties to ensure they understand the issues well, and working with them to settle the dispute without mediation
 - preparing both parties for mediation so they understand the mediation process and the role of the mediator.
- Procuring a mediation panel whereby independent mediators are chosen based on their mediation success rate and expertise in the field.
- Using certificates when a party refuses to negotiate in good faith at mediation.
- Expanding the use of ASBFEO's information powers and notification powers in cases of parties 'ghosting' or avoiding calls, emails and written correspondence.

The Australian Government could consider subsidising the cost of mediation to make it more accessible to small businesses.

Recommendation 8: ASBFEO should:

- conduct a post-implementation review of the Small Business Tax Concierge (SBTC) service in 2 years to determine its effectiveness. Evaluation measures should be developed, and the Data team should track these outcomes
- promote awareness of the SBTC through mechanisms such as forums with tax practitioners, and newsletters.

Recommendation 9: ASBFEO should review its reporting systems to ensure:

- assistance and disputes activity is consistently tracked across reporting periods and dispute cases reported to include the types of disputes and the outcomes reached
- intelligence gathered from analysing requests for assistance is used for case studies and case pathways on the website, and the advocacy agenda on systemic issues
- it communicates themes and trends in disputes more effectively
- it uses one-page briefs to highlight key policy reforms that may address issues arising from trends and themes in disputes.

Recommendation 10: ASBFEO should develop assistance service standards and key performance indicators to measure effectiveness and publish the results where appropriate.

Recommendation 11: ASBFEO should develop surveys that cover the preliminary assistance stage and/or after mediation. Surveys should also be undertaken for SBTC and low-cost legal advice.

Recommendation 12: As part of the next statutory review of ASBFEO, the Australian Government should assess the implementation of the recommendations specific to ASBFEO from the 2023 Independent Review of the Franchising Code of Conduct.

Recommendation 13: ASBFEO should develop a communications and engagement strategy to promote greater awareness of ASBFEO services. The strategy should:

- cover meetings, forums, media and social media
- leverage AusIndustry's extensive outreach network to build efficiencies and avoid duplication
- consider special interest groups, including small businesses run by First Nations people, members of multicultural communities, and in regional and remote areas.

Recommendation 14: ASBFEO should take steps to reference data with greater clarity in its communications, to improve accuracy and consistency of reporting and the data it produces or uses. When communicating statistics or explaining research findings in media and other publications, ASBFEO should reference and communicate the findings by quoting the correct year and the source.

Recommendation 15: The Australian Government should consider changing ASBFEO's name to include 'Commissioner' to better reflect its role. Suggestions include:

- National Small Business Commissioner
- Federal Small Business Commissioner
- Australian Small Business Commissioner.

Observations

Observation 1: ASBFEO – in conjunction with the Office of Impact Analysis and Treasury – may wish to consider if the development and publication of a practical guide on small business impact analysis would be an efficient way to improve the consistency of analysis.

Observation 2: To measure the effectiveness of its services, ASBFEO could use the ‘satisfaction survey’ and service standards it currently uses in its Contact Centre.

Observation 3: Franchisees need to know which agency is best suited to deal with their franchising dispute, and their rights during the ADR process. ASBFEO should address this when implementing the 2023 Independent Review of the Franchising Code of Conduct Recommendation 17 on best practice guidance and education.

Chapter 1: About this Review

This review considers whether ASBFEO's functions and operations are effective, efficient, and aligned with the needs of the small business community. Section 95 of the *Australian Small Business and Family Enterprise Ombudsman Act 2015* specifies a review of the assistance function of ASBFEO every 4 years.

This is the third independent review of ASBFEO's functions. This Review was initiated in November 2024 and is required to be delivered to the Government by 18 June 2025. The first independent review was conducted by Ms Su McCluskey in 2017 (McCluskey Review). The second review was undertaken in 2021 and led by Ms Carmel McGregor PSM (McGregor Review). As ASBFEO is approaching 10 years of operation, it is appropriate to undertake a comprehensive evaluation of its operations.

While most elements of the Terms of Reference (ToR) focus on the assistance function, the Review also evaluates whether ASBFEO's service offerings align with the needs of the small business community. The advocacy function is a significant focus of ASBFEO. As such, it is appropriate that it is assessed as ASBFEO matures. The ToR include the matters prescribed in section 95 of the ASBFEO Act. These are:

- the kinds of assistance requested during the period being reviewed
- whether the assistance given was convenient and effective for the operators of small businesses and family enterprises who requested
- whether amendment of the Act is needed to more conveniently and effectively assist the operators of small businesses and family enterprises.

Beyond the matters set out in section 95 of the ASBFEO Act, the Review should:

- Assess whether the ASBFEO's assistance and dispute resolution function is fit for purpose within the broader dispute resolution ecosystem in supporting access to justice for small businesses and family enterprises.
- Evaluate ASBFEO's effectiveness and efficiency in undertaking its functions, including whether ASBFEO's service offerings align with the needs of the small business community.
- Assess the efficacy of ASBFEO's role in the franchising sector, taking into account the findings of the 2023 Independent Review of the Franchising Code of Conduct.
- Assess the suitability of the nomenclature and branding attached to the statutory office, having regard to the nature of the role, possible future functions and community awareness of the office and its services.

In considering these matters, the Review also considered how ASBFEO responded to the two previous reviews of ASBFEO in 2017 and 2021. A table of recommendations from these reviews is provided in Appendix A.

Ms Judy O’Connell was appointed to lead the Review. Ms O’Connell has extensive experience with the small business sector, as she was previously Commissioner at the Victorian Small Business Commission. She was also an Assistant Commissioner at the Australian Taxation Office, and since 8 December 2023, she has been a part-time member of the Board of Taxation. To support Ms Judy O’Connell, a small secretariat was established within the Treasury, comprising: Michelle Calder (Head of Secretariat), Nerida Cole, Petra Petersen and Eilish Kochel.

Overview of consultation process

Ms Judy O’Connell and the Secretariat (Review team) wish to express their appreciation to all stakeholders who participated in the Review. Approximately 50 stakeholders shared their views and insights into the ASBFEO’s functions and effectiveness through meetings, roundtables, surveys and written submissions.

The Review team appreciates ASBFEO’s time and extensive information provided throughout the Review. ASBFEO attended 3 meetings to give the Review team insight into its operations. ASBFEO also provided a comprehensive submission, which included some recommendations outside the Review’s scope.

Ms O’Connell released the consultation paper on 22 November 2024. It invited the public to make written submissions. The Review received a total of 34 written submissions, listed in Table 1.1 (with the exception of confidential submissions).

Table 1.1: List of submissions

Submitted by
Australian Amusement, Leisure and Recreation Association
Australian Automotive Dealer Association
Australian Chamber of Commerce and Industry
Australian Charities and Not-for-profits Commission
Australian Small Business and Family Enterprise Ombudsman
Business Enterprise Centres Australia
Clubs Australia
Commercial & Asset Finance Brokers Association of Australia
Consult Australia
Council of Small Business Organisations Australia
CPA Australia and Chartered Accountants Australia and New Zealand
Entrepreneurial & Small Business Women Australia
Family Business Association
Federal Chamber of Automotive Industries
GM Advisory (Australia) Services
Independent Tertiary Education Council Australia
Institute of Certified Bookkeepers

Table 1.1: List of submissions (continued)

Submitted by
Institute of Public Accountants
LBG Services Group
Mortgage and Finance Association of Australia
Motor Trades Association of Australia Limited
National Electrical and Communications Association
Newsagents Association of NSW and ACT Limited
Pinter and Partners
Post Office Agents Association Limited
Queensland Law Society
Shopping Centre Council of Australia
Small Biz Matters
Small Business Association of Australia
Small Business Debt Helpline and Financial Counselling Australia
Small Business Development Corporation
Small Enterprise Association of Australia and New Zealand
Tasmanian Small Business Council

The Review team held 3 roundtable events in December 2024 and January 2025. These included:

- 8 small business owners based in Queensland who were members of the Business Chamber Queensland (held on 2 December 2024).
- 3 employees of the Business Chamber Queensland (held on 2 December 2024).
- 4 stakeholders from franchising industry, including the Federal Chamber of Automotive Industries, Franchise Council of Australia, Motor Trades Association of Australia and Australian Automotive Dealer Association (held on 30 January 2025).

The Review team held an additional 45 bilateral stakeholder meetings across Australia. These meetings included federal and state government agencies, industry associations, peak bodies and special interest groups. The Appendix B provides the list of all consultation meetings.

Ms O’Connell conducted 2 online surveys during the consultation period – a stakeholder survey, and a mediator survey.

The stakeholder survey sought feedback from small businesses and their representatives on ASBFEO’s effectiveness in addressing the needs of the small business community. It aimed to identify areas of strong performance and opportunities for improvement. The Review team distributed the survey through various channels, including government agencies and industry associations that shared it with their members. The stakeholder survey was open from 30 January 2025 to 31 March 2025 and received 225 responses. Appendix C contains a summary of the stakeholder survey findings.

Ms O’Connell sent the mediator survey to 49 mediators on ASBFEO’s ADR practitioners list. The survey aimed to obtain feedback regarding mediators’ work with ASBFEO on delivering mediation services. The survey opened on 24 February 2025 and closed on 16 March 2025, receiving 15 responses. Appendix D contains a summary of the mediator survey findings.

Overview of the small business environment in Australia

Australia’s 2.5 million small businesses are essential contributors to innovation and economic growth.¹ Small businesses provide approximately \$590 billion to the economy and employ around 5.4 million people. This accounts for around 42 per cent of the private sector workforce.² (Figure 1.1). Small businesses also play an important role in the community, building a sense of belonging for many Australians. They provide economic opportunities and preserve cultural traditions by involvement in local sports events, promoting innovation and community spirit. These events encourage spending within the community and support local suppliers, providing for the diverse needs of the community.

Figure 1.1: Small business environment



Small businesses operated by family members are a vital part of the small business sector. There are 1.4 million family businesses in Australia which comprise small, medium and large businesses.³ For the purpose of this Review, all references to ‘small businesses’ include family enterprises that are small businesses, as these are a subset of the broader small business sector.

Many small businesses are also part of the franchising sector, as most franchisors and almost all franchisees are small businesses. The franchising sector comprises more than 1,100 franchisors and more than 70,000 franchisees.⁴ Franchising has additional challenges for small businesses as franchisors often have greater resources and access to information resulting in power imbalances and information asymmetry between franchisors and franchisees. It is vital that parties know where to go for information and assistance with disputes.

1 J Collins, *Address to the launch of the State of Small Business data report* [speech], Ministers Treasury Portfolio, 14 August 2024, accessed 15 May 2025.
2 Australian Government, *National Small Business Strategy: Working together for small businesses*, Department of the Treasury, p 10, accessed 15 May 2025.
3 Family Business Association (FBA), *Submission to the Independent Review of the Australian Small Business and Family Enterprise Ombudsman (ASBFEO)*, January 2025, p 2.
4 Dr Michael Schaper, *Independent Review of the Franchising Code of Conduct*, December 2023, p 12.

Certain sectors of the small business community face particular impediments in conducting their business. These include women, those identifying as First Nations people and members of multicultural communities and regional and remote small businesses. Challenges include time constraints for women juggling work and family and language and culture barriers for First Nations people and members of multicultural communities. These challenges are compounded for small businesses in remote and regional areas, which often lack professional advisers and dispute resolution facilities. These small business owners and operators may not know how to access dispute resolution services despite having a greater need for these services.

Small businesses face challenges on a regular basis. These may include a shortage of staff, financial difficulties or regulatory and compliance requirements. Their vulnerability is further exacerbated by events such as natural disasters or supply chain disruptions. In these situations of stress, small businesses may be unprepared and unaware of the support available to them. Mental health issues have also been found to affect small business owners as they often face challenges and pressures in solitude. It is important for small businesses to have access to information so they can deal with the difficulties experienced and ensure the viability of their businesses.

Managing disputes, such as disagreements over payments for goods and services or other contractual obligations, can be a time consuming and demanding aspect of running a business. When small businesses lack awareness of, or access to effective low-cost alternative methods for addressing disputes, they may avoid involving a third party to resolve disputes or ignore the dispute altogether. This can significantly impact the small business, including an increased risk of business failure. Equipping small businesses with the right tools to effectively manage can enhance their success and ability to contribute positively to the economy.

Government policy and regulatory settings can significantly impact the productivity of small businesses. However, as small businesses are time poor and have resource constraints, they are unlikely to actively engage with government. This makes it challenging for policymakers to gain practical insights into the impact of reforms on small businesses. Therefore, it is essential for small businesses to be represented and have their views heard.

The purpose of ASBFEO is to reduce these challenges for small businesses. It does this by providing information, facilitating timely and cost-effective access to dispute resolution services, and ensuring small business views are heard by government.

Chapter 2: Overview of ASBFEO

The ASBFEO Ombudsman (the Ombudsman) is an independent statutory appointment. The Hon Bruce Billson is the current Ombudsman appointed for a 5-year term in March 2021. Ms Kate Carnell AO was the inaugural Ombudsman from 2016 to 2021.

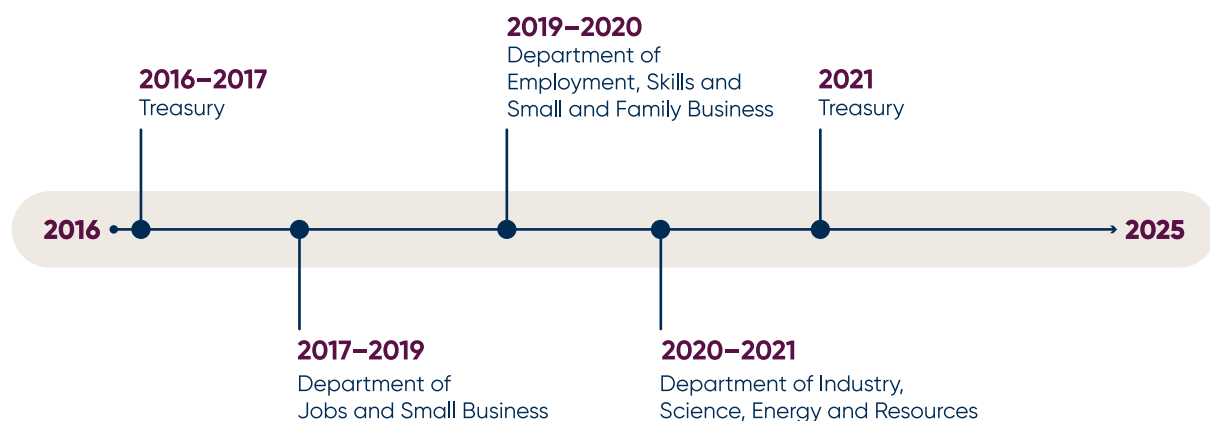
The Ombudsman is supported by an office funded by the Australian Government that provides assistance and advocacy to small business and family enterprises. The ASBFEO Act section 5 defines small business or family enterprise as one with fewer than 100 employees or an annual revenue less than \$5 million.

ASBFEO commenced operations in March 2016 and is governed by the ASBFEO Act. The ASBFEO Act sets out the functions of ASBFEO, which include:

- advocating for small businesses and family enterprises concerning relevant legislation, policies and practices (the advocacy function)
- giving assistance to small businesses and family enterprises in dispute with other businesses or Australian Government agencies (the assistance function)
- performing any other function conferred on the Ombudsman by any Act or legislative instrument.

ASBFEO was transferred from the Department of Industry, Science, Energy and Resources to Treasury through a Machinery of Government change effective 15 April 2021 (Figure 2.1). Before that it was assigned to the Department of Employment, Skills and Small and Family Business (2019–2020); the Department of Jobs and Small Business (2017–2019), and Treasury (2016–2017).

Figure 2.1: ASBFEO portfolio transfer timeline



ASBFEO does not operate as a separate entity. Staff supporting the Ombudsman are made available by the Secretary of the Treasury. ASBFEO's funding is received from Treasury's operating revenue and is determined by Treasury's internal budget process. The 2024–25 budget for ASBFEO is \$6.4 million with an average staffing level of approximately 30.

The ASBFEO Act's explanatory memorandum explains why ASBFEO was established.

*'A good regulatory regime can make a difference to the productivity of businesses, and decisions about when, or whether, a business should proceed with an investment.'*⁵

The explanatory memorandum explains how ASBFEO's work can ease regulatory burdens faced by small businesses, including:

- reducing administrative burdens, for example, by suggesting simplifications to administrative forms and processes
- minimising the costs businesses incur in complying with regulations
- providing advice on matters affecting the interactions of small businesses and family enterprises with Commonwealth agencies
- conducting investigations into industry sectors, in which small businesses and family enterprises face particular problems
- making recommendations on practical solutions to reduce burdensome regulation.

Most state governments have a Small Business Commissioner (SBC) that undertakes advocacy and assistance functions at a state level. New South Wales, Queensland, South Australia, Western Australia and Victoria each have an SBC. Tasmania has a Small Business Advocate. The breadth of advocacy activities undertaken varies due to differences in legislative authority, structure of state government departments and overall resourcing available to support respective SBCs. Each SBC provides assistance to small businesses through ADR services such as a mediation panel and works closely with ASBFEO on case referrals.

ASBFEO's advocacy function allows small businesses to communicate views to government and policymakers on how regulations and policies work. ASBFEO accomplishes this by providing a nationally consistent and coordinated approach to identifying systemic issues facing small business. This process includes identifying issues, conducting research and inquiries, collecting and sharing data sources, engaging with government agencies, industry bodies and stakeholders, and providing policy submissions.

Section 14 of the ASBFEO Act defines the advocacy function to include the following 8 advocacy functions:

- identifying the concerns arising out of relevant legislation, policies and practices relating to small business and family enterprise operations
- conducting research and making inquiries on the Ombudsman's initiative in relation to relevant legislation, policies, and practices

5 Explanatory Memorandum, [Australian Small Business and Family Enterprise Ombudsman Bill 2015](#), [Australian Small Business And Family Enterprise Ombudsman \(Consequential And Transitional Provisions\) Bill 2015](#), para 1.8.

- inquiring into matters referred to the Ombudsman by the Minister and providing advice to the Minister on matters referred to the Ombudsman
- co-operating with the appropriate agencies of the Commonwealth, states and territories to develop national strategies in relation to legislation, policies and practices that affect, or may affect, small businesses or family enterprises
- providing information to make submissions or recommendations to, and otherwise contribute to the conduct of inquiries into relevant legislation, policies, and practices
- reviewing proposals in relation to relevant legislation, policies, and practices, and give the Minister advice in relation to proposals of that kind
- promoting best practice in interactions with small businesses and family enterprises.

ASBFEO participates in forums that bring together professional bodies, government agencies and industry associations to discuss policy issues. Forums include the Federal Regulatory Agency Group (FRAG), the Policy Forum, the SBCs meetings and the Small Business Stewardship Group. They provide insight into the small business environment and enable a consolidated view of small business issues. The full list of participants in these forums is provided in Appendix E.

ASBFEO's Data team supports many activities across the organisation. The Data team was instituted following the McGregor Review, which noted stakeholders' desire for ASBFEO to use data, analytics and information sharing and highlighted the opportunity for ASBFEO to improve the empirical base for its policy positions.⁶ The Data team also support the tracking and reporting of assistance activity. The advocacy function and the Review findings are discussed in Chapter 3.

Section 13 of the ASBFEO Act specifies the assistance function to 'give assistance in relation to relevant actions if requested to do so'. This remit allows for a wide range of assistance, with most requests handled by the Contact Centre. The Contact Centre offers general guidance on matters such as how to manage a dispute or access a template letter regarding unpaid invoices.

ASBFEO's role in assisting with dispute resolution complements the broader dispute resolution ecosystem in Australia. Several other government agencies and bodies provide dispute resolution services, including the Commonwealth Ombudsman, SBCs, and other ombudsmen and specialist dispute resolution bodies.

The assistance function supports small businesses and family enterprises by recommending low-cost ADR services. Due to limited time, resources and familiarity with the appropriate legal processes, small businesses often face significant challenges in navigating disputes. Without guidance, disputes can escalate, leading to unnecessary financial strain, operational disruption and legal consequences.

Section 15 of the ASBFEO Act enables ASBFEO to assist with conflicts between small businesses and other businesses or a Commonwealth agency. ASBFEO can only recommend ADR processes but cannot conduct them. Requests for assistance are received from the Contact Centre, via email, or through the website form. Initially, the ASBFEO Case Manager (Case Manager) may refer the case to

6 C McGregor, [Australian Small Business and Family Enterprise \(ASBFEO\) Independent Review](#), Canberra, Commonwealth of Australia, 2021 p 11, accessed 20 May 2025.

another agency, such as a state SBC or contact one or both parties. If the dispute remains unresolved, the Ombudsman may suggest ADR and provide the party with a list of independent practitioners they may choose to engage. ADR involves an independent person, such as a mediator, helping parties resolve disputes efficiently without court or tribunal involvement.

ASBFEO is the Disputes Resolution Adviser (DRA) under the Franchising Code of Conduct. The Franchising Code of Conduct governs the relationship between franchisors, franchisees, and prospective franchisees. The code is mandatory and prescribed by regulation under the *Competition and Consumer Act 2010*. It contains mechanisms for dispute resolution. ASBFEO also has a specific role in supporting industry participants in disputes covered by the Dairy Industry Code, the Horticulture Code of Conduct and the Oil Code of Conduct. ASBFEO's role in the franchising sector is discussed further in Chapter 5.

ASBFEO also assists small businesses in dealing with the Australian Taxation Office (ATO) by providing a Small Business Tax Concierge (SBTC) service for small businesses in dispute with the ATO. The SBTC service helps small businesses determine whether to lodge an application to the Administrative Review Tribunal (ART) and provides access to subsidised legal advice. Additionally, it supports cases for the Compensation for Detriment and Defective Administration Scheme.

The SBTC service has been expanded from 3 March 2025, to enable ASBFEO to provide limited low-cost legal advice to eligible small businesses involved in disputes. This initiative aims to facilitate more effective resolution of business disputes by offering unrepresented small businesses, including franchisees, access to low-cost legal advice and support. The assistance function is discussed in Chapter 4.

ASBFEO actively promotes and influences the interests of small businesses through various communication channels (refer to Figure 2.2). ASBFEO's website (www.asbfeo.gov.au) profiles the agency's functions and supports requests for assistance. ASBFEO upgraded the website in 2024, to include a data portal and Google Translate functionality to assist the members of multicultural communities in using the resources available on the ASBFEO website. Communication and engagement and the Review findings are discussed further in Chapter 6.

Figure 2.2: Communication channels



Section 40 of the ASBFEO Act stipulates that the Ombudsman must report quarterly to the Minister on the activities of ASBFEO, including any inquiries or submissions undertaken. ASBFEO publishes these comprehensive reports on its website. ASBFEO also produces annual data that is included in the Department of the Treasury's Annual Report.

Chapter 3: Advocating for small and family businesses

Summary

ASBFEO has undertaken a significant amount of work in the advocacy function and its service offering aligns with the needs of the small business community. Stakeholders recognise the importance of ASBFEO and its crucial role as the link between the government, industry associations and the small business sector. ASBFEO actively engages through forums, meetings, research and consultations to represent small business interests effectively.

ASBFEO should adopt a structured approach to setting advocacy priorities to maximise its effectiveness. This includes:

- gathering stakeholder insights
- clearly delineating its role with other key agencies
- documenting a framework for prioritising topics
- measuring advocacy outcomes.

An enhanced focus on data-driven advocacy will further support stakeholders and inform decisions.

ASBFEO's advocacy function

ASBFEO has the authority to undertake activities under the advocacy function relating to legislation, policies and practices relevant to small businesses. This is covered in sections 14 and 35-64 of the ASBFEO Act. These activities include:

- identifying the concerns of small business operators
- undertaking research and inquiries; working with other agencies to develop national strategies
- making submissions and recommendations to relevant inquiries
- reviewing proposals
- promoting best practice.

The Minister for Small Business may also request ASBFEO undertake certain advocacy activities to which ASBFEO must respond. These include advising the Minister on small business related matters or conducting an inquiry into a particular issue.⁷

ASBFEO's role is not to duplicate the work of other agencies. This is explained in the explanatory memorandum for the ASBFEO Act, which reinforces that the advocacy function, as well as the

⁷ [Australian Small Business and Family Enterprise Ombudsman Act 2015](#), sections 14 and 35-64.

assistance function, are not to duplicate the work of other agencies and clarified that the broadest reading of ‘agency’ should be applied.⁸

‘The term “agency” is very broad and includes a department of state or a local government body. It also includes any other agency, authority or body (whether incorporated or not) established for a public purpose by or under a law of the Commonwealth, a state or a territory.’⁹

Several Commonwealth agencies are involved in activities impacting small businesses. For example, Treasury and the Department of Industry Science and Resources (DISR) focus on regulatory, policy and economic conditions impacting small businesses. These departments frame policy decisions through a broad lens that requires balancing the interests of stakeholders, including the Australian Government’s policy agenda.

In comparison, ASBFEO is expected to advocate only for small businesses and their interests. The Ombudsman has a unique position with first-hand access to the assistance function activity and the resulting valuable insights into areas of policy or regulation that are not working as intended or are feeding power imbalances. ASBFEO can share these insights with policymakers to contribute to the development of Commonwealth laws and regulations that are small business friendly.¹⁰

ASBFEO has engaged in advocacy activities over the past 4 years, across engagement activities and policy advocacy. Engagement activities include forums, meetings and outreach. With policy advocacy comprising of research and inquiries initiated by the Ombudsman or requested by the Minister; submissions to other inquiries; and economic data analysis.

ASBFEO’s engagement with stakeholders

ASBFEO coordinates forums and meetings to build and strengthen relationships across business and government (Appendix E). These activities help ASBFEO identify concerns of small business owners. ASBFEO’s engagement activities include:

- The ASBFEO Policy Forum, which usually meets thrice yearly and incorporates approximately 50 industry and professional associations.¹¹
- The FRAG, chaired by the Ombudsman, which meets quarterly and comprises Commonwealth-level regulators, including the Australian Competition and Consumer Commission (ACCC), Australian Securities and Investments Commission (ASIC), ATO, Australian Financial Complaints Authority (AFCA), Australian Financial Security Authority (AFSA), Fair Work Ombudsman (FWO) and Treasury.

8 Explanatory memorandum, [Australian Small Business and Family Enterprise Ombudsman Bill 2015, Australian Small Business And Family Enterprise Ombudsman \(Consequential And Transitional Provisions\) Bill 2015](#), para 2.4. accessed 6 May 2025.

9 Explanatory memorandum, [Australian Small Business and Family Enterprise Ombudsman Bill 2015, Australian Small Business And Family Enterprise Ombudsman \(Consequential And Transitional Provisions\) Bill 2015](#), para 3.14, accessed 6 May 2025.

10 Treasury 2015, [Regulation impact statement – The Australian Small Business and Family Enterprise Ombudsman](#), p 1, accessed 6 May 2025.

11 ASBFEO, [Small Business News Newsletter](#), October 2024, accessed 07 May 2025.

- The Small Business Stewardship Group, the Ombudsman co-chairs with an ATO Deputy Commissioner, which provides input and feedback on the ATO's approach to small business.
- SBCs, which meet quarterly to collaborate, share information, identify best practices and provide a united voice of influence for small businesses.¹²
- The National Small Business Media and Communication Network, which is chaired by the Ombudsman, and meets quarterly with representatives from regulators and state and territory departments.¹³

ASBFEO undertakes outreach events including expos, trade shows, field days and summits to help understand the issues facing small business.¹⁴ ASBFEO reported that the Ombudsman also visits with:

- migrant-owned businesses
- stakeholders representing the interests of First Nations' businesses – such as Supply Nation, the National Indigenous Australians Agency, and
- the Office of the Registrar of Indigenous Corporations.¹⁵

Stakeholder views

Stakeholders highly valued the levels of engagement, meetings and events that ASBFEO holds with representatives from the small business community. The Ombudsman is highly regarded and respected by most stakeholders. He is knowledgeable and able to advocate effectively in forums. In their submission to the Review, the Council of Small Business Organisations Australia (COSBOA) stated that ASBFEO:

*'... undertakes significant efforts in engaging that same small business community to feedback its considered experience.'*¹⁶

The generosity of the Ombudsman in making himself available for meetings and events was also called out by a number of stakeholders.¹⁷

Overwhelmingly, stakeholders commended ASBFEO's various outreach and engagement events. They emphasised the importance of continuing a high level of engagement to ensure the views of the

12 Department of the Treasury, [Treasury Annual Report](#) 2023–24 p 241, accessed 9 May 2025.

13 ASBFEO, *Submission to the Independent Review of the ASBFEO*, January 2025, p 22.

14 Department of the Treasury, [Treasury Annual Report](#) 2023–24 p 241, accessed 9 May 2025.

15 ASBFEO, *Submission to the Independent Review of the ASBFEO*, January 2025, p 22.

16 Council of Small Business Organisations Australia (COSBOA), *Submission to the Independent Review of the ASBFEO*, January 2025, p 2.

17 Motor Traders Association of Australia (MTAA), *Submission to the Review of the ASBFEO*, January 2025, p 1; National Electrical and Communications Association (NECA), *Submission to the Review of the ASBFEO*, January 2025, p 2; Institute of Public Accountants (IPA), *Submission to the Review of the ASBFEO*, January 2025, p 1; Australian Automotive Dealers Association (AADA) *Submission to the Review of the ASBFEO*, January 2025 p 2.

small business community inform ASBFEO's advocacy work.¹⁸ A number of stakeholders recommended more frequent forums or expanding the number of participants invited to these meetings.¹⁹ 'Shortening the information chain' is how one stakeholder described the benefits of the policy forum.²⁰

Forums or open discussion style meetings were appreciated as a way to ensure issues are understood effectively via the sharing of information. ASBFEO was commended for their active participation and the forums are valued as a way to ensure issues are understood and addressed effectively via sharing of information.²¹ The Small Business Debt Helpline (SBDH) summarised the forums as bringing:

*'... a consolidated view from the broad population of small business (for example, national, across industries, across scale, across viability) that is a unique and valuable insight.'*²²

ASBFEO have done an admirable job in building a good dialogue with the more prominent stakeholders in the small business community but needs to connect with a greater range of stakeholders. Stakeholders who attend ASBFEO forums value participation and feedback, suggesting that the broader universe of industry associations and government agencies would like more opportunities to engage and provide input into the advocacy agenda. For example, the Business Chamber Queensland recognised ASBFEO's environmental, social and governance (ESG) symposium as valuable. However, the opportunity to share learnings and best practices from existing programs (such as the Business Chamber's sustainability program) could have added even more value.

During consultation, the Review met with a few government departments whose primary role did not involve small businesses but on occasion dealt with small businesses issues. These departments observed that it could be helpful to have some additional engagement with ASBFEO. For example, the Department of Agriculture, Fisheries and Forestry, which has policy responsibility for the Dairy and Horticultural codes of conduct, suggested this could be beneficial, noting that ASBFEO is appointed as the DRA under these codes.

Analysis

ASBFEO could foster stronger collaboration with the community of small business stakeholders. Over 200 different organisations and industry associations represent the small business community.²³ ASBFEO has a close relationship with some of these organisations at its forums, but would benefit from engaging with all groups, including those representing small businesses run by women, First Nations people and members of multicultural communities.

ASBFEO could broaden its reach to small businesses using existing agencies, especially in regional Australia. AusIndustry has a significant Business Outreach Network program within its Business

18 AADA, *Submission to the Review of the ASBFEO*, January 2025 p 2.

19 Small Biz Matters, *Submission to the Independent Review of the ASBFEO*, January 2025, p 4.

20 MTAA, *Submission to the Independent Review of the ASBFEO*, January 2025, p 3.

21 COSBOA, *Submission to the Independent Review of the ASBFEO*, January 2025, p 2; Newsagents Association of NSW and ACT Limited (NANA) *Submission to the Independent Review of the ASBFEO*, January 2025, pp 1-2.

22 Small Business Debt Helpline, *Submission to the Independent Review of the ASBFEO*, December 2024 p 4.

23 ASBFEO, *Contact List* [unpublished document] ASBFEO, Canberra 2024.

Outreach and Engagement branch. The branch's regional managers are based across Australia to connect businesses to government initiatives and to connect business insights to policymakers. The network includes representatives from small and medium-sized enterprises, as well as organisations representing women, First Nations people and multicultural communities.²⁴ The Business Enterprise Centre's network of not-for-profit small business advisory businesses also connects with geographically diverse small businesses in regional, rural and remote areas.

*'... our network since 2007, has delivered services, mostly face to face, to in excess of 2 million small businesses.'*²⁵

It may be effective for ASBFEO to consider leveraging activities and networks of other organisations and bodies to improve connections with these diverse groups. For example, the AusIndustry Business Outreach Network and the Business Enterprise Centres.

Stakeholders liked that ASBFEO worked directly with specific industry organisations, but indicated ASBFEO could review how it manages advocacy on issues requiring a high degree of expertise. The National Electrical and Communications Association (NECA) commended the Ombudsman and team for engaging with the construction and electrotechnology sectors and its:

*'... commitment to addressing the issues faced by small business contractors and subcontractors in the construction and electrotechnology sectors.'*²⁶

Conversely, several stakeholders indicated that ASBFEO needs to engage more effectively with industry associations and experts when dealing with industry-specific policy issues that require a high degree of subject matter expertise.²⁷ This included considering developing expert panels.²⁸ This could be extended to include professionals such as accountants, legal practitioners and other advisers that focus on advising the small business community. This may help to identify emerging trends and issues that may not be apparent to larger organisations and government bodies.²⁹

24 AusIndustry (n.d.) [Expertise and Advice](#), [business.gov.au website], accessed 9 May 2025.

25 Business Enterprises Centres Australia (BEC Australia) *Submission to the Independent Review of the ASBFEO*, January 2025, p 1.

26 NECA, *Submission to the Independent Review of the ASBFEO*, January 2025, p 3.

27 MTAA, *Submission to the Independent Review of the ASBFEO*, January 2025, p 3; AADA, *Submission to the Independent Review of the ASBFEO*, January 2025 p 1; Post Office Agents Association Limited, *Submission to the Independent Review of the ASBFEO*, November 2024 p 1; Shopping Centre Council of Australia, *Submission to the Independent Review of the ASBFEO*, January 2025 p 1; Independent Tertiary Education Council Australia (ITECA) *Submission to the Independent Review of the ASBFEO*, December 2024 p 3.

28 Small Biz Matters, *Submission to the Independent Review of the ASBFEO*, January 2025, p 4.

29 GM Advisory (Australia) Services, *Submission to the Independent Review of the ASBFEO*, January 2025 p 4.

ASBFEO has largely addressed the McGregor Review recommendation to foster stakeholder cooperation. The feedback on forums and engagement on policy indicates ASBFEO has achieved a lot in addressing the McGregor Review recommendation to build advocacy impact by strengthening collaboration with stakeholders.³⁰ As discussed earlier, there is still some work to do to broaden engagement.

Recommendation

Recommendation 1: Australian Small Business and Family Enterprise Ombudsman (ASBFEO) should consider a biannual forum with agencies that do not typically focus on small business matters but may benefit from an improved understanding of the issues small businesses encounter. The structure could be similar to the Federal Regulatory Agency Group (FRAG) forum and include agencies such as the Tax Practitioners Board and the Department of Agriculture, Fisheries and Forestry.

Inquiries and research

Since 2021, ASBFEO has engaged with various government departments, regulators, parliamentary committees and other organisations in policy and regulatory reform. Over the past 4 years, ASBFEO has conducted an average of 3 self-initiated inquiries or research topics annually, as outlined in Table 3.1. Over the reporting period, ASBFEO has also advised the Minister and coordinated inquiries at the Minister’s request.

Table 3.1: Research and inquiries on the Ombudsman’s initiative under Division 2 of Part 3

Year	Number	Self-initiated inquiries and research
2023–24	1	Research: changes to Commonwealth Procurement Rules and the Buy Australian Plan.
2022–23	4	Research: improving Australia’s corporate and personal insolvency laws Least cost routing for merchants. Unfair business practices. ESG investing.
2021–22	3	Review: The Discretionary Mutual Fund that is proposed for small businesses in the amusement, leisure and recreation sector. Research: Research into the barriers faced by small businesses owned and led by women. Least cost routing for merchants.
2020–21	4	Inquiry: Affordability and availability of insurance. Research: A review of the Personal Property Security Register. A report on Small Business Access to Justice. Related to COVID-19 Recovery Plan.

Source: Treasury, [Treasury Annual Report 2023–24](#) pp 242–243; Treasury, [Treasury Annual Report 2022–23](#) pp 242–244; Treasury, [Treasury Annual Report 2021–22](#) pp 236–238; Treasury, [Treasury Annual Report 2020–21](#) pp 198–200.

30 C McGregor, [Australian Small Business and Family Enterprise \(ASBFEO\) Independent Review](#), Canberra, Commonwealth of Australia, 2021 p 48, accessed 20 May 2025.

ASBFEO contributes to other reviews such as the Franchising Review and has submitted many papers incorporating recommendations and views on policy and regulatory settings. Over the review period this included:

- providing input into policies supporting small business digital engagement and transformation
- developing the automotive franchising industry’s Memorandum of Understanding on an industry-led voluntary arbitration pathway to dispute resolution
- a review of the Dairy Code of Conduct.

Submissions made

ASBFEO made an average of 82 submissions per year over the 4-year period. While acknowledging that ASBFEO has reduced the number of submissions it has contributed to in the last year, even the most recent level of 40 submissions per year is a high volume of work.

ASBFEO’s submissions covered an extensive range of policy areas. These include supermarket competition and the Food and Grocery Code of Conduct, the cost and availability of insurance, and changes to workplace relations law. The breadth of policy areas involved requires ASBFEO to engage with many government departments, as shown in Table 3.2.

Table 3.2: Examples of departments, committees and entities ASBFEO made submissions to during 2023–2024

Attorney General’s Department
Australian Competition and Consumer Commission
Australian Securities and Investment Commission
Department of Agriculture, Fisheries and Forestry
Department of Finance
Department of Home Affairs
Department of Industry, Science and Resources
Department of Infrastructure, Transport, Regional Development, Communications and the Arts
Department of Prime Minister and Cabinet
Department of the Treasury
Fair Work Commission
Insurance Council of Australia
Jobs and Skills Australia
National Emergency Management Agency
Parliamentary Committees
Productivity Commission

Notes: Treasury, [Treasury Annual Report 2023–24](#), pp 242–243.

Stakeholder views

Overwhelmingly, stakeholders viewed ASBFEO's input into policy matters as positive, balanced and beneficial to the small business community. Stakeholders recognised the importance of ASBFEO and its role as the conduit between government, industry associations and the broader small business sector. Stakeholders noted that this allowed ASBFEO to advocate to government on issues of significant value to small businesses, while also sitting within the government ecosystem.³¹

*'The national advocacy function of ASBFEO continues to be of significant value to small businesses across Australia. The ASBFEO office has been very active in responding the government [sic] inquiries and reviews, which helps to elevate the voice of small business.'*³²

Stakeholders recognised that ASBFEO used its position within the Government to improve awareness of small business issues with key ministers and government departments.³³

Several stakeholders called out specific examples where ASBFEO's advocacy work provided benefits through improved policy settings for their sector or members.

*'The advocacy undertaken by ASBFEO does not just benefit individual Registered Training Organisations, it creates systemic change that benefits the broader skills training and education sector.'*³⁴

Small business restructuring reforms were also mentioned, with GM Advisory (Australia) Services praising ASBFEO's work to help inform and improve the ATO's approach to the treatment and decision making around restructuring.³⁵

Analysis

The submissions ASBFEO contributed to should be prioritised as part of the advocacy agenda. All stakeholders highly valued ASBFEO's role in submissions, inquiries and research, and respected the amount of work it produced for a small agency. ASBFEO contributed to approximately

31 NANA *Submission to the Independent Review of the ASBFEO Review*, January 2025 p 2–3; Small Biz Matters, *Submission to the Independent Review of the ASBFEO* January 2025, p 3; ITECA, *Submission to the Independent Review of the ASBFEO* December 2024, p2; NECA, *Submission to the Independent Review of the ASBFEO*, January 2025 p 2–3; Tasmanian Small Business Council, *Submission to the Independent Review of the ASBFEO*, January 2025, p 2; The Institute of Certified Bookkeepers, *Submission to the Review of the ASBFEO*, January 2025, p 2; CPA Australia and Chartered Accountants Australia and New Zealand (CA ANZ), *Submission to the Review of the ASBFEO*, January 2025, p 2; Commercial & Asset Finance Brokers Association of Australia (CAFBA) *Submission to the Independent Review of the ASBFEO Review*, January 2025, p 5.

32 Western Australian Small Business Development Corporation (SBDC (WA)), *Submission to the Independent Review of the ASBFEO*, January 2025, p 3.

33 NANA *Submission to the Independent Review of the ASBFEO Review*, January 2025 p 2–3; Small Biz Matters, *Submission to the Independent Review of the ASBFEO* January 2025, p 3; CPA Australia and CA ANZ, *Submission to the Review of the ASBFEO*, January 2025, p 2.

34 ITECA, *Submission to the Independent Review of the ASBFEO* December 2024, p 3.

35 GM Advisory (Australia) Services, *Submission to the Independent Review of the ASBFEO*, January 2025 p 1–2.

40 submissions during the 2023–2024 financial year. While acknowledging ASBFEO has reduced the number of submissions it has contributed to, 40 is still substantial. It is important to consider that submissions are only one part of advocating for policy outcomes. In addition, supporting advocacy requires input and contributions from staff across ASBFEO. Managing the inevitable competition for resources will be assisted by a clearer agenda. Further, the Data team’s work is highly regarded, and as the reputation grows, so does the demand for the data from state and local governments, academia and small business owners.

ASBFEO’s advocacy priorities

In 2021–2022, the Ombudsman instituted broad, multi-year strategic pillars to guide the work of the Policy and Advocacy team (Advocacy team). ASBFEO’s process for creating the 4-pillar advocacy agenda (Figure 3.1) involved gathering the views of a range of stakeholders. The ASBFEO Policy Forum, which hosts approximately 50 different organisations, was a central point for identifying common issues and working through the nuances of positions. To inform these discussions, ASBFEO analysed data and recent consultation discussions to identify realistic opportunities for change.

Figure 3.1: ASBFEO’s 4-pillar advocacy agenda

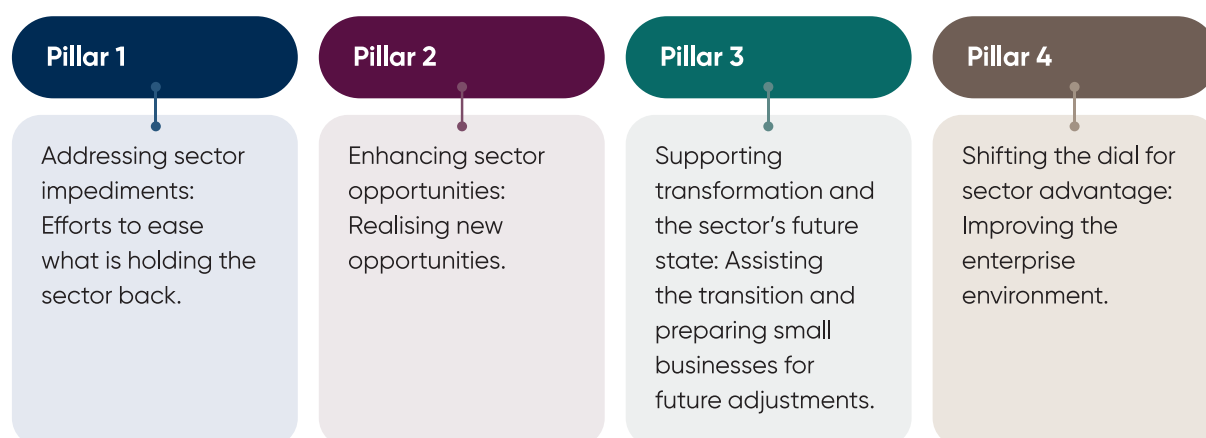


Figure 3.1 Source: ASBFEO, Submission to the Independent Review of the ASBFEO, January 2025, p 22

ASBFEO reports that from 2022–2023, the Advocacy team has further concentrated its efforts by identifying annual priority issues, which advance the longer-term strategic objectives. Areas of concern have been identified, selected and tested through consultation with the ASBFEO Policy Forum, other Commonwealth entities, state small business commissioners, other organisations that service or represent small and family businesses, and business owners themselves.³⁶ The pillars were presented back to the Policy Forum in 2024.

³⁶ ASBFEO, Submission to the Independent Review of the ASBFEO, January 2025, p 18.

Stakeholder views

The vast majority of stakeholders believe ASBFEO has a strong understanding of the issues most important to small businesses.³⁷ However, Entrepreneurial & Small Business Women Australia felt ASBFEO needed a more assertive advocacy position to protect small businesses.³⁸ In a joint submission, CPA Australia and Chartered Accountants Australia and New Zealand acknowledged the challenges ASBFEO faces in developing an advocacy agenda, in that they must adapt to the large number of consultations conducted by the Government and parliament.

While stakeholders generally regarded ASBFEO as engaging well in developing a more strategic advocacy agenda, some recommended a more formal framework for advancing an agenda and priorities for policy advocacy. The Institute of Public Accountants (IPA) made the observation in its submission to the review that:

‘... a forward work program and over-arching vision and strategy agenda would be useful and would allow stakeholders to contribute to the work of the ASBFEO.’³⁹

In consultation meetings, some stakeholders incorrectly referred to ASBFEO’s August 2024 report, Energising Enterprise: 14 Steps to boost Australia’s small and family businesses, as the strategic agenda. ASBFEO advised that the Energising Enterprise 14 Steps to boost Australia’s small and family businesses report was developed to complement the strategic goals, but it does not replace ASBFEO’s 4-pillar advocacy agenda. Another stakeholder raised concerns that without a targeted and impactful approach, the advocacy risks missing what matters for small businesses.⁴⁰

A breadth of issues impacts small businesses, reflecting the diverse interests and needs of the small business community. During the consultation period for the Review, stakeholders were asked to identify the top 3 issues that impact the small businesses they represent. While most stakeholders coalesced around similar top 3-4 issues, namely, cost of doing business, access to labour and red-tape reduction, over 30 separate issues were identified by just 28 stakeholder groups. Stakeholders also raised a wide range of unique issues. For example, the Canberra Business Chamber raised access to Commonwealth procurement, the SBDH raised ATO tax debt, the Western Australia Small Business Development Corporation (SBDC (WA)) raised operating in a multispeed matrix economy, and Indigenous Business Australia raised prejudice against Indigenous business owners.

The top 3 issues were based on a small sample, which indicates the variety of topics to which ASBFEO’s stakeholders might expect it to dedicate resources. These include advocating for various policy outcomes, undertaking research, and conducting data analysis. Currently, the 4 pillars described as guiding the ASBFEO advocacy work are broad, making it unclear which issues ASBFEO or stakeholders would consider as outside this agenda.

37 COSBOA, *Submission to the Independent Review of the ASBFEO Review*, January 2025, p 3; NECA, *Submission to the Independent Review of the ASBFEO*, January 2025 p 3; Small Biz Matters, *Submission to the Independent Review of the ASBFEO* January 2025, p 4; CPA Australia and CA ANZ, *Submission to the Review of the ASBFEO*, January 2025, p 3.

38 Entrepreneurial & Small Business Women Australia, *Submission to the Independent Review of the ASBFEO Review*, January 2025, p 2.

39 IPA, *Submission to the Independent Review of the ASBFEO Review*, January 2025, p 2.

40 GM Advisory (Australia) Services, *Submission to the Independent Review of the ASBFEO*, January 2025 p 4.

Analysis

ASBFEO has addressed the McGregor Review recommendation to develop a strategic agenda to focus resources on high-priority small business sector issues, however further work is required. The recommendation suggested that the plan include a policy input agenda; a data and research sharing program; and initiatives to promote effective assistance handovers.⁴¹ Refer to Appendix A for recommendations from previous reviews. ASBFEO undertook strategic planning in 2022, however as it includes 22 areas of focus and over 100 goals or actions, it is too detailed and ASBFEO has acknowledged it is not achievable.

The Review notes that following the initial discussion with ASBFEO on this issue, it developed a strategic framework agenda and an annual plan of priorities for 2025.⁴² The Review recognises this work and its importance. However, to implement the recommendations outlined, it is necessary to ensure that the advocacy function does not impede ASBFEO's ability to maintain an efficient and effective assistance function.

The Review recommends that ASBFEO adopt a more formal approach to developing a disciplined advocacy agenda. ASBFEO cannot be everything to all stakeholders. The reality of limited financial resources and managing a sustainable workload for staff means it is necessary to clearly articulate their forward work plan to all stakeholders. ASBFEO needs a structured framework that:

- allows contributions from stakeholders via working groups, subcommittee meetings or surveys
- re-evaluates the 4-pillar process to prioritise issues
- agrees on a small number of specific topics to advance
- maintains flexibility to adapt to the changes in the external environment, including economic factors, and the priorities of the Government and parliament.

ASBFEO may benefit from considering other agencies' frameworks. For example, the Inspector-General of Taxation and Taxation Ombudsman's (IGTO) methodology includes horizon-scanning in 4 parts – like Figure 3.2:

- disputes – trends and emerging issues
- assessing the environment – identifying the 3-4 problems affecting small businesses
- policy – focusing on the government priorities
- stakeholders – gathering stakeholder feedback.

41 C McGregor, [Australian Small Business and Family Enterprise \(ASBFEO\) Independent Review](#), Canberra, Commonwealth of Australia, 2021 p47, accessed 20 May 2025.

42 ASBFEO, [ASBFEO About Us](#), ASBFEO website, accessed 13 May 2025.

Figure 3.2: Setting an annual agenda for advocacy work

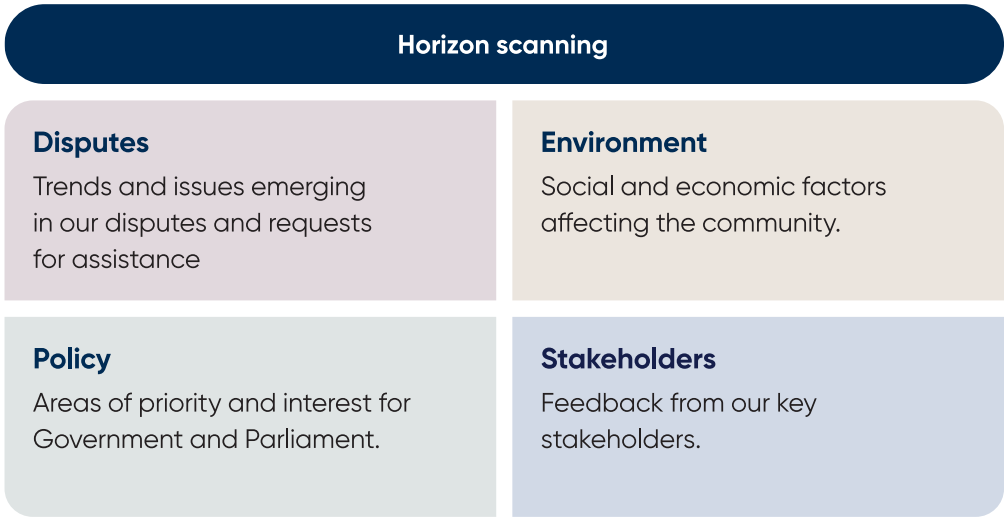


Figure 3.2 source: Adapted from IGTO, Presentation to Board of Taxation, [unpublished presentation] 2025.

It may be advantageous for the Australian Government to issue a Statement of Expectations to ASBFEO. This would enhance clarity regarding government policies and objectives, aid prioritisation of focus areas, and ensure ASBFEO’s agenda aligns with the strategic direction set by the Australian Government.

In developing a more focused advocacy agenda, ASBFEO need to consider the remits of other Australian Government departments with specific responsibilities in the small business sector. These departments include Treasury and DISR (Figure 3.3). This will help delineate roles and priorities and ensure ASBFEO continues to operate effectively.

Figure 3.3: Australian Government departments with responsibilities in small business sector



For example, pillar 2 of ASBFEO's 4-pillar advocacy agenda, *Enhancing sector opportunities: Realising new opportunities*, and pillar 3, *Supporting transformation and sector 'future state,' assisting the transition and preparing small business for future adjustments*, may have a large crossover with the work of the AusIndustry team and the Small Business Policy team within Treasury. Building relationships with these teams, including considering a community of practice type relationship, may help deliver improved outcomes for small business owners.

Several stakeholders observed that it was difficult to assess the impact or effectiveness of ASBFEO's advocacy and that ASBFEO should explore ways to do this. They noted that ASBFEO should have clarity on the effects of their work via government policy implementation, and practical outcomes for small businesses.⁴³ The McGregor Review – while stopping short of a formal recommendation – challenged ASBFEO to continue refining and developing its self-assessment methodology '*... with well-defined criteria for each "Outcome Status" the continued use of empirical evidence to support it benchmarking initiatives and re-affirm the effectiveness of its advocacy*'.⁴⁴

ASBFEO has undertaken some work to measure the success of its advocacy outcomes. ASBFEO has indicated that measuring its work poses challenges. This is due to the high volume of recommendations it makes, the partial uptake of some recommendations or only the intent of recommendations may be taken up, and the limitations on its staffing resource. Although, tracking every recommendation would be challenging, it would be beneficial to track a sample of recommendations or submissions and develop an evaluation methodology for its advocacy agenda, to monitor and demonstrate how their work contributes to regulatory reforms that benefit small businesses.

Recommendation

Recommendation 2: ASBFEO should review its agenda for the advocacy function to ensure it includes a clear prioritisation of the advocacy and data research program, including:

- a mechanism to gather intelligence from a broader range of small business stakeholders, including stakeholders representing small businesses run by women, First Nations people, members of multicultural communities; based in regional and remote areas
- a re-evaluation of the 4-pillar process, and development of a methodology to enable prioritisation of key issues to be addressed in the forward work plan, while accommodating emerging issues
- evaluating advocacy activities by developing success measures that can be recorded and tracked by the Economic and Data Analytics team (Data team).

The Australian Government may also wish to explore the possibility of issuing a Statement of Expectations to ASBFEO.

43 IPA, *Submission to the Independent Review of the ASBFEO Review*, January 2025, p 2; Small Enterprise Association of Australia and New Zealand *Submission to the Independent Review of the ASBFEO Review*, January 2025, p 1.

44 C McGregor, [Australian Small Business and Family Enterprise \(ASBFEO\) Independent Review](#), Canberra, Commonwealth of Australia, 2021 p53, accessed 20 May 2025.

Reviewing proposals

The ASBFEO Act provides the Ombudsman with the authority to review legislative proposals that impact small businesses. Over the 4 years from 2020–2021 to 2023–2024, ASBFEO responded to approximately 5 requests each year to review proposals, however this has reduced significantly in the last 2 years.⁴⁵

The Office of Impact Analysis (OIA) ensures Australian Government policy and decisions are supported by the best possible evidence and analysis. The OIA is required to work with departments and agencies to produce detailed, evidence-based assessments of complex policy issues. The OIA also provides resources and training to the Australian Public Service (APS) on impact analysis.

Stakeholder views

Some stakeholders, indicated a preference for ASBFEO to take a more prominent role in advising the Australian Government on the impacts of all new regulations on small businesses.⁴⁶ ASBFEO also made representations as part of this Review that it should be embedded within the regulatory impact analysis process and be involved in the early development of new policy proposals and cabinet coordination processes.⁴⁷

Small Business Matters recommended that ASBFEO should be engaged to ensure the views and challenges facing small businesses are more consistently reflected in policy design. It suggested that ASBFEO should be adequately funded to train bureaucrats involved in small business policy development. It also suggested ASBFEO develops and leads a team of internal small business advisers within all major departments to represent small business needs.

Analysis

The McCluskey Review suggested that agencies developing a proposal that may impact small businesses should be encouraged to contact the ASBFEO as part of the impact analysis process. The McCluskey Review also suggested that the ASBFEO could work with agencies to evaluate policies that significantly impact small businesses and make recommendations for their improvement. These activities formed part of one of the McCluskey Review recommendations.

‘ASBFEO should bolster its input into policy and legislation that affects small businesses and family enterprises, including through training, secondments, consultation and evaluation.’⁴⁸

45 Treasury, [Treasury Annual Report 2023-24](#) pp 242–243; Treasury, [Treasury Annual Report 2022-23](#) pp 242–244; Treasury, [Treasury Annual Report 2021-22](#) pp 236–238;; Treasury, [Treasury Annual Report 2020-21](#) pp 198–200.

46 CPA Australia and CA ANZ, *Submission to the Independent Review of the ASBFEO Review*, January 2025, p 3.

47 ASBFEO, *Submission to the Independent Review of the ASBFEO*, January 2025, p 20.

48 S McCluskey, [Review of the Australian Small Business and Family Enterprise Ombudsman](#), Canberra, Commonwealth of Australia, 2017 p 37, accessed 20 May 2025.

The Review team understands the OIA is responsible for evaluating the impact analysis conducted by Australian Government departments. There is a concern that involving ASBFEO in this process might not align with the ASBFEO Act, which aims to avoid duplicating efforts. While some policies might be developed without understanding the impact on small businesses, leading to unintended consequences and increased costs, requiring ASBFEO to review all proposals may not necessarily prevent this issue. It still depends on the initial identification of potential impacts by the agency developing the proposal.

Developing a practical guide on the impact of regulation on small businesses could support agencies when developing new policies. This may help agencies developing new proposals to better understand and analyse the effects of a proposal or regulatory change on a small business.

Observation

Observation 1: ASBFEO – in conjunction with the Office of Impact Analysis and Treasury – may wish to consider if the development and publication of a practical guide on small business impact analysis would be an efficient way to improve the consistency of analysis.

ASBFEO Data team

The Data team's work supports several activities within the advocacy space. These include the Data Portal housed on the ASBFEO website, the ASBFEO's Small Business Matters report, and the ASBFEO's Small Business Pulse.

- The Small Business Data Portal holds statistics for small businesses regarding their contribution to Australia's economy. Statistics includes contribution to employment and gross domestic product, as well as other commonly sought data points created by drawing on data from the Australian Bureau of Statistics (ABS) and the National Centre for Vocational Education Research and supported by calculations by ASBFEO.
- ASBFEO's Small Business Matters report presents the type of data points on the portal in an easy-to-read consolidated format with graphs.
- ASBFEO Small Business Pulse reports the quarterly change in an index designed by ASBFEO to provide early insights into small business sentiment.

The Data team uses diverse sources, including ABS, Organisation for Economic Co-operation and Development, surveys, and published data, down to the microdata level. The Small Business Pulse uses insights from the business.gov.au call centre, corporate and personal insolvency data, and open-source data.

The Data team also handles numerous data requests from academia, local government, industry associations, non-governmental organisations, and small business owners. The Data team has produced:

- analysis of culturally and linguistically diverse (CALD) entrepreneurs for the Queensland Government, local councils and Small Business Communications and Media Network members.
- analysis of business dynamism and industry for advice from the Office of Industry, Innovation and Science to the Industry Innovation and Science Board.
- demographics of small business owners including youth entrepreneurship for the University of Melbourne; veteran-owned and run businesses for the Department of Veteran's Affairs; broader trends for ASIC; state-specific information for SBC's and local councils; and high-level national trends to researchers in Southeast Asia and the United States (US).

The Data team has also used its expertise to aggregate microdata into custom data requests to support the following research work:

- female entrepreneurs – provided to stakeholders including the Queensland Government; local governments; federal government agencies such as DISR and Treasury; members of the Small Business Communications and Media Network; and not-for-profit organisations such as Good Shepherd and Global Sisters.
- trends in small and micro businesses performance and employment – provided to academics at the University of South Australia, University of Newcastle, Queensland University of Technology, Australian Capital Territory (ACT) Government, the Queensland Government; and businesses and their advocates.⁴⁹

Stakeholder views

Stakeholders highly regarded ASBFEO's research and data function. Almost all stakeholders voluntarily offered praise and commendations for the Data team in their submissions to this Review and in stakeholder meetings. They singled out the Data team's accessibility and willingness to help, particularly the Director of the Data team.

Many associations and government agencies have used ASBFEO's data to develop small business policies and inform consultations. These included the Victorian Department of Treasury and the South Australian Office for Small and Family Business. The Reserve Bank of Australia's October 2024 publication *Small Business Economic and Financial Conditions* referenced the ASBFEO Pulse index, noting it remains below the long-term average.⁵⁰

⁴⁹ ASBFEO, *Follow up data questions* [unpublished document] ASBFEO, Canberra 2025.

⁵⁰ Bullo G (2024) *Small Business Economic and Financial Conditions*, Reserve Bank of Australia, p 30, accessed 13 May 2025.

Stakeholders find the Small Business Matters report and Small Business data portal helpful in providing access to key data points in one place.⁵¹ Several stakeholders also recognised The Small Business Pulse index as a positive addition.⁵² The organisation Small Business Matters identified that the ‘... index is very innovative and needed’ because commonly used indexes such as the National Australia Bank Business survey do not have a specific focus on small businesses.

Stakeholders were keen for the Data team to do more and help with broader data challenges. For example, Small Business Matters suggested expanding the Pulse index with specific funding.⁵³ The Family Business Association (FBA) was keen for the Data team to undertake more work in collecting and analysing data around the number of family businesses in Australia.⁵⁴

Analysis

Stakeholder feedback highlights the demand for the Data team from various stakeholders, putting pressure on ASBFEO’s limited resources and risking quality. Collaboration with Treasury and AusIndustry data teams may enhance resource pooling and inform prioritisation, which could improve efficiencies. AusIndustry’s Business Outreach and Engagement branch gathers insights on challenges and opportunities faced by Australian businesses.⁵⁵ At the same time, Treasury’s Small Business Policy Division conducts data-focused activities to inform policy and measure outcomes.⁵⁶

The McGregor Review recommendation to expand ASBFEO’s data capabilities for advocacy has been implemented.⁵⁷ It also advised developing a data and research sharing program to set and prioritise a broader strategic agenda. The Review notes that ASBFEO’s limited resources make it challenging to handle the growing list of requests from stakeholders to the Data team, while ensuring fair and impartial resource allocation.

This Review recommends that ASBFEO’s Data team concentrate on supporting ASBFEO’s core functions of advocacy and assistance. Initially, addressing the gaps in tracking and reporting assistance activities (Chapter 4) will likely use part of the Data team’s capacity. Consequently, as the remaining capacity may be reduced, it is crucial to ensure the advocacy priorities are set to a number that realistically reflects ASBFEO’s organisational resources. The Data team must understand and support these priorities, and this will guide decisions regarding other projects. For a period, the ability to undertake new projects may be restricted.

51 NANA *Submission to the Independent Review of the ASBFEO Review*, January 2025 p 2; CAFBA *Submission to the Independent Review of the ASBFEO Review*, January 2025 p 4; COSBOA, *Submission to the Independent Review of the ASBFEO Review*, January 2025 p 2.

52 Small Biz Matters, *Submission to the Independent Review of the ASBFEO Review* January 2025, p 4; LGB Services, *Submission to the Independent Review of the ASBFEO Review*, January 2025 p 1.

53 Small Biz Matters, *Submission to the Independent Review of the ASBFEO Review* January 2025, p 4.

54 FBA, *Submission to the Independent Review of the ASBFEO Review* January 2025, p 1–2.

55 AusIndustry (n.d.) [Expertise and Advice](#), [business.gov.au website], accessed 9 May 2025.

56 Treasury (n.d.), [Small Business](#), [Treasury website] accessed 9 May 2025.

57 C McGregor, [Australian Small Business and Family Enterprise \(ASBFEO\) Independent Review](#), Canberra, Commonwealth of Australia, 2021 pp 56–60, accessed 20 May 2025.

Recommendation

Recommendation 3: ASBFEO should refocus the efforts of its Data team to support ASBFEO's core functions – advocacy and assistance – and align with the overall organisational and advocacy priorities (refer to previous recommendation).

The Data team has done an excellent job in developing protocols and a governance framework to manage its work and associated risks. It would be beneficial for the Data team to review and strengthen the governance frameworks to maintain the quality and integrity of their work and that a broad audience can use its work accurately.

For instance, Treasury's Small Business Policy area has reported difficulty replicating or testing the data analysis undertaken by ASBFEO. Although this does not necessarily mean that ASBFEO's analysis is inaccurate, it cannot be confirmed. As a result, the opportunities for ASBFEO's data insights to be used across a range of departments, documents, and advocacy discussions may not achieve its full potential. Providing more meaningful and specific referencing, introducing protocols around documenting data provenance, data lineage, and enhanced transparency of methodology are likely to help.

In particular, the Small Business Pulse would benefit from including a published methodology that an established expert has tested. This would ensure the longevity of the index and increase buy-in across government. The Australian Bureau of Statistics (ABS) has advised that their Chief Methodologist can be engaged to review these types of indices.

Recommendation

Recommendation 4: ASBFEO should request the Australian Bureau of Statistics (ABS) Methodology team formally review the Small Business Pulse Index to ensure it follows an approved methodology.

Chapter 4: Providing assistance to small and family businesses

Summary

ASBFEO's assistance function is vital for small businesses needing low-cost dispute resolution. ASBFEO has advanced its assistance function over the past 10 years. The Contact Centre is working effectively by responding to the majority of assistance requests, however ASBFEO's mediation services are underutilised, and disputes are often not fully resolved. To be fully effective in providing a low-cost dispute resolution service, the Australian Government should consider amending the ASBFEO Act so that ASBFEO can provide more support to small businesses involved in a dispute. Specifically, ASBFEO should be able to procure a mediation panel and appoint an independent mediator to conduct mediation, rather than the current process of providing a list of names of mediators for parties in dispute to consider. ASBFEO's Case Management staff should be allowed to negotiate resolutions before formal mediation and to also obtain feedback on formal mediation undertaken.

Dispute referrals to other agencies have averaged 25 per cent of the Case Management team's annual workload over the last three years. Reviewing the transfer process to determine what constitutes a warm handover and revising the referrals process in the Contact Centre and the online dispute resolution tool would help enable the timely transfer of cases.

ASBFEO recognised its reporting is insufficient as it lacks completeness in tracking resolution methods, case duration, or touchpoints during disputes. ASBFEO's ambition is to achieve International Organization for Standardization (ISO) accreditation for the assistance function. The Review notes that the Assistance team recently completed an ISO audit for its dispute resolution services. As part of the accreditation process the Review recommended introducing service standards for response times, mediation referrals, and satisfaction surveys for assistance services. Stakeholders valued the guidance material on the ASBFEO website. Using intelligence collected from its assistance service, this could be expanded to include advice on the mediation process and additional case studies. ASBFEO recently engaged a programmer to update its Customer Relationship Management (CRM) and tracking system, which should enhance data reporting.

Overview

Managing a dispute can be costly and difficult for small businesses. Small Businesses often have limited time, resources and financial capacity to search for and find low-cost options that help settle disputes. This impacts their ability to access the justice system and address their dispute. ASBFEO's assistance function was introduced to ensure small businesses can operate in a fair and competitive environment by facilitating their access to avenues for dispute resolution.

Section 65 of the ASBFEO Act allows the Ombudsman to assist with small business disputes involving other businesses or Commonwealth agencies that fall within its constitutional powers.

This also allows the Ombudsman to assist with disputes under the Industry Code of Conduct for Franchising, Dairy, Horticulture and Oil. ASBFEO's assistance function encompasses:

- responding to requests for help through its ‘concierge’ role
- referring requests to another Commonwealth agency, a state or territory
- collaborating with another agency to provide support
- advising on the management of disputes that fall within ASBFEO’s remit, including the use of ADR processes.⁵⁸

ASBFEO’s role is complementary to the broader dispute resolution ecosystem in Australia. As discussed in Chapter 1, several other government agencies and bodies provide dispute resolution services, including the SBCs and AFCA, which support small businesses to access ADR through their services or refer an issue to ASBFEO.

ASBFEO assists small businesses in the ACT, Northern Territory (NT) and Tasmania as these jurisdictions do not have a designated SBC. In Tasmania a small business advocate manages a limited number of dispute cases. The NT also receives referrals from ASBFEO, with the Northern Territory Civil and Administrative Tribunal offering some options for dispute resolution. The ACT Government supports small businesses through the Canberra Business Advice and Support Service which occasionally refers cases to ASBFEO. When a case pertains to an ACT issue, it is referred to Access Canberra. Nevertheless, ASBFEO is the designated dispute resolution agency for small businesses in these jurisdictions and collaborates closely with respective local agencies.

Section 71 of the ASBFEO Act allows the Ombudsman to recommend how disputes may be managed, including referring the party to ADR but the ASBFEO Act also prohibits ASBFEO from conducting the ADR themselves. ADR includes conferencing; mediation; neutral evaluation; case appraisal or conciliation but not arbitration or court services. Predominantly, mediation is the recommended form of ADR. In part, this is due to mediation and conciliation being the prescribed forms of ADR under the various Industry Codes.

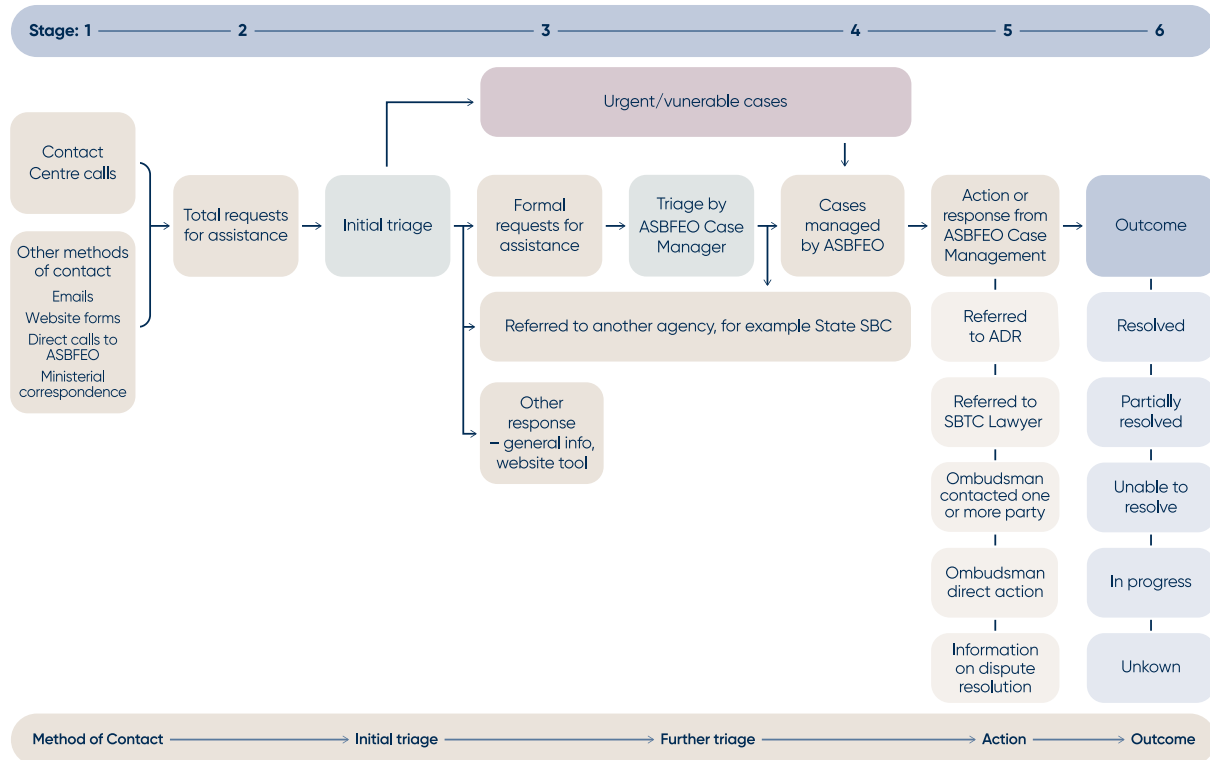
ASBFEO’s role is to assist small businesses in resolving dispute without duplicating assistance provided by other agencies. Section 69 of the ASBFEO Act states that ASBFEO must transfer assistance requests to another Commonwealth, state or territory agency if the agency could more conveniently or effectively deal with the request.

58. Explanatory memorandum, [Australian Small Business and Family Enterprise Ombudsman Bill 2015, Australian Small Business And Family Enterprise Ombudsman \(Consequential And Transitional Provisions\) Bill 2015](#), para 1.14, accessed 6 May 2025.

Requests for assistance process

A request for assistance undergoes 5 stages to resolve the case. The process is outlined in Figure 4.1.

Figure 4.1: Process for resolving requests for assistance



1. The initial contact with ASBFEO is through calls made to the Contact Centre, an email, direct calls to the ASBFEO Assistance team or the website dispute resolution form. ASBFEO's Contact Centre is outsourced under an AusIndustry contract that oversees calls from small businesses requesting help.
2. Requests for assistance are triaged to direct the dispute to the correct agency. Possible actions for a request include:
 - referring the case for formal assistance
 - referring the case to another agency – such as a specific Ombudsman, or SBC
 - providing general information or referring the case to ASBFEO's website dispute tool.
3. The Case Manager examines the case to determine which agency should manage the case. This may involve contacting the small business more than once to collect enough information to make the determination.
4. The case is designated as a formal request and allocated and assessed as a case to be actively managed by ASBFEO.
5. The Case Manager finalises the cases by:
 - referring the case for formal ADR
 - referring the case to a lawyer under the SBTC service

- contacting one or more parties to the dispute to try to resolve the dispute
 - providing information for example on dispute resolution pathways.
6. The potential outcome of the case includes reached resolution, partially resolved, unable to resolve, in progress and no response.

Best practice guidance and other tools for dispute pathways

ASBFEO offers self-help tools on its website to enable small businesses to resolve disputes independently.

The website includes:

- 5 steps to resolving disputes
- case studies of different types of disputes such as contract disputes and payment disputes
- information about the ADR, the different types of ADR and what they are used for
- a list of ADR practitioners in each state
- dispute resolution tools for specific issues including unpaid invoices, digital platform and retail lease disputes.

Stakeholder views

Stakeholders appreciated the comprehensive information and guidance material provided on the ASBFEO website.

‘ASBFEO provides comprehensive information that is readily accessible. Few, if any, small businesses have the time, resources and expertise to escalate disputes through courts.’⁵⁹

One small business that spoke with the AusIndustry Regional Manager network praised the letter of concern template that ASBFEO made available on the business.gov.au website to help small businesses resolve issues with suppliers.⁶⁰

However, the stakeholder survey findings indicated a need for improved communication and education about ASBFEO’s services with approximately 30 per cent of respondents wanting better educational resources or guidance materials.

59 Tasmanian Small Business Council, *Submission to the Independent Review of the ASBFEO* January 2025, p 2.

60 AusIndustry, *ASBFEO Review BOE Response* [unpublished document]. Letter template accessible at business.gov.au/people/suppliers.

Analysis

ASBFEO has done a credible job providing best practice guidance for resolving disputes, which could be expanded to include advice on the mediation process and additional case studies. An analysis of the current guidance materials found little guidance on the mediation process and few case studies. The tool used to refer disputes to other agencies is not intuitive. User testing could inform a more straightforward pathway to the appropriate agency for dispute resolution.

Recommendation

Recommendation 5: ASBFEO should review current guidance materials and tools for dispute resolution to ensure they are more user friendly, provide better guidance on mediation processes and include more case studies.

Contact Centre

Over the 3 years from 2021–22 to 2023–24, the Contact Centre responded to 13,578 calls from small businesses requesting assistance. The most common issue was payment disputes with 34 per cent of calls related to these disputes, 16 per cent were requests for general information, 14 per cent were contract disputes, 5 per cent related to franchising issues and less than half a percent related to the oil, diary or horticulture codes. The number of calls increased by 9 per cent from 2021–22 through to 2023–24.⁶¹ Appendix H has a complete list of the types of disputes over the past 3 years.

The Contact Centre resolves approximately 80 per cent of the calls by providing general information or referring small business callers to the dispute resolution tool located on the website. A further 15 per cent of calls are referred to other agencies and approximately 5 per cent (or 679 calls from 2021–22 to 2023–24) are transferred to the ASBFEO Assistance team for case management.⁶²

Stakeholder views

Small businesses that used the Contact Centre were very satisfied with the service they received and calls were responded to promptly. DISR conducts the Contact Centre's annual customer satisfaction survey. Over the past 3 years customer satisfaction has been very high with 98 per cent of customers satisfied with the service they received and it found 99 per cent of customers satisfied

61 ASBFEO Review analysis of ASBFEO calls since 2021–22 [unpublished document], ASBFEO, Canberra, 2024.

62 ASBFEO, [ASBFEO Quarterly Report Quarter 2 April – June 2024](#), accessed 12 May 2025, p 10; ASBFEO, [ASBFEO Quarterly Report Quarter 2 April – June 2023](#) accessed 12 May 2025, p 11.

that the information they sought was found.⁶³ From 2021–22 to 2023–24 approximately 92 per cent of calls were answered within 10 seconds. The average wait time was 16 seconds in 2023–24.⁶⁴

Analysis

Overall, the management of the Contact Centre has been efficient and effective. It has had a consistently high satisfaction rating, responds to requests efficiently and has resolved 80 per cent of the calls.

Observation

Observation 2: To measure the effectiveness of its services, ASBFEO could use the ‘satisfaction survey’ and service standards it currently uses in its Contact Centre.

ASBFEO Case Management team

From 2021–22 to 2023–24 ASBFEO received 4,466 formal requests for assistance. The number of formal requests for assistance has decreased, falling by 13 per cent from 2021–22 to 2023–24. The high number of cases in 2021–22 was due in part to COVID-19. Disputes relating to payments made up 36 per cent of all disputes, followed by contract and Franchising Code of Conduct disputes, as shown in Table 4.1.

Table 4.1: New cases where ASBFEO provided one-to-one assistance, by type of dispute

New cases	2021–22	2022–23	2023–24	3-year total
Payment	499	519	588	1,606
Contract	313	357	274	944
Franchise Code	222	154	124	500
Financial Service/Insurance	50	21	19	90
Consumer Law Issue	42	33	9	84
Commonwealth Government	31	20	20	71
Lease	32	25	11	68
State Government	37	3	11	51
Postal Dispute	31	2	1	34

63 Department of Industry, Science and Resources (DISR), *Contact Centre Customer Satisfaction Data*, ASBFEO, Canberra 2025.
64 DISR, *Contact Centre Call Timing Data*, ASBFEO, Canberra 2025.

Table 4.1: New cases where ASBFEO provided one-to-one assistance, by type of dispute (continued)

New cases	2021–22	2022–23	2023–24	3-year total
Local Government	7	1	0	8
Oil Code	1	3	2	6
Horticulture Code	1	2	1	4
Dairy Code	0	2	1	3
Digital Platform	0	0	0	0
Other (including request for information)	335	327	335	997
Total	1,601	1,469	1,396	4,466

Please refer to Appendix I for table notes and sources.

Over the 3 years from 2021–22 to 2023–24, the number of cases managed annually by ASBFEO remained steady at approximately 1,500 cases. However, there has been an increase in the number of cases requiring active case management as shown in Table 4.2. Only a small number of cases are referred to ADR in any year and most of these are disputes involving the Franchising Code of Conduct. Despite the Contact Centre referring many cases to another agency, the Case Manager also referred an additional 25 per cent of the cases to other agencies.

Table 4.2: Outcome of cases managed by ASBFEO

	2021–22	2022–23	2023–24	3-year total
Information provided	366	454	346	1,166
Requiring active case management (including SBTC)	558	678	704	1,940
Referred to ADR	97	57	93	247
Referred to another party	477	303	331	1,111
TOTAL	1,498	1,492	1,474	4,464

Please refer to Appendix I for table notes and sources.

Stakeholder views

Feedback on the assistance function was limited. Only a few submissions provided insights into its use. Due to the confidential nature of the dispute resolution process, only one small business owner using the service was interviewed. A mediator and 2 law associations also interviewed, indicated they valued ASBFEO's assistance function. The Law Council of Australia highlighted the ASBFEO's crucial role in dispute resolution, stating:

'When practitioners are not able to get any action or resolution it is very powerful to have someone in the small business corner. If enough of the issues are recurring it allows identification of potential systemic issues.'

Stakeholders aware of ASBFEO's assistance services commended them for providing comprehensive and accessible services to small businesses.

‘Our members advise that the dispute resolution services provided by ASBFEO are fit for purpose. We understand that the services are easily accessible, agile and responsive for those who access them, and that the expertise offered by those servicing the function across a range of industries is beneficial.’⁶⁵

‘Small businesses rely on this service for its affordable, timely and impartial intervention in disputes with larger businesses.’⁶⁶

However, a survey of mediators on ASBFEO’s ADR practitioner list provided feedback that while mediation services are effective, there is room for improvement (full details at Appendix D). For example, the survey found that ASBFEO’s pre-and post-mediation communication with disputants could be improved.

‘In the few mediations that have been referred to me, it has not been clear if the participants have had any direct conversations with ASBFEO staff.’

Additionally, 66 per cent of mediators would like to see improvements in performance feedback to mediators, and 40 per cent of mediators thought the process of inducting a mediator could be improved.

‘I have had no induction, training, or information regarding collaboration with colleagues. There was no feedback on the mediation done or why so little work has been allocated to me as a mediator.’

Only 43 per cent of mediators thought that ASBFEO adequately supported the CALD community in participating effectively in mediation. Mediators recommended providing adequate notice to engage cultural advisers or interpreters in a timely manner and suggested implementing a standard list of questions to better understand participants’ expectations.

Most respondents either agreed or strongly agreed that if the disputant had legal advice prior to the mediation, it would improve their ability to represent views and enhance the mediation overall.

The Review interviewed a franchisee who used ASBFEO’s services and found the assistance provided could be improved. A franchisee shared their story to prevent future occurrences. The case study outlines the franchisee’s dispute and the help sought from ASBFEO. Although the franchisee found the Case Manager friendly, their assistance did not meet the franchisee’s needs.

65 Australia Chamber of Commerce and Industry, *Submission to the Independent Review of the ASBFEO* January 2025, p 2.

66 NANA, *Submission to the Independent Review of the ASBFEO* January 2025, p 2.

Case study

The franchisee purchased a franchise because they wanted to leverage the franchisor's expertise. This was not their first small business, as they had experience in other industries.

After signing the franchise agreement, the franchisee received training. The training was found to be insufficient and the other franchisees agreed with this. The franchisee advocated for more training for all franchisees. The franchisor denied issues with the training materials, accused the franchisee of causing trouble and asked them to leave the franchise at a cost of more than \$50,000.

The franchisee contacted ASBFEO's Contact Centre to help resolve the dispute. The Contact Centre outlined the dispute resolution process and provided links to further information on ASBFEO's website. The franchisee was advised to lodge a dispute notice under the Franchising Code of Conduct and provided with a dispute notice template for completion. The franchisor rejected the notice, claiming that it was missing information.

The franchisee was unsure what information was missing and contacted the Contact Centre again for guidance on what to include in the dispute notice. ASBFEO advised that they could not help as their role was not to provide legal advice, and they needed to remain impartial. The Contact Centre suggested the franchisee engage a lawyer.

The Franchisee engaged a lawyer to lodge the dispute notice and negotiate with the franchisor. Unable to resolve the issue, they opted for the New South Wales SBC's cheaper mediation service over ASBFEO's. However, the franchisor cancelled the mediation session 10 minutes before it was due to start. The franchisor contacted the franchisee's lawyer daily, resulting in \$32,000 in legal fees. The franchisee considered the Federal Court but found it too costly.

The franchisor locked the franchisee out of their premises. To resolve the dispute, the franchisee paid \$100,000. The franchisee then left their business and accepted jobs outside the industry.

After signing the agreement, they discovered that the franchisor had an outstanding debt with the ATO, which was not disclosed before signing. They had conducted their due diligence and reviewed the ASIC website for any debts. Subsequently, the franchisee learned that 5 days before they signed their contract, the franchisor had restructured their small business and had a substantial debt with the ATO. However, the ASIC website was not updated to include the outstanding ATO debt.

Analysis

The case study highlights improvements that could be made to ASBFEO's assistance function.

ASBFEO should review its guidance dispute notice to provide clear requirements and samples of a completed form. When the franchisor contacted ASBFEO a second time, it was evident that the situation constituted a dispute and should have been assigned to a Case Manager for proper management. ASBFEO could have raised the undisclosed debt with the ATO and ASIC to help them prevent similar incidents for other franchisees in future.

The Case Management team lacks a mechanism to determine if their assistance service satisfactorily resolves disputes for small businesses and if these services are delivered conveniently, efficiently and effectively. ASBFEO's Contact Centre has implemented a satisfaction survey and service standards for each interaction with a small business. This practice should be extended to the Case Management team. Satisfaction surveys are discussed further in the Reporting and Intelligence section of this chapter.

Referrals by the Contact Centre and ASBFEO

From 2021–22 to 2023–24 ASBFEO redirected approximately 3,000 requests for assistance to another agency that could more effectively manage the request. Small businesses are also able to contact the relevant agency directly using the online dispute tool on the ASBFEO website. The Contact Centre referred 14 per cent or 1,892 phone calls to SBCs, as indicated in Table 4.3. In addition, the Case Management team reviewed and referred 1,111 cases to other agencies as outlined in Table 4.4.

Table 4.3: Referrals by the ASBFEO Contact Centre to small business commissioners or equivalent

	2021–22	2022–23	2022–23	3-year total
Access Canberra	14	12	4	30
New South Wales Small Business Commissioner	295	280	162	737
Queensland Small Business Commissioner	20	26	50	96
South Australian Small Business Commissioner	63	55	26	144
Victorian Small Business Commissioner	286	285	125	696
Western Australia Small Business Development Corporation	73	82	34	189
Total Referrals	751	740	401	1,892

Please refer to Appendix I for table notes and sources.

Table 4.4: Destination of referrals by ASBFEO Case Managers

	2021–22	2022–23	2023–24	3-year total
Small Business Commissioner (or equivalent)	235	246	309	790
Fair Trading/Consumer Affairs	53	25	7	85
Australian Financial Complaints Authority (AFCA)	17	2	0	19
Australian Taxation Office (ATO)	17	0	0	17
Security of Payments (Construction and Building)	5	0	4	9
Australian Competition and Consumer Commission (ACCC)	6	1	0	7
Telecommunications Industry Ombudsman (TIO)	3	2	0	5
Australian Securities and Investment Commission (ASIC)	2	1	1	4
Administrative Review Tribunal (ART)	3	0	0	3
Energy & Water Ombudsman	3	0	0	3
Inspector-General of Taxation and Taxation Ombudsman (IGTO)	2	0	0	2
Other (including Ombudsman, Tribunal)	131	26	10	167
TOTAL	477	303	331	1,111

Please refer to Appendix I for table notes and sources.

Stakeholder views

State SBCs indicated that ASBFEO’s referral process works well, although there can be delays in transferring a case. ASBFEO has regular contact and established protocols with SBCs.

‘ASBFEO and SBDC have a well-established dispute referral mechanism and co-operative approach to managing disputes.’⁶⁷

A couple of SBCs provided feedback that ASBFEO is slow transferring cases to them, and the dispute had often escalated within that timeframe.

Some agencies are unaware of ASBFEO’s role in the broader dispute resolution ecosystem. An organisation that supports small businesses and frequently refers disputes to ASBFEO, was unaware that SBCs could often manage these disputes more effectively. This resulted in delays in transferring the case to the correct agency and unnecessary duplication. Better consultation with agencies about when to refer a dispute to ASBFEO could avoid cases being delayed.

⁶⁷ SBDC (WA), *Submission to the Independent Review of the ASBFEO* January 2025, p 3.

Previous reviews

The McCluskey Review recommended that ASBFEO should work with states that do not have small business commissioners to establish clear protocols for its referrals.⁶⁸ The MacGregor Review considered the recommendation and concluded that there was a gap in the coverage of NT, ACT and Tasmania and that more communication and outreach with these jurisdictions would be beneficial.⁶⁹

ASBFEO has conducted more outreach and communication since 2021 which should continue. The relevant NT, ACT and Tasmania government agencies were interviewed. Both the Tasmanian Small Business Advocate and the Northern Territory Department of Trade, Business and Asian Relations were satisfied with ASBFEO's referral process, stating that the ASBFEO conducts a warm handover when referring cases and provides a comprehensive file on each case.

Analysis

Referrals to other agencies constitute an average of 25 per cent of the Case Management team's annual workload over the last three years, suggesting a review of the process is necessary. Many requests for assistance are referred to another agency by the Contact Centre, however, Case Managers also referred an additional 1,111 cases to another agency. Not all referrals involve 2 points of contact within ASBFEO. Case managers undertake initial triage on emails, website forms and some direct calls, however the large number of referrals does warrant further review.

As mentioned by stakeholders, delays often occur in providing a warm handover when transferring a case to the appropriate agency. The ASBFEO is required to provide agencies with any information or documents relating to a request. ASBFEO have coined this 'a warm handover referral'. These requirements are set out in paragraph 69(5)(b) of the ASBFEO Act as follows:

*'... give the other agency any information or documents relating to the request, or the relevant aspect of the request, that are in the possession, or under the control, of the Ombudsman'*⁷⁰

Under the ASBFEO Act, ASBFEO should only collect additional information to enable it to form a reasonable belief another agency would more conveniently and effectively deal with the request. A warm handover does not require ASBFEO to collect additional relevant documents or information not in its possession or control.

A sample of cases received from the Contact Centre and consequently referred to other agencies by the Case Management team should be analysed to improve the referral process. The sample would enable a better understanding of why cases are allocated to a Case Manager rather than referred directly from the Contact Centre or the website dispute resolution tool. In evaluating the sample, ASBFEO should track and record the number of contacts and timeframes required to transfer

68 S McCluskey, [Review of the Australian Small Business and Family Enterprise Ombudsman](#), Canberra, Commonwealth of Australia, 2017 p 39, accessed 20 May 2025.

69 C McGreggor, [Australian Small Business and Family Enterprise \(ASBFEO\) Independent Review](#), Canberra, Commonwealth of Australia, 2021 pp 44–47, accessed 20 May 2025.

70 *ASBFEO Act 2015*, paragraph 69(5)(b).

a disputant to another agency. This will help improve the experience for small businesses and allow ASBFEO to direct its efforts towards resolving barriers in the triaging process.

ASBFEO should also determine if additional training is necessary for the Contact Centre staff aimed at seeking further information to navigate the correct path for the dispute case.

The website dispute resolution tool should be reviewed to ensure it effectively meets users' needs.

The ASBFEO website's dispute support online reference tool 'Dispute support | ASBFEO' may sometimes be challenging to navigate. For instance, when dealing with a digital platform dispute, users need to go through several paragraphs of information before reaching the contact details. Additionally, they might need to access different sections of the site to gather all necessary information before submitting their dispute application form.

'If your issue does not fall within the IDCARE service (for example, your issue is not about a cyber incident like a scam or hack, or cyber resilience), you can contact us by submitting an online form, and one of our case managers will contact you. Before completing this form, please refer to the Assistance Charter that outlines the services we offer and explains what we can both expect in our dealings with each other.'

A more intuitive decision support tool, tested by small businesses owners, is needed to effectively guide small businesses to the correct agency to lodge their dispute application.

ASBFEO should only collect small business information once to ensure the quick and efficient transfer of cases. Small businesses are already dealing with the time pressures of running a small business, it is important that these cases are dealt with efficiently without unnecessary phone calls and duplication of requests for information. Therefore, ASBFEO should review the referrals process, including questions initially asked by the Contact Centre or dispute tool to ascertain the most appropriate agency.

Recommendation

Recommendation 6: ASBFEO should improve the process of transferring assistance cases to other agencies to reduce the number of cases that ASBFEO double-handles by:

- Evaluating a sample of dispute cases the Contact Centre sent to the Case Management team, which were then referred to another agency.
- Reviewing the internal procedures for the Contact Centre to ensure that most cases that should be transferred to other agencies, are sent directly from the Contact Centre.
- Upgrading the current websites dispute support online reference tool.
- Educating agencies that transfer dispute cases to ASBFEO on the types of cases that ASBFEO can act on.

Notifications powers and certificates

Section 75 of the ASBFEO Act allows the Ombudsman to contact the parties in dispute to determine whether the request for assistance falls within its remit or should be dealt with by another agency. Under Section 76 of the ASBFEO Act, the Ombudsman can serve a notice in writing to a person to request that they obtain information or documents which are relevant to inquiries about requests for assistance. Often one party will refuse to respond to that request for information and there is no further action ASBFEO can take to finalise the dispute.

ASBFEO is uncertain whether it can use its coercive information gathering and publication powers when a party is refusing to engage in the ADR process by deliberately avoiding contact. For example, this may arise where there has been deliberate ‘ghosting’ or avoidance of calls, emails and written correspondence with one of the parties in a dispute. The Review believes ASBFEO could potentially exercise its publication power for parties that deliberately avoid contact by amending the ASBFEO Act to expressly allow for this. This would be subject to the Ombudsman forming a reasonable view that the party is deliberately refusing to engage in the ADR process. The Government should consider expanding the usage of ASBFEO’s information powers and notification powers in cases of parties ghosting or avoiding calls, emails and written correspondence.

When a party refuses to negotiate in good faith at mediation, SBCs are able to issue certificates to be presented to the courts. In its submission, ASBFEO requested the ability to issue certificates similar to the SBC. The Government should consider amending the ASBFEO Act to allow ASBFEO to issue these certificates. This presupposes that amendments are made to allow ASBFEO to procure a mediation panel.

ADR

Pre-mediation processes

Section 73 of the ASBFEO Act prohibits ASBFEO from conducting ADR. The policy rationale provided in the explanatory memorandum is that the Ombudsman must be seen as impartial and, therefore, ASBFEO’s advocacy and assistance functions must be entirely separate.⁷¹

Informal resolution or pre-mediation resolution is an important part of any mediation process. It takes place before mediation and is an opportunity for the case officer to speak to both parties in dispute, collect relevant documentation and try to negotiate a resolution without the need for formal mediation.

71 EM, [Australian Small Business and Family Enterprise Ombudsman Bill 2015](#), [Australian Small Business And Family Enterprise Ombudsman \(Consequential And Transitional Provisions\) Bill 2015](#), para 6.11, accessed 6 May 2025.

ASBFEO cannot undertake pre-mediation services as this is considered ADR under the ASBFEO Act.

The ASBFEO Act does not contemplate actions and processes before or after formal ADR sessions, such as pre-mediation. However, subsection 73(2) makes it clear that ASBFEO cannot be involved in ADR processes and pre-mediation is captured under the definition of ADR. Therefore, the ASBFEO Act would need to be amended for ASBFEO to conduct pre-mediation.

Mediators that participated in the mediator survey indicated that enhancing pre-mediation support would help small businesses better understand the ADR process and be more willing to participate. The survey identified that 26 per cent of mediators believed that the ASBFEO's pre and post-mediation communication could be improved. None of the mediators believed disputants were highly prepared for mediation.

'In the few mediations that have been referred to me, it has not been clear if the participants have had any direct conversations with ASBFEO staff.'

'Often the participants seek far more information about the process, so perhaps more information up front will assist them.'

SBCs and other jurisdictions differ from ASBFEO as they conduct informal resolution at no cost to the small business before mediation. Effective pre-mediation processes result in a large number of cases being resolved without the need for mediation. The Victorian Small Business Commission (VSBC) resolves 34 per cent of its disputes through pre-mediation. The QSBC also has staff who are trained in mediation or accredited mediators conducting pre-mediation. Given the success rate of pre-mediation in other jurisdictions, the review recommends that the Government consider amending the Act to allow ASBFEO Case Managers to conduct pre-mediation ADR with the parties to try and resolve the dispute without the need to attend mediation.

Mediation

Mediation is the most common form of ADR recommended by ASBFEO. It is a confidential, informal process in which the parties with the assistance of an independent mediator, listen to each other, identify the disputed issues, develop options, consider alternatives and aim to reach an agreement if appropriate.

ASBFEO cannot undertake mediation as it is considered a form of ADR. Instead, it provides a list of specialist ADR providers to enable parties to choose a mediator for their dispute. ASBFEO typically provides the parties with the names of mediators located in their state and have expertise in the field of the dispute. There are currently 49 ADR practitioners on ASBFEO's list. They are all accredited mediators and most ADR practitioners are practicing lawyers, but they cannot provide legal advice as part of the ADR process.

From 2021–22 to 2023–24, ASBFEO recommended mediation for only 247 (6 per cent) of cases as outlined in Table 4.5. Of those, 41 per cent were resolved entirely, 5 per cent partially resolved, and almost half remained unresolved. The resolution rate has reduced from 52 per cent in 2021–22 to 29 per cent in 2023–24. The number of unresolved cases has increased over this period. The low-resolution rates may reflect the inability of ASBFEO to manage the mediation process by procuring a mediation panel of independent mediators.

Table 4.5: Outcomes of cases referred to ADR

	2021–22	2022–23	2023–24	3-year total
Total Referred to ADR	97	57	93	247
Reached Resolution	50	25	27	102
Outcome: Partially resolved	8	2	2	12
Outcome: Unresolved	27	22	61	110
Outcome: No response	12	8	3	23

Please refer to Appendix I for table notes and sources.

Analysis

Mediators on ASBFEO’s ADR practitioner list have extensive expertise in mediating franchising disputes and business-to-business disputes. Responses to the mediation survey indicate that mediators on the ADR practitioner list have substantial experience in mediation. The majority had been mediating for over 10 years with focus areas in franchising and business-to-business payments. None of the mediators identified as Indigenous. However, 43 per cent spoke another language other than English.

This Review compared the ASBFEO’s process for managing disputes with the state SBCs. This included the VSBC, New South Wales SBC, the Queensland SBC and SBDC (WA) ADR services. The review found the cost of mediation conducted by SBCs to be cheaper for small businesses and all SBCs had a higher success rate for resolving disputes at mediation.

All SBCs have the power to conduct ADR. This includes staff trying to resolve the dispute prior to formal mediation and appointing an independent mediator to conduct the formal mediation. If the parties decide to undertake mediation, the SBC appoints a mediator from its mediation panel to conduct a mediation meeting, in alignment with the Australian Mediator and Dispute Resolution Accreditation Standards (AMDRAS). The *‘AMDRAS professional skills domain: attributes and indicative levels of professional practice’* state that the mediation meeting *‘... will ordinarily include a joint session of the participants in which they communicate directly with each other to identify, clarify, and explore interests, issues, and underlying needs.’* The process may also include separate sessions and shuttle negotiations.⁷²

The VSBC, New South Wales SBC and SBDC (WA) conduct post-mediation satisfaction surveys of the parties and the mediators, unlike ASBFEO where there is no further contact with the mediator once they have provided the mediator with case notes.

Every 2 years the SBCs undertake a procurement process to select a list of mediators for its mediation panel. Mediators applying to join the panel agree to a specified fee and the SBC appoints and pays them for each mediation. This enables SBCs to choose the most effective mediator for each mediation and is cost effective for small businesses. Table 4.6 provides a comparison of the success rates of mediation and costs for services.

⁷² Australian Mediator and Dispute Resolution Accreditation Standards, *The Australian Mediator and Dispute Resolution Accreditation Standards (AMDRAS)*, 2025, p72

Table 4.6: Success rates of pre-mediation and mediation and costs of mediation 2023–24

	Success rate		Cost of mediation		Cost to each party	
	Pre-mediation	Mediation	Full day	Half day	Full day	Half day
ASBFEO	N/A	29%	\$4,000	\$2,000	\$2,000	\$1,000
VSBC	34%	74.7%	\$1,350	\$900	\$600	\$300
New South Wales SBC	N/A	N/A	\$2,280	\$1,216	\$862	\$330
QSBC	22%	51%	\$1,250-1,750	N/A	\$185.50	N/A
South Australian SBC	N/A	70%	\$1,000	N/A	\$195	N/A
SBDC (WA)	N/A	N/A	\$1,000	N/A	\$125	N/A

Please refer to Appendix I for table notes and sources.

The success rate of disputes resolved at mediation using ASBFEO’s mediation list is much lower than the SBCs’ mediation panel. The QSBC’s success rate for 2023–24 was 51 per cent and 75 per cent for the VSBC compared to ASBFEO’s 29 per cent success rate for its outsourced model. ASBFEO indicated that the success rate of mediation may be higher than 29 percent, however the Review has been unable to substantiate this.

The cost of mediation for small businesses that have used ASBFEO’s ADR assistance services are much higher than SBC’s mediation panel. In its submission, ASBFEO acknowledged that the shared cost of the ‘outsourced’ ADR practitioner can be a financial impediment to engaging in the process. The cost for a mediation from ASBFEO mediation list, as outlined in Table 4.6, is on average \$4,000 per day plus additional costs, including travel, pre-mediation and interpreting services. The mediation survey found that mediators on ASBFEO’s list charge between \$1,500 and \$6,000 for a full day, as outlined in Table 4.7. Mediation panels in SBCs cost \$1,000 to \$2,400 per mediation. Various state governments also subsidise the cost of mediation, further reducing the cost to parties.

These findings are consistent with consultations conducted during the 2023 Franchising Review. In the Franchising Review consultations stakeholders were asked whether the current dispute resolution mechanism was adequate and found that seeking ADR through ASBFEO more expensive than through SBCs.

Table 4.7: Mediation cost of mediators on ASBFEO’s ADR practitioners list

Type	Cost
Full day mediation	\$1,500-\$6,000
Travel to mediation	\$50-\$500
Half day mediation conference	\$800-\$3,000
Interpreting services	\$100-\$300
Pre-mediation preparation	\$300-\$2,000

Please refer to Appendix I for table notes and sources.

The mediator survey also confirmed that a mediation panel would improve ASBFEO's mediation process. These improvements include providing induction, training and collaboration with colleagues for mediators and supporting multicultural communities in participating effectively in mediation through prompt engagement of interpreters. Appendix D contains further information on the mediator survey.

The ASBFEO Act could be amended to allow ASBFEO to conduct ADR processes including pre-mediation and a mediation panel. This could be achieved by repealing Section 73 and making amendments to Part 4. This would enable ASBFEO to procure a mediation panel and appoint an independent mediator to which both parties agree. Allowing ASBFEO to conduct ADR has multiple benefits, including:

- allowing ASBFEO to set a specific lower mediation fee and manage the allocation of a mediator with the right experience
- facilitating the provision of introductory/preparatory information to an ADR provider ahead of mediation, and
- allowing ASBFEO staff to conduct pre-mediation to reduce delays and resolving less complex disputes.

In the interim, ASBFEO could provide further details of the mediator's expertise when providing the details to the disputant parties.

The Review considered ASBFEO's independence and impartiality when recommending changes to the assistance function, especially in the context of separating the assistance and advocacy functions. These issues were also considered by McCluskey Review and formed one of its recommendations: *'Any expansion of ASBFEO's assistance function should be carefully considered in light of its important advocacy role and occur only if there is a gap.'*⁷³

Impartiality is essential for the role of the Ombudsman in the assistance role, and ASBFEO has resolved this by separating the assistance and advocacy functions into teams led by different senior executive service officers.

The SBCs have also demonstrated that it is possible to remain impartial while procuring and appointing a panel of independent mediators and advocating for small businesses.

ASBFEO's assistance function has matured over 10 years of operation. The Review determined that to be effective in providing a low-cost dispute resolution service, the Australian Government should consider amending the ASBFEO Act to allow Case Managers to negotiate a resolution before mediation (pre-mediation) and for ASBFEO to procure a mediation panel to allow it to appoint an independent mediator to conduct the mediation. If requests for assistance increases due to these reforms additional funding may be warranted.

73 S McCluskey, [Review of the Australian Small Business and Family Enterprise Ombudsman](#), Canberra, Commonwealth of Australia, 2017 p 34, accessed 20 May 2025.

Recommendation

Recommendation 7: The Australian Government should consider amending the *Australian Small Business and Family Enterprise Ombudsman Act 2015* (Cth) to enable ASBFEO to undertake Alternative Dispute Resolution (ADR) by:

- Allowing Case Managers to negotiate a resolution before mediation (pre-mediation), including:
 - assessing if there is a legitimate dispute
 - talking to both parties to ensure they understand the issues well, and working with them to settle the dispute without mediation
 - preparing both parties for mediation so they understand the mediation process and the role of the mediator.
- Procuring a mediation panel whereby independent mediators are chosen based on their mediation success rate and expertise in the field.
- Using certificates when a party refuses to negotiate in good faith at mediation.
- Expanding the use of ASBFEO's information powers and notification powers in cases of parties 'ghosting' or avoiding calls, emails and written correspondence.

The Australian Government could consider subsidising the cost of mediation to make it more accessible to small businesses.

Small Business Tax Concierge service (SBTC)

ASBFEO assists small businesses in dispute with the ATO through the SBTC service. The SBTC service aids small businesses in deciding whether to lodge an application to the Administrative Review Tribunal (ART) and offers access to subsidised legal advice. Support includes providing information about the ART's procedures, drafting applications and compiling relevant documents. Additionally, ASBFEO supports cases for the Compensation for Detriment and Defective Administration Scheme.

The SBTC service has low usage, with few cases referred to it and fewer referred to a SBTC lawyer, as shown in Table 4.8. Referrals to a lawyer decreased from 40 per cent of SBTC cases in 2021–22 to 31 per cent in 2023–24. ASBFEO does not track outcomes post referral to SBTC lawyers, so it is difficult to determine if the cases have been successfully resolved.

Table 4.8: Small business tax concierge – outcomes

	2021–22	2022–23	2023–24	3-year total
Case management: contacted complainant	17	23	29	69
Case management: contacted both parties	2	1	0	3
Referred to SBTC lawyer	22	15	13	50
Referred to Former Administrative Appeals Tribunal (AAT)	3	0	0	3
Referred to ATO #	11	0	0	11
TOTAL	55	39	42	136

Please refer to Appendix I for table notes and sources.

Stakeholder feedback

Stakeholder feedback from the ATO, Tax Practitioners Board and accounting associations indicates limited knowledge of the SBTC service. The ATO advised that it advertised the SBTC as part of its dispute pathway and that the SBTC is mentioned in the ATO's review-of-decision letters sent to disputant parties. However, ATO feedback indicates that further promotion of the service could be considered, including building awareness of the service with agents and other organisations that support small businesses.

The ATO suggested that ASBFEO could provide meaningful insights on SBTC cases to help identify systemic issues and improve the overall system. ASBFEO maintains a close relationship with the ATO and feedback on broader systemic issues would help the ATO identify service improvements.

Analysis

The low usage of the SBTC service may reflect the lack of awareness among tax practitioners and their clients. ASBFEO should promote the SBTC through forums with tax practitioners and newsletters to ensure they are aware of the service.

It is hard to analyse the effectiveness of SBTC without meaningful statistics on individual SBTC cases. ASBFEO could develop a survey of the SBTC service to be completed by participants at the preliminary assistance stage or after legal advice is obtained. The survey could cover satisfaction with the case officer and the lawyer, with ASBFEO publishing the results in quarterly and annual reports. The survey will measure how efficiently and effectively ASBFEO has supported small businesses. Satisfaction surveys are discussed more broadly later in this chapter.

The SBTC was implemented in 2019 and would benefit from a post implementation review to determine its effectiveness in supporting small business taxation disputes.

Recommendation

Recommendation 8: ASBFEO should:

- conduct a post-implementation review of the Small Business Tax Concierge (SBTC) service in 2 years to determine its effectiveness. Evaluation measures should be developed, and the Data team should track these outcomes
- promote awareness of the SBTC through mechanisms such as forums with tax practitioners, and newsletters.

Reporting and intelligence

ASBFEO is required to report to the Minister for Small Business annually under Section 23, and quarterly under Section 40, of the ASBFEO Act. ASBFEO's quarterly reports are comprehensive and, in addition to the legislated requirements, provide an overview of outreach activities, assistance activities and short case studies drawing out common issues or disputes small businesses are facing and tips to resolve them. The ASBFEO Act requires the annual report to include information on activity and outcomes within the assistance function.

ASBFEO recently engaged a programmer to update its CRM and tracking system, to help with reporting of data.

Stakeholder views

Stakeholders indicated that ASBFEO could do more to share trends and emerging risks of disputes in easy to digest format. The Motor Trades Association of Australia (MTAA) noted in its submission to the Review that *'... if the ASBFEO could educate business on the key risks and opportunities in emerging trends before they become mainstream all parties would benefit.'*⁷⁴ The SBDH made similar observations.

*'... there is opportunity for ASBFEO to provide greater public visibility to and understanding of the issues presenting to their assistance function, particularly issues and challenges arising from systemic poor practices or gaps in regulatory frameworks.'*⁷⁵

SBDH identified the AFCA's Systemic Issues Insight Report as an example.⁷⁶

Analysis

Reporting on assistance data is important to ensure that ASBFEO has sufficient evidence to support its advocacy activities in relation to its assistance function. There have been discrepancies between the data in the quarterly and annual reports relating to activity in the assistance function. However, this has improved recently, with data for 2023–24 consistently reported across publications.

ASBFEO cannot currently report how resolution is achieved, how long a case takes to finalise, and how many touchpoints are made. In addition, ASBFEO does not have data available to provide insights into dispute reasons and specifics of resolutions. For example, ASBFEO cannot identify which provision of the Franchising Code of Conduct is creating a dispute or requires ADR. Some of the underlying observations in the McGregor Review remain consistent with what was observed in this reporting period.⁷⁷ It is expected that the recommendations to review reporting will improve outcomes.

74 MTAA, *Submission to the Independent Review of the ASBFEO* January 2025, p 3.

75 Small Business Debt Helpline, *Submission to the Independent Review of the ASBFEO* December 2024, p 4.

76 Small Business Debt Helpline, *Submission to the Independent Review of the ASBFEO* December 2024, p 4.

77 C McGregor, [Australian Small Business and Family Enterprise \(ASBFEO\) Independent Review](#), Canberra, Commonwealth of Australia, 2021 pp 58–60, accessed 20 May 2025.

To benefit its wide range of stakeholders, ASBFEO should consider communicating themes and trends in disputes more effectively, and the potential to use one-page briefs on key policy reforms.

Data on disputes could provide valuable evidence regarding the trends and costs of disputes. The Review recommends ASBFEO undertake rigorous analysis of disputes to inform advocacy work. For example, systemic trends could include the cost of a franchising dispute to a small business owner and common contraventions of the Franchising Code of Conduct by franchisors. Further, the data could be used to inform best practice guides for potential disputants or parties wanting to understand the process and trade-offs when taking action.

Recommendation

Recommendation 9: ASBFEO should review its reporting systems to ensure:

- assistance and disputes activity is consistently tracked across reporting periods and dispute cases reported to include the types of disputes and the outcomes reached
- intelligence gathered from analysing requests for assistance is used for case studies and case pathways on the website, and the advocacy agenda on systemic issues
- it communicates themes and trends in disputes more effectively
- it uses one-page briefs to highlight key policy reforms that may address issues arising from trends and themes in disputes.

Service standards

ASBFEO does not have formal service standards for the time taken for the Case Management team to respond to an enquiry or to finalise or refer a case for mediation. ASBFEO only has service standards for the Contact Centre. Similar agencies, such as the Commonwealth Ombudsman, have service standards included in their published service charter. To ensure ASBFEO's services are effective and convenient, service standards for the Case Management team should be introduced and published on the ASBFEO website. ASBFEO could also report on average time to close a request for assistance (measured in days) and produce an aged case report.

Recommendation

Recommendation 10: ASBFEO should develop assistance service standards and key performance indicators to measure effectiveness and publish the results where appropriate.

Satisfaction surveys

ASBFEO does not conduct a satisfaction survey for parties using its assistance service, however as part of the ISO accreditation they will be developing one to include the following:

- satisfaction with the quality and timeliness of service, and whether the small business would recommend the service to others
- whether their dispute has been resolved in whole or part, and whether the parties are still working on a resolution
- whether they believe the other party acted in good faith.

Analysis

ASBFEO could benefit from feedback on its assistance services to determine if the process is efficient, effective and convenient for small businesses. Participants could complete a survey when the ADR process is finalised. Satisfaction surveys could also be completed for SBTC and low-cost legal advice, both at the preliminary assistance stage and after the mediation.

Surveys should cover satisfaction with the expertise of the case officer and mediator, and the information provided. ASBFEO should review the state SBCs' surveys as best practice. For example, the VSBC, New South Wales SBC and SBDC (WA) use mediation surveys to obtain feedback from the parties and mediators. Satisfaction surveys will help measure how efficient or effective ASBFEO has been in supporting a small business.

Recommendation

Recommendation 11: ASBFEO should develop surveys that cover the preliminary assistance stage and/or after mediation. Surveys should also be undertaken for SBTC and low-cost legal advice.

Complaints

A review of the complaints process on the website found that the process for managing complaints was not clearly visible or accessible. ASBFEO complaints management process is included in ASBFEO's Assistance Charter. The Charter is available at:

<https://www.asbfeo.gov.au/disputes-assistance/how-we-help>

Complaints are logged by ASBFEO's Contact Centre and referred to info@asbfeo.gov.au.

ASBFEO's ambition is to achieve ISO accreditation for the assistance function. To achieve this accreditation, further work is required to improve and innovate customer service and complaint handling. This should also include service standards and satisfaction surveys. ASBFEO has advised that this work is on the Assistance team's forward work program.

Chapter 5: ASBFEO's role in the franchising sector

Summary

Stakeholders noted that ASBFEO plays a vital role in the franchising sector. ASBFEO provides access to low-cost dispute resolution as the DRA under the Franchising Code of Conduct. ASBFEO advocates effectively for the franchising sector by representing its views in policy forums and supporting reforms relating to franchising. It also interprets the Franchising Code of Conduct by developing best practice guidance to franchisees.

The Franchising Review recommended improvements to access justice for franchisees by providing low-cost legal advice before formal ADR, publicly naming franchisors who have not participated in meaningful ADR and improving guidance material for franchisees. The Review considered the Franchising Reviews findings in assessing the efficacy of ASBFEO's role in the franchising sector. The Review found that, as recommendations of the Franchising Review have only been recently implemented or are still to be implemented, it is too early to assess their effectiveness. The Franchising Review's recommendations that ASBFEO is implementing should be evaluated as part of the next statutory review of ASBFEO, and low-cost legal advice should be reviewed by ASBFEO 2 years after implementation.

Overview

ASBFEO plays a key role in the franchising sector, providing information and services for dispute resolution and advocating for small businesses in the franchising sector. Franchising often involves power imbalances and information asymmetry between franchisors and franchisees, with franchisors usually having greater resources and access to information.

The Franchising Review included 7 recommendations to be co-designed or implemented by ASBFEO. The Franchising Code of Conduct governs the relationship between franchisors, franchisees, and prospective franchisees.⁷⁸ It is mandatory and prescribed by regulation under the *Competition and Consumer Act 2010* and includes rules for disclosure, requirements to address power imbalances and mechanisms for dispute resolution.

ASBFEO participated in the Franchising Review through a formal submission and feedback during the consultation processes.⁷⁹ ASBFEO also made a submission to the subsequent inquiry into the feasibility of a licensing regime for the franchise sector.

The ToR for the Review included assessing the efficacy of ASBFEO's role in the franchising sector, considering the findings of the Franchising Review. The Franchising Review made several recommendations to improve access to justice for franchisees, including providing low-cost legal

⁷⁸ *Competition and Consumer (Industry Codes – Franchising) Regulation 2014* (Cth).

⁷⁹ ASBFEO, *Submission to the Independent Review of the ASBFEO* January 2025, p 20.

advice prior to formal ADR and publicly naming franchisors who have not participated meaningfully in ADR. It also recommended that ASBFEO and ACCC, jointly develop best practice guidance and education to improve standards of conduct for the franchising sector. Refer to Appendix F for a list of the recommendations relating to ASBFEO and the Government response.

The Franchising Review also considered the effectiveness of current dispute resolution mechanisms. The Franchising Review conducted a survey to assess franchisees' levels of awareness of and feedback on ASBFEO's dispute resolution services. The survey revealed that approximately 50 per cent of franchisees were aware of the service, and those who interacted with ASBFEO were generally satisfied.⁸⁰ However, it found that stakeholders had mixed views about whether the current dispute resolution mechanism was sufficient. Stakeholders also noted that seeking ADR through ASBFEO is more expensive than through state SBCs. Stakeholders also suggested that more information could be provided about voluntary arbitration under the Franchising Code of Conduct.

Advocacy

ASBFEO advocates for the franchising sector by ensuring its views are represented in policy forums and government reform relating to franchising. In particular, ASBFEO attends and contributes to the ACCC's Small Business and Franchising Consultative Committee. It also produces submissions to reviews relating to the franchising sector.

Stakeholders found that ASBFEO's advocacy for the franchising sector was effective and valuable. Its willingness to lodge submissions for franchising-related reviews provided a strong voice for the franchising community.

*'ASBFEO submissions made last year on the National Competition Policy and the Franchising Code of Conduct Review were valuable contributions to the debates from an organisation with direct experience and expertise.'*⁸¹

In particular, the Australian Automotive Dealers Association (AADA) appreciated the ASBFEO calling out harmful unfair business practices. The ASBFEO's willingness to call out bad behaviour ensures that franchisees have their concerns heard by the Government.

*'AADA appreciates the advocacy of ASBFEO on matters of harmful unfair business practices which ought to be illegal in the franchise business relationship but have slipped through the net.'*⁸²

ASBFEO has a good understanding of issues and challenges in the franchising sector and uses this knowledge to educate the sector. Stakeholders found that ASBFEO's communication and engagement on franchising issues were effective.

*'AADA supports ASBFEO, the Ombudsman, and staff in the ongoing efforts to assist business owners, particularly franchisees.'*⁸³

80 Independent Review of the Franchising Code of Conduct, Dr Michael Schaper, December 2023, p 89.

81 AADA, *Submission to the Independent Review of the ASBFEO* January 2025, p 1.

82 AADA, *Submission to the Independent Review of the ASBFEO* January 2025, p 2.

83 AADA, *Submission to the Independent Review of the ASBFEO* January 2025, p 1.

‘ASBFEO is an active and regular communicator in all parts of Australia including country regions. Active outreach is important for ASBFEO to be seen and to actively seek feedback from small business owners. The emphasis on outreach should continue.’⁸⁴

MTAA was pleased with the level of engagement with the Ombudsman however they would like to see a reinvigoration of engagement including the productive quarterly meetings which were recently discontinued.⁸⁵ ASBFEO should review its stakeholder consultation to ensure that it is fit for purpose.

At the franchising roundtable, an industry body questioned ASBFEO’s independence during the Franchising Review as it was not clear that a balanced approach to its advocacy recognised that some franchisors are also small businesses. ASBFEO will need to be mindful of the views of all small businesses when advocating on an issue.

Stakeholders also noted that ASBFEO plays an important role in assisting with interpreting the Franchising Code of Conduct, which provides information and best practice guidance for the sector.

‘ASBFEO understands the issues facing small business owners, the problems of one-sided business relationships, and the imbalance of power.’⁸⁶

Stakeholders suggested better education before entering into a franchise agreement would provide benefits for all parties making them aware of the risks and opportunities.

‘If ASBFEO could educate business on the key risks and opportunities in emerging trends before they become mainstream all parties would benefit.’⁸⁷

Before implementing the Government response to Recommendation 17 from the Franchising Review, ASBFEO should consult broadly with franchisee and franchisor stakeholders. This should improve the education of the franchising sector.

Assistance

ASBFEO is the DRA under the Franchising Code of Conduct, providing franchisees and franchisors access to ADR services.⁸⁸ The role of the DRA is to provide information about the dispute resolution process, recommend ADR services and provide a list of accredited ADR practitioners to conduct mediation, voluntary arbitration or conciliation.

SBCs also support the franchising sector in accessing ADR, by referring complaints to ASBFEO or by using their own services in some instances. SBCs must manage retail leasing disputes involving franchisees which are usually based on state legislation. South Australia also has franchising legislation providing dispute resolution, similar to the Franchising Code of Conduct, but this has rarely been used.⁸⁹

84 AADA, *Submission to the Independent Review of the ASBFEO* January 2025, p 2.

85 MTAA, *Submission to the Independent Review of the ASBFEO* January 2025, p 2.

86 AADA, *Submission to the Independent Review of the ASBFEO* January 2025, p 2.

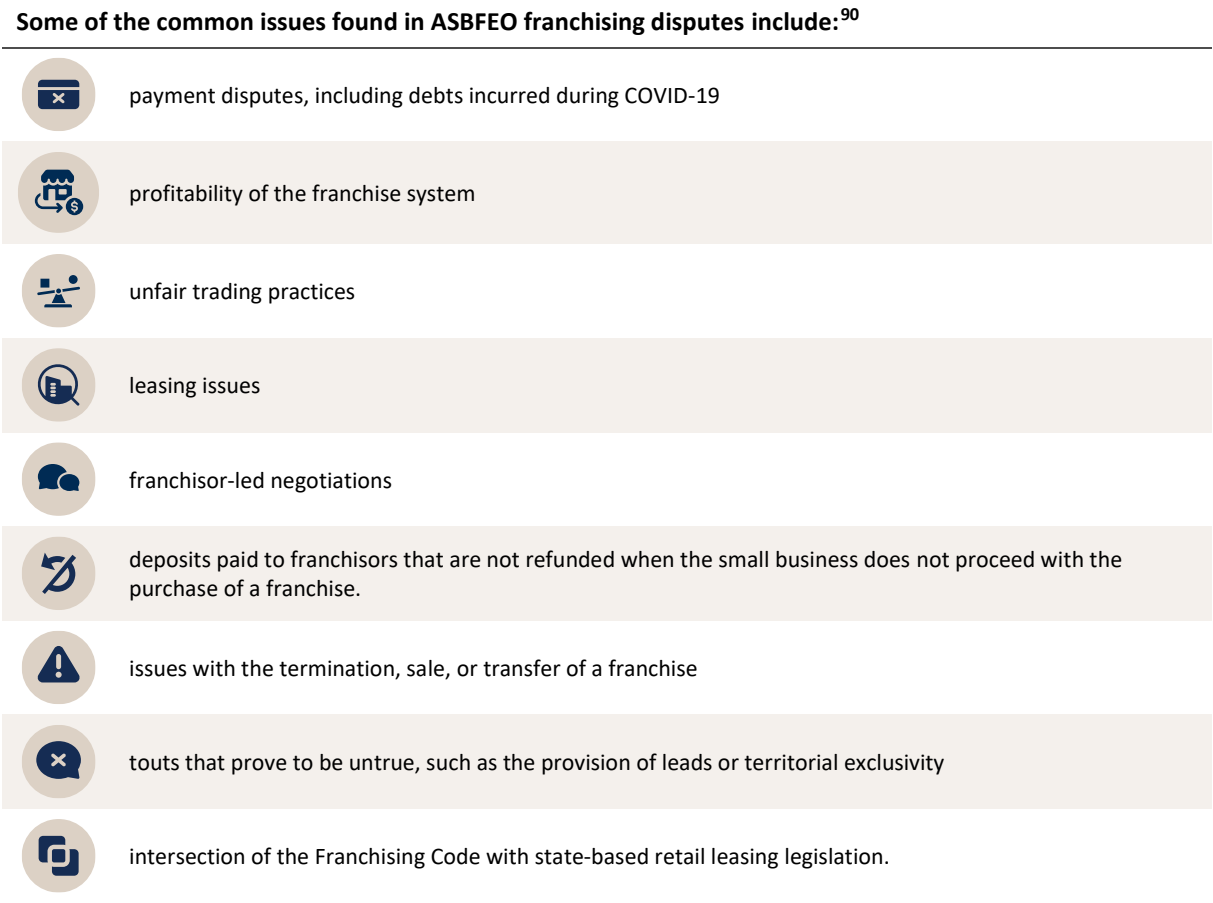
87 MTAA, *Submission to the Independent Review of the ASBFEO* January 2025, p 3.

88 Competition and Consumer (Industry Codes—Franchising) Regulation 2014 (Cth), Section 6.

89 Fair Trading (Franchising Industry Dispute Resolution Code) Regulations 2015 (SA).

ASBFEO primarily manages franchising disputes covered by the Franchising Code of Conduct and cases involving parties in multiple jurisdictions. It can also assist franchisees with issues outside of the Franchising Code of Conduct, if it does not duplicate the role of the state SBC or another office. Common issues in franchising disputes are shown in Figure 5.1.

Figure 5.1: Common issues in franchising disputes



Stakeholders agreed that ASBFEO plays an important role in dispute resolution for the franchising sector:

‘AADA has appreciated the efforts of ASBFEO in assisting AADA with franchising disputes ...’⁹¹

‘ASBFEO’s specific dispute resolution function within the franchising sector is important to those businesses within it, many of which are small businesses.’⁹²

90 Australian Small Business and Family Enterprise Ombudsman, *Submission to the Independent Review of the ASBFEO January 2025*, p 14.

91 AADA, *Submission to the Independent Review of the ASBFEO January 2025*, p 2.

92 ACCI, *Submission to the Independent Review of the ASBFEO January 2025*, p 3.

Franchising disputes make up a small portion of overall cases. From 2021–22 to 2023–24, approximately 11 per cent of ASBFEO’s cases dealt with franchising issues. Table 5.1 shows that these cases have decreased from 222 cases in 2021–22 to 124 cases in 2023–24.

Table 5.1: Franchising cases from 2021–22 to 2023–24

	2021–22	2022–23	2023–24	3-year total
Franchising cases	222	154	124	500
ASBFEO total cases received	1,601	1,469	1,396	4,466
Franchising as a per cent of total cases	14%	10%	9%	11%

Please refer to Appendix I for table notes and sources.

Feedback from stakeholders provided the rationale for the low number of franchising disputes sent to ASBFEO. AADA suggested that new vehicle franchisors prefer not to go to mediation but to court, which disadvantages dealer franchisees. AADA would welcome additional powers to bring franchisors to the table.⁹³ CPA Australia stated that its members would seek legal advice rather than contacting ASBFEO if they had a dispute regarding the Franchising Code of Conduct. This feedback is consistent with the stakeholder survey results at Appendix C, which found that 39 per cent of respondents seek legal advice from professional advisers such as lawyers and accountants. The low number of franchising disputes is also possibly due to SBCs’ lower cost mediation services, discussed in Chapter 4.

There is a low rate of franchising cases being resolved through the ASBFEO. In the past 3 years, 90 per cent of cases referred to ADR related to the Franchising Code of Conduct, and only 39 per cent reached resolution. Table 5.2 shows the success rate of ADR has also decreased over the period, from 51 per cent in 2021–22 to 27 per cent in 2023–24. Chapter 4 outlined a proposed in-house ADR model that would include the franchising disputes and should lead to improved resolution rates.

Table 5.2: Outcome of cases referred to ADR under the Franchising Code

	2021–22	2022–23	2023–24	Total
Outcome: Reached resolution	44	19	23	86
Outcome: Partially resolved	6	2	1	9
Outcome: Unresolved	27	21	59	107
Outcome: No response	10	7	3	20
TOTAL	87	49	86	222

Please refer to Appendix I for table notes and sources.

⁹³ AADA, *Submission to the Independent Review of the ASBFEO* January 2025, p 2.

Observation

Observation 3: Franchisees need to know which agency is best suited to deal with their franchising dispute, and their rights during the ADR process. ASBFEO should address this when implementing the 2023 Independent Review of the Franchising Code of Conduct Recommendation 17 on best practice guidance and education.

Implementation of the Franchising Review

The Franchising Review made several recommendations to achieve better access to justice for franchisees. Recommendations included 2 measures that have already been implemented by ASBFEO:

- Low-cost legal advice for franchisees prior to formal ADR.
- ASBFEO to name franchisors who have not participated meaningfully in ADR.

The Franchising Review also found that ASBFEO and ACCC could implement enhanced information and guidance on best practice for the franchising sector. These recommendations are still being implemented. The ASBFEO Act provides authority for ASBFEO to promote best practice approaches under section 14 (h).

The Franchising Review recommended that the Australian Government assist franchisees in accessing low-cost legal advice prior to formal ADR.⁹⁴ The Government implemented a broader measure from 3 March 2025 which applies not only to franchisees but all small businesses. This measure uses a similar process to the SBTC discussed in Chapter 4.

Stakeholders supported the low-cost legal services for the franchising sector.

MTAA is particularly supportive of the potential expansion of the current SBTC model to a wider service including advice on franchise matters.⁹⁵

Stakeholders provided views on the effectiveness of the low-cost legal advice. A stakeholder indicated that one hour of legal advice was adequate to determine whether to go to mediation. However, further legal advice would be needed a decision was made to proceed with mediation. Another stakeholder agreed that legal advice before mediation would be beneficial but noted that most parties bring their own lawyers to mediation.

⁹⁴ Dr Michael Schaper, *Independent Review of the Franchising Code of Conduct*, December 2023, Recommendation 19, p 10.

⁹⁵ MTAA, *Submission to the Independent Review of the ASBFEO* January 2025, p 5.

This service provides unrepresented small businesses, including franchisees, access to low-cost legal advice to help them navigate business disputes more effectively. It builds on ASBFEO's existing small business tax concierge service. Effective marketing to the relevant sector is essential for adoption. The effectiveness of the low-cost legal advice service should be reviewed early. Outcome measures should be developed, and the Data team should track these outcomes. These outcome measures will be used to assess the measure for a post-implementation review.

Stakeholder consensus was that it is too early to assess the effectiveness of the recommendations of the Franchising Review. The Australian Government response to these recommendations has only recently been implemented or is still being implemented.

Recommendation

Recommendation 12: As part of the next statutory review of ASBFEO, the Australian Government should assess the implementation of the recommendations specific to ASBFEO from the 2023 Independent Review of the Franchising Code of Conduct.

Chapter 6: ASBFEO's nomenclature and branding, administration and legislative arrangements

Summary

ASBFEO's remit is unique among comparable countries because it covers assistance and advocacy functions. However, dispute resolution agencies in similar countries, including Canada and New Zealand, procure mediation panels.

The Review compared ASBFEO's structure to similar agencies and found the current structure suitable. As a smaller office, it is difficult to see how reallocating existing staff away from advocacy or assistance activities to corporate activities, as would be necessary to operate as an independent entity, would benefit the small business sector.

Despite having an informative website and large media and social media coverage, a large proportion of small businesses are unaware of ASBFEO. The Review recommends that the communication and engagement strategy be revised with a greater focus on the assistance function. It should cover industry associations and legal and accounting professions and special interest groups, including small businesses run by First Nations people and members of the multicultural community.

Most stakeholders favoured a name change for ASBFEO as the current name is difficult to pronounce and does not reflect its functions. The Review recommends that the name be changed to incorporate the term Commissioner to better reflect the role of ASBFEO. Rebranding will require additional funding to promote awareness of the new brand.

International jurisdictions

The Review compared ASBFEO's functions with those of similar statutory or administrative bodies in the United Kingdom (UK), US, Canada and New Zealand as outlined in Appendix G. ASBFEO's remit is unique compared to these countries as it covers both assistance and advocacy more comprehensively.

ASBFEO's advocacy function, focusing on all aspects of the small business sector, is not replicated in other jurisdictions. For example, the UK Office of the Small Business Commissioner (OSBC) only advocates for small business payments issues and Canadian Office of Procurement Ombud (OPO) on procurement issues.

ASBFEO's assistance function is also broader, covering all small business disputes rather than specific issues. For example, the UK OSBC only assists in payment disputes, the Canadian OPO deals with contracting disputes, and the UK Financial Ombudsman Service for Small Business (FOSSB) assists with financial services disputes. The New Zealand department of the Ministry of Business, Innovation and Employment (MBIE) procures a mediation panel but only on employment issues.

While ASBFEO's assistance function provides access to low-cost dispute resolution services to small businesses, similar agencies in other jurisdictions, including Canada and New Zealand, have mediation panels. Implementing Recommendation 7 to enable ASBFEO to procure a mediation panel is consistent with other international bodies.

Stakeholder views

A few stakeholders comparing ASBFEO to similar agencies in other jurisdictions suggested that it could have a broader role or increased powers. For example, the IPA wanted to broaden ASBFEO's scope similar to the US Office of the National Ombudsman (ONO) within the Small Business Administration (SBA), akin to a 'one-stop-shop' for small business, covering dispute resolution, grants and business development.⁹⁶

The support small businesses receive in Australia is provided primarily by 3 agencies, including ASBFEO. AusIndustry offers programs and services that support small businesses, including industry growth programs, the single business service website (business.gov.au), a contact centre and an outreach program in regional Australia.⁹⁷ The Treasury also supports small businesses through focused programs such as wellbeing supports and improving understanding of the digital economy.⁹⁸

Current administration and legislative arrangements

The Ombudsman is a statutory office established by the ASBFEO Act. The ASBFEO Act sets out the scope of the Ombudsman role and powers. The Ombudsman is independent from the Department of the Treasury and is assisted by staff within the department. Although the office of the Ombudsman has its own branding, website and identity, from a legal point of view, apart from the Ombudsman themselves being independent, it is not an independent or separate entity from the Commonwealth and its staff are part of a 'parent' agency.⁹⁹

Since March 2021, the parent agency has been The Department of the Treasury. Under the *Public Service Act 1999* (Cth)(Public Service Act), the Secretary of the Treasury is the Agency Head of ASBFEO. Under the *Public Governance, Performance and Accountability Act 2013* (Cth)(PGPA Act), the Secretary is accountable for ASBFEO's operations, including the entire agency's financial management and compliance with reporting requirements. Staff supporting the Ombudsman are made available by the Secretary of the Treasury and are employed subject to Treasury terms and conditions of employment.

In comparison, structures such as statutory authorities or listed entities for PGPA Act purposes can operate more autonomously in managing the funding allocated to them by the Australian Government. These responsibilities create trade-offs, such as the need to establish their own mechanisms for compliance with the laws under the PGPA Act and the Public Service Act, human

⁹⁶ IPA, *Submission to the Independent Review of the ASBFEO Review*, January 2025, p 2.

⁹⁷ AusIndustry, [Expertise and Advice](https://business.gov.au), [business.gov.au website], (n.d.) accessed 9 May 2025.

⁹⁸ Treasury, [Small Business](https://treasury.gov.au), Treasury website, (n.d.), accessed 9 May 2025.

⁹⁹ [ASBFEO Act 2015](#), section 33.

resources and payroll systems, information technology and leases, resulting in additional operating costs.

Stakeholder views

ASBFEO and a few stakeholders indicated that it should have an independent statutory structure like the IGTO or the Fair Work Ombudsman (FWO). The structural change is driven by ASBFEO's concern that it does not have complete control of its budget. Periodically, when Treasury has had to absorb the cost of certain measures and/or work, ASBFEO's budget has been reduced to offset pressures, which is consistent with the treatment applied to all other sections of the Treasury department. ASBFEO considers this has inhibited its ability to progress certain activities.¹⁰⁰

A common theme amongst stakeholders was the importance of perceived independence.¹⁰¹ SBDC (WA) preferred an independent statutory authority model, such as IGTO for ASBFEO.¹⁰² CPA Australia noted it supports ASBFEO being linked to the Treasury portfolio.¹⁰³

Analysis

The Review compared ASBFEO's current structure and the statutory authority model to ensure it was fit for purpose. The operating costs and structure of FWO with almost 1,000 staff is not comparable to ASBFEO and was not considered for the purposes of this Review.¹⁰⁴ The *Inspector-General of Taxation Act 2003* establishes the IGTO as a statutory authority – comprised of the Inspector-General and the APS employees assisting them. The Inspector-General is the Agency Head under the Public Service Act, with the agency being a separately listed entity for PGPA Act purposes.¹⁰⁵ The PGPA Act and Public Service Act impose a number of legal, corporate and governance functions on Agency Heads. For example, managing the human resources, finance and information technology functionality. IGTO has advised that its staffing and annual funding levels are very similar to ASBFEO's, however, approximately 4 of its 35 staff members are required to manage the corporate and governance functions.

The Review found that the current structure is suitable for ASBFEO. As a smaller office, it is difficult to see how reallocating existing staff away from advocacy or assistance activities to corporate activities would benefit the small business sector.

100 ASBFEO, *Submission to the Independent Review of the ASBFEO*, January 2025, pp 27–28.

101 Consult Australia, *Submission to the Independent Review of the ASBFEO*, January 2025, p 3; NANA *Submission to the Independent Review of the ASBFEO Review*, January 2025 p 3.

102 SBDC (WA), *Submission to the Independent Review of the ASBFEO*, January 2025, p 4.

103 CPA Australia and CA ANZ, *Submission to the Independent Review of the ASBFEO*, January 2025, p 4.

104 Fair Work Ombudsman, [Office of the Fair Work Ombudsman Annual Report 2023–24](#), p. 63, accessed 13 May 2025.

105 *Inspector-General of Taxation Act 2003*, section 36A.

ASBFEO funding

ASBFEO is funded from the Treasury's operating revenue through its internal budget process. The Ombudsman is supported by approximately 30 staff across 4 units: Policy and Advocacy, Economics, Data Analytics & Assistance, Media and Communications, and Business Management and Corporate Operations. Figure 6.1 shows the current focus of ASBFEO staff.

Figure 6.1: Organisational chart



The annual budget has varied over the 4 years of the Review period, with actual expenditure close to \$6 million in 2022–23 and 2023–24. It is tracking towards a similar amount based on financial year to date expenditure as of 31 January 2025 (Table 6.1). ASBFEO has underspent its budget in the previous 3 financial years and is tracking to do so again this year.

Table 6.1: ASBFEO annual funding levels 2021–22 to 2024–25 year-to-date

	2021–22	2022–23	2023–24	2024–25*
Departmental Budget	\$7,645,000	\$6,499,436	\$6,475,000	\$6,369,000
Departmental Actual	\$4,500,062	\$5,608,297	\$5,920,255	\$2,978,861
Variance Actual to Budget	\$3,144,938	\$891,139	\$554,745	N/A

Note: *Year- to-date refers to period from 1 July 2024 through to 31 January 2025.

ASBFEO also received specific programme funding for the SBTC service. Funding granted for the 2021–22 financial year was significantly underspent and, as a result, was reduced in 2022–23. In addition, the SBTC service was recently expanded to include low-cost legal advice as discussed in Chapter 5.

Fourteen submissions raised ASBFEO's funding as an area of concern. Stakeholders claimed that ASBFEO funding had been cut, or additional funding was needed to deal with increased demand arising from an increasingly complex and evolving regulatory environment. They noted increased

resourcing would allow further research, development and positive input into policy areas for small businesses.¹⁰⁶ The Small Business Association of Australia suggested:

‘Small businesses, especially micro businesses, stand alone with little support either financially or through good policy, therefore having an ombudsman who has the interests of small business, who understands small business and works on their behalf is crucial to the welfare of this country. Proper investment and the support of the Ombudsman and its office are a valuable return on this investment.’¹⁰⁷

Stakeholders supported strengthening ASBFEO’s role. COSBOA strongly supports ASBFEO’s continued independence and suggests increased resourcing to meet growing demand. *‘As the operating and regulatory environment only becomes more complex for small businesses, the role of ASBFEO will only become more critical in the future.’¹⁰⁸*

Despite concerns raised by stakeholders, as indicated in Table 6.1, ASBFEO has underspent in all 3 previous years and is on track to underspend in 2024–25. It has completed its advocacy agenda and managed to fulfil requests for assistance promptly. ASBFEO needs to provide a strong business case to support any future funding requirements for its role in supporting small businesses. The need for additional funding will persist unless a more disciplined approach is applied to prioritising the advocacy agenda.

Awareness, communications, name and branding

Awareness of ASBFEO

ASBFEO developed a communications strategy in 2021 to increase awareness of its functions.¹⁰⁹ ASBFEO communicates through various activities, channels, and networks, including social media, stakeholder engagement, newsletters, products and events.

ASBFEO’s strong media and social media presence and informative website have helped raise its profile. The number of followers across all social media platforms used and tracked by ASBFEO (Facebook, Instagram, LinkedIn, Twitter and YouTube) has grown at an average of 12 per cent

¹⁰⁶ ITECA; *Submission to the Independent Review of the ASBFEO*, January 2025, p 2; ACCI; *Submission to the Independent Review of the ASBFEO*, January 2025, p 2; CAFBA; *Submission to the Independent Review of the ASBFEO*, January 2025, p 4; Tas SB Council; *Submission to the Independent Review of the ASBFEO*, January 2025, p 2; Bookkeepers; *Submission to the Independent Review of the ASBFEO*, January 2025, p 2; NANA; *Submission to the Independent Review of the ASBFEO*, January 2025, p 3; Pinter & Partners *Submission to the Independent Review of the ASBFEO*, January 2025, p 2; SB Matters *Submission to the Independent Review of the ASBFEO*, January 2025, pp 3–5.

¹⁰⁷ Small Business Association of Australia, *Submission to the Independent Review of the ASBFEO*, January 2025, p 6.

¹⁰⁸ COSBOA; *Submission to the Independent Review of the ASBFEO*, January 2025, p 5.

¹⁰⁹ ASBFEO, *ASBFEO Communication and Engagement Strategy* [unpublished document] ASBFEO, Canberra 2021.

per annum since July 2020. Total followers reached nearly 17,000 across all platforms at the end of the 2023–24 financial year as outlined in Table 6.2.

Table 6.2: Social media activity across all platforms used by ASBFEO

Year	Social media followers [#]	Social media posts
2023–24	16,741	715
2022–23	15,143	1,122
2021–22	13,504	1,073
2020–21	11,803	1,340

Please refer to Appendix I for table notes and sources.

The Ombudsman undertakes significant media activity to build awareness of the ASBFEO and the issues small businesses face, as shown in Table 6.3. Media activities also include sharing guidance and best practices for small business owners. Media releases published on ASBFEO’s website since January 2022 include topics such as: assistance – including providing best practice tips on how to engage with small businesses, or how small businesses can manage issues and policy areas on which ASBFEO is advocating.¹¹⁰

The Ombudsman regularly writes opinion pieces for various publications, including industry press and major newspapers. Topics covered in the media and opinion pieces are broad, and a range of issues may be covered in a single opinion piece or media interview.¹¹¹

Table 6.3: Media release activity

Year	Media releases published	Mentions of ASBFEO in media [#]
2023–24	25	2,184
2022–23	24	1,868
2021–22	80	923
2020–21	101	5,607

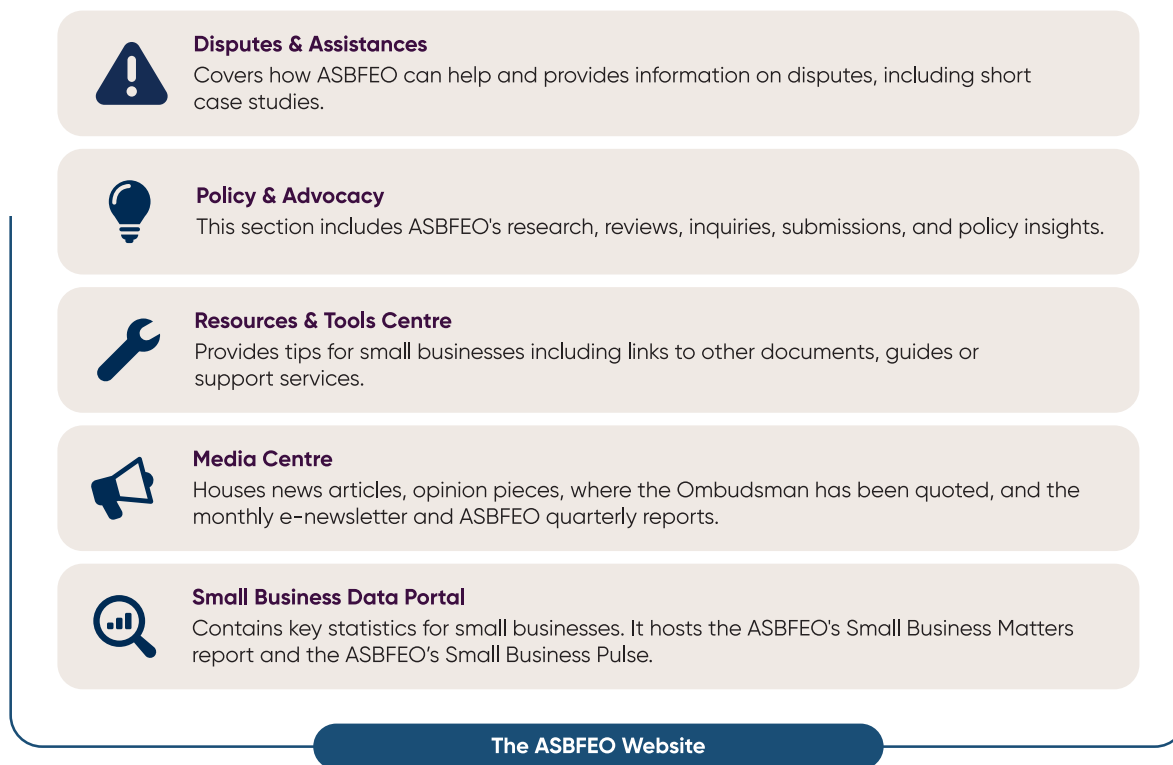
Please refer to Appendix I for table notes and sources.

110 ASBFEO, [Media Releases](#), ASBFEO website (n.d.) accessed 13 May 2025.

111 ASBFEO, [Op-eds](#), ASBFEO website (n.d.) accessed 13 May 2025.

ASBFEO's website hosts information under 5 main menu options as shown in Figure 6.2.

Figure 6.2: The ASBFEO website



The total number of visits to the ASBFEO website can vary significantly, as demonstrated in Table 6.4. Total website visits peaked in 2020–21 at 273,525. This is likely due to COVID-19 generating an increase in small businesses seeking support. Since then, annual website visits reduced to 133,388 during the 2022–23 financial year, before growing to 210,918 in the 2023–24 financial year.

Table 6.4: Website Visits – Annual basis

Year	Website visits	Website visits – assistance section
2023–24	210,918	74,244
2022–23	133,388	48,792
2021–22	217,101	82,957
2020–21	273,525	-

Please refer to Appendix I for table notes and sources.

Stakeholder feedback

Stakeholder submissions to the Review provided minimal comment on social media, media and website engagement. However, stakeholders indicated that the website information was clear and concise.¹¹²

In consultation meetings, stakeholders observed that the Ombudsman had a strong presence in the media and could articulate the concerns of small businesses well in media discussions. Stakeholders viewed it as necessary to increase the visibility and understanding of issues impacting small businesses, such as the impacts of the 3G shutdown.¹¹³

Despite having an informative website and large media and social media coverage, many small businesses are unaware of ASBFEO and its role. The stakeholder survey results showed that from a sample of 225, almost 60 per cent of respondents reported never having heard of ASBFEO. In addition, 31 per cent knew of ASBFEO but had not engaged with it or used its services. Comments from the stakeholder survey included:

'I have been in business over 5 years and never heard of this before. If it is really for helping people put it out there so we can get help.'

'I'm a tax agent advising small businesses and have never heard of this entity. Needs more information shared to advisers and businesses to become aware.'

Most small business owners at the roundtable of Small Business Members of the Business Chamber Queensland had low or no awareness of ASBFEO.

Specific groups such as those representing small businesses run by First Nations people and members of multicultural communities also had a low awareness of ASBFEO. Indigenous Business Australia, Northern Territory Indigenous Business Network and the Community Migrant Resource Centre have not heard of ASBFEO. Findings from the stakeholder survey also indicated a low awareness. Of the 4 per cent of respondents who identified as First Nations, 70 per cent had never heard of ASBFEO, and of the 11 per cent who identified as CALD, 77 per cent had never heard of ASBFEO.

The stakeholder survey results also found that 40 per cent of respondents use professional advisers such as lawyers or accountants for assistance, compared to only 8 per cent of respondents who would contact ASBFEO. The CPA Australia 2023–34 annual survey of small businesses confirmed this, indicating 42 per cent of small businesses sought advice from their accountant and only 7 per cent used government services.¹¹⁴

112 Consult Australia, *Submission to the Independent Review of the ASBFEO*, January 2025 page 3.

113 SBDC (WA), *Submission to the Independent Review of the ASBFEO*, January 2025, p 3.

114 CPA Australia, *CPA Australia Asia-Pacific Small Business Survey 2023 –2024, Australian market results* [unpublished], 2024.

Analysis

ASBFEO has sustained a high level of media activity, and the Ombudsman should be commended for making himself available to the media. This often requires the Ombudsman to be available with little notice and at unfriendly hours.

It is difficult to determine the impact of media and social media on Small Business awareness of ASBFEO. Data in Table 6.5 is based on a relatively short period, particularly noting the impact of COVID-19 shutdowns in 2020–21, which were estimated to have increased demand from small businesses. It appears that while media and social media may increase visits to the website, the number of requests for assistance made to ASBFEO and the number of cases actively managed by ASBFEO have not increased. It will be worth monitoring this against ASBFEO's engagement strategy. For example, if ASBFEO refocuses its social media to reach specific audience groups, such as First Nations and multicultural communities, it would be helpful to monitor if this resulted in any additional requests for assistance to ASBFEO.

Table 6.5: Various engagement activities compared to number of contacts and cases

Year	Mentions of ASBFEO in media [#]	Website visits	Social media followers [*]	Social media posts	Total contacts [^]	Cases actively managed by ASBFEO
2023–24	2,184	210,918	16,741	715	6,258	1,400
2022–23	1,868	133,388	15,143	1,122	6,479	1,469
2021–22	923	217,101	13,504	1,073	6,316	1,601
2020–21	5,607	273,525	11,803	1,340	7,205	N/A

Please refer to Appendix I for table notes and sources.

The stakeholder survey responses, submissions and meetings highlight the need for improved communication and awareness of the services provided by ASBFEO. While the larger associations, government agencies and organisations know of ASBFEO and understand its functions, some small business associations and even accountants are unaware it provides ADR services.

In particular, First Nations people and members of multicultural communities face unique challenges, such as language and cultural barriers. They could benefit from having their views included in the advocacy agenda and accessing ASBFEO's dispute resolution services. There is also a need to increase awareness of ASBFEO's services by small businesses, particularly in Tasmania, the ACT, and the NT, as it is the designated dispute resolution agency.

The communication and engagement strategy needs to be updated, focusing more on the assistance function and guidance on ADR services. ASBFEO developed a communication and engagement strategy in 2021 focused on the newly appointed Ombudsman and the advocacy agenda.¹¹⁵ ASBFEO should update its strategy to raise awareness of the assistance function among small businesses in general and special interest groups, including small businesses run by First Nations people, members of multicultural communities and regional and remote areas.

¹¹⁵ ASBFEO, *ASBFEO Communication and Engagement Strategy* [unpublished document] ASBFEO, Canberra 2021.

Recommendation

Recommendation 13: ASBFEO should develop a communications and engagement strategy to promote greater awareness of ASBFEO services. The strategy should:

- cover meetings, forums, media and social media
- leverage AusIndustry's extensive outreach network to build efficiencies and avoid duplication
- consider special interest groups, including small businesses run by First Nations people, members of multicultural communities, and in regional and remote areas.

Use of data and research in publications and communication materials

The Data team works closely with the Media and Communications team to support their activities by providing key pieces of data to inform content creation. The Data team also provides potential topics that may be of interest to the media, for example, by considering upcoming dates when key economic data will be released.

ASBFEO has a broad audience through the media and stakeholder groups that refer to and use its research and publications. In a small number of instances, data or conclusions about data have not been represented accurately in the media or sometimes in submissions. For example, ASBFEO made a statement concerning the percentage of small businesses that did not make a profit in a particular financial year. There were issues with how the information was quoted in various publications and media, in particular on what proportion of the small business cohort the figure applied to and the period it covered.¹¹⁶

ASBFEO needs to ensure that information and data they publish or use in media activity is reliable and verifiable. Incorrectly quoting statistics and the source or year to which they relate reduces credibility and could compromise ASBFEO's integrity. ASBFEO should review procedures to ensure there is a clear and documented process for approving the context in which a data point or quote is used. This should include verifying that it remains consistent and accurately referenced in accordance with the source.

116 ASBFEO, [Quarterly Report Q3, 2024 \(1 July to 30 September 2024\)](#) ABFEO, p 1, accessed 13 May 2025; ASBFEO, [Quarterly Report Q1, 2024 \(1 January to 31 March 2024\)](#) ABFEO, p 1, accessed 13 May 2025; ASBFEO, [Quarterly Report Q3, 2023 \(1 July to 30 September 2023\)](#) ABFEO, p 1, accessed 13 May 2025; B Billson 'Keeping small businesses afloat comes down to us all' *The Canberra Times* [paywall] 31 June 2024, accessed 13 May 2025; S Austin, [Steve Austin interviews the Hon Bruce Billson: payment surcharges and need for least-cost routing to cut fees](#) [interview transcript], ABC Radio Brisbane, 17 October 2024, accessed 13 May 2025; W Goodings, [Will Goodings & David Penberthy interviews the Hon Bruce Billson: payment surcharges and need for least-cost routing to cut payment fees](#) [interview transcript], Radio 5AAA, Adelaide, 16 October 2024, accessed 13 May 2025.

Recommendation

Recommendation 14: ASBFEO should take steps to reference data with greater clarity in its communications, to improve accuracy and consistency of reporting and the data it produces or uses. When communicating statistics or explaining research findings in media and other publications, ASBFEO should reference and communicate the findings by quoting the correct year and the source.

Name and branding

The name ‘ASBFEO’ has existed since the ASBFEO Act was enacted. The McCluskey Review and McGregor Review considered the name and noted that it confused some stakeholders. The McGregor Review recommended changing the name to promote role clarity.

Stakeholder views

The majority of stakeholders were in favour of a name change for ASBFEO. As with the McCluskey Review and McGregor Review, many stakeholders found the term ‘Ombudsman’ confusing.¹¹⁷ The term Ombudsman is often associated primarily with complaint resolution and mediation, which may understate the advocacy, educative and proactive work undertaken by the position, while Commissioner is in line with international norms.¹¹⁸

Some stakeholders found the length of the name and the acronym difficult to pronounce. The name may cause difficulties in branding and agency recognition. Only a few stakeholders wanted to retain the name, they felt that changing the name was a low priority as it did not prevent good outcomes and that more power was needed rather than a rebranding.

The most popular name was Australian Small Business Commissioner. There were variations suggested, such as National or Federal Small Business Commissioner. A few stakeholders suggested Australian Business and Family Enterprises Commissioner and Australian Small Business and Family Enterprises Commissioner.

The Family Business Association (FBA) wanted to retain family enterprises and extend ASBFEO’s remit to cover all family businesses.

‘We request the definition of a family enterprise is extended to all family businesses of all sizes to truly represent the family business sector. This would align the work that ASBFEO does more accurately from a family business perspective to include medium and large family businesses, particularly from an advocacy point of view.’¹¹⁹

117 Small Biz Matters, *Submission to the Independent Review of the ASBFEO*, January 2025, p 6.

118 ACCI, *Submission to the Independent Review of the ASBFEO* January 2025, p 3.

119 FBA, *Submission to the Independent Review of the ASBFEO Review* January 2025, p 5.

However, the Australian Chamber of Commerce and Industry (ACCI) supported removing ‘family enterprises’ to simplify the name and claimed that this would not change the scope of the definition.

ASBFEO’s primary focus is to support all Australian small businesses. Removing ‘family enterprises’ from the title does not change the scope or mandate but reinforces the idea of representing the entire small business community.¹²⁰

Analysis

Family enterprises are a significant subset of the small business sector, and ASBFEO’s current remit covers small businesses that are family enterprises. However, apart from estate planning, as small businesses that are family businesses typically have the same issues as non-family small businesses, it is recommended that ‘Family Enterprise’ is not necessary in ASBFEO’s name.

As discussed previously, ASBFEO has a low awareness among stakeholders, and its name could impact its agency recognition. The name is difficult to say and does not reflect its functions. Changing the name to better reflect its function by removing ‘Ombudsman’ and simplifying the name should ensure greater engagement, accessibility, and make it easier to remember. While there will be costs associated with rebranding to promote awareness, the benefits to stakeholders should outweigh the costs. The rebranding could be undertaken in conjunction with an awareness campaign around the greater ADR powers (discussed in Chapter 4), as both would require legislative change.

Recommendation

Recommendation 15: The Australian Government should consider changing ASBFEO’s name to include ‘Commissioner’ to better reflect its role. Suggestions include:

- National Small Business Commissioner
- Federal Small Business Commissioner
- Australian Small Business Commissioner.

¹²⁰ ACCI, *Submission to the Independent Review of the ASBFEO*, January 2025, p 3.

Appendices

Appendix A: Recommendations from 2017 and 2021 reviews

2017 Review

Led by Ms Su McCluskey and supported by a secretariat from Nous Group

The review found that the ASBFEO was effectively undertaking its functions, filling a gap at a Commonwealth level and achieving value for money.

The review made 8 recommendations:

Recommendation 1: Any expansion in the ASBFEO's assistance function should be carefully considered in light of its important advocacy role and occur only in response to a clearly identified gap.

Recommendation 2: The ASBFEO should continue its efforts to raise its profile among small businesses and family enterprises, with a focus on clarifying its role in relation to family enterprises.

Recommendation 3: The ASBFEO should establish one or more forums through which to directly engage with small businesses, family enterprises and their representatives on an ongoing basis.

Recommendation 4: The ASBFEO should bolster its input into policy and legislation that affects small businesses and family enterprises, including through training, secondments, consultation and evaluation.

Recommendation 5: The ASBFEO should work with other agencies to share data and research about small businesses and family enterprises.

Recommendation 6: The ASBFEO should work with other agencies to access data that would enable it to assess how effectively it transfers requests for assistance to them, most likely focusing on the proportion of requests they resolve themselves and the proportion they refer on to a third agency.

Recommendation 7: The ASBFEO should work with states that do not have small business commissioners to establish clear protocols for its referrals.

Recommendation 8: The attendees of some meetings of the ASBFEO and the state small business commissioners should be expanded to facilitate a broader discussion of common issues and areas of potential duplication.

No government response was issued for the reviews.

2021 Review

Led by Ms Carmel McGregor PSM and supported by a secretariat from Deloitte

The review found the ASBFEO had performed impressively in its first 5 years of operation and had largely acquitted the recommendations of the 2017 review, and suggested the ASBFEO's next phase should focus on maturation and consolidation.

The review made 5 recommendations:

Recommendation 1: Treasury and the ASBFEO should review evidence of gaps in the assistance and dispute resolution ecosystem for Australian small businesses, then implement targeted approaches to resolve these gaps and improve assistance outcomes.

Recommendation 2: The ASBFEO should leverage its experience and relationships to prosecute a strategic agenda designed to focus resources for deep impact on high-priority small business sector issues.

Recommendation 3: The ASBFEO should build its capacity and capability for sustained advocacy impact by strengthening its collaboration with stakeholders and sharpening its ability to characterise the small business sector.

Recommendation 4: The ASBFEO should be renamed to promote role clarity.

Recommendation 5: Treasury and the ASBFEO should act to ensure administrative, funding and staffing arrangements remain supportive of the ASBFEO's mandate.

Appendix B: Stakeholder consultation matrix

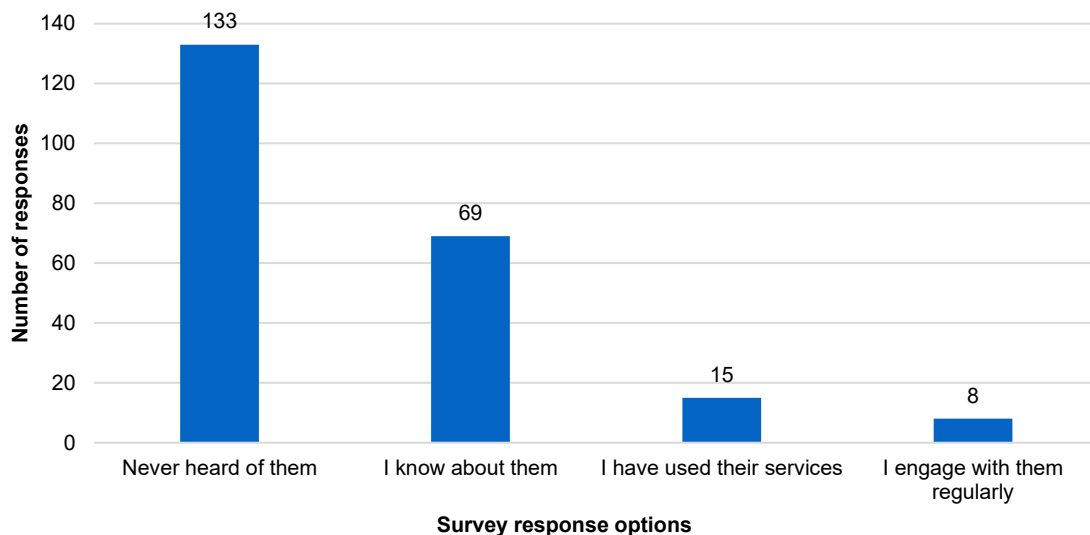


Appendix C: Stakeholder survey

Survey questions and responses

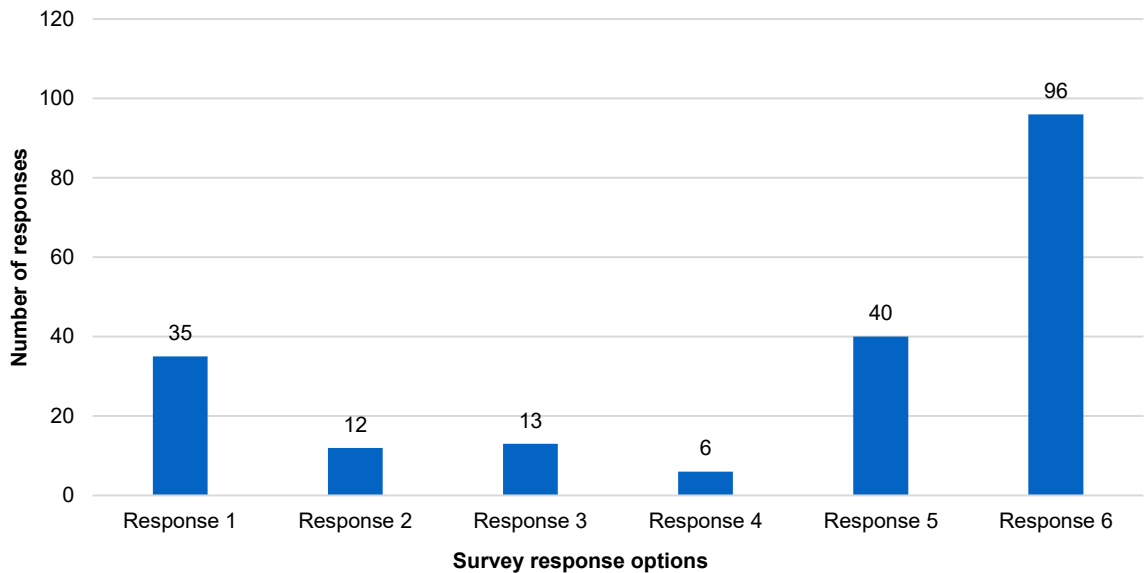
The survey aimed to understand stakeholders' experiences, challenges and perspectives regarding the assistance and dispute resolution services provided by ASBFEO. The survey was distributed directly to many stakeholders and through agencies that published the survey in their newsletters or distributed it directly to their members. The survey received a response rate of 225 participants. The survey gathered insights from broad groups of stakeholders, specifically small business and family enterprise owners, government agencies, industry bodies and associations. The survey targeted CALD, First Nations people, women and regional small business owners to gain their perspective on the assistance available from ASBFEO.

Question 1: What do you know about the Australian Small Business and Family Enterprise Ombudsman (ASBFEO)?



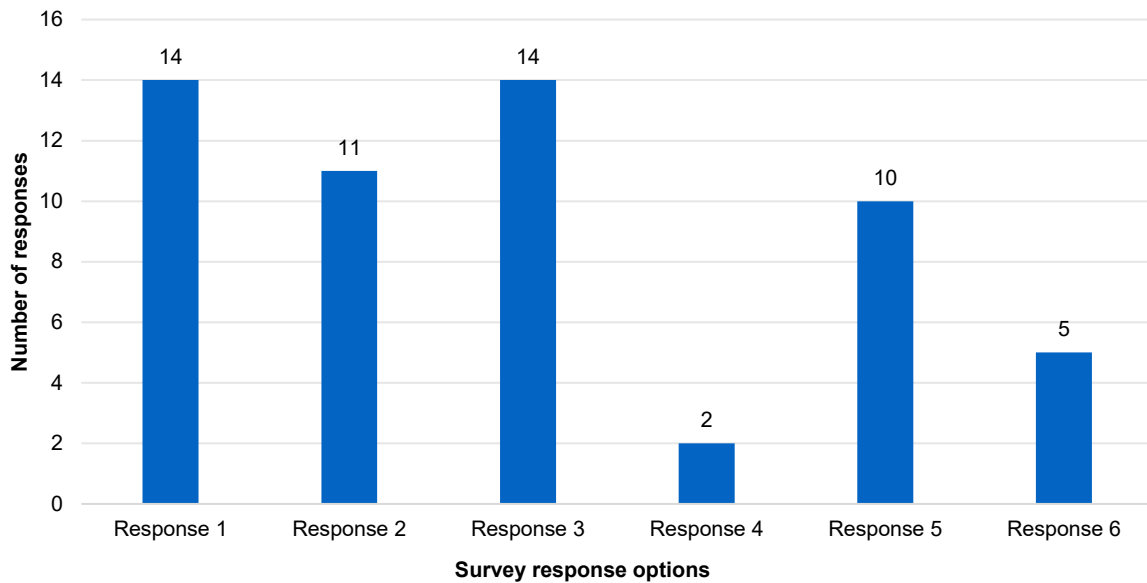
The survey identified a low awareness of ASBFEO, with almost 60 per cent of respondents having never heard of ASBFEO. Surprisingly, professional bodies and advisers were also unaware of ASBFEO and its services, such as tax agents who advise small businesses. Several comments highlighted this lack of awareness. One respondent stated, *'I have been in business over 5 years and never heard of this before. If it is really for helping people put it out there so we can get help.'* Another mentioned, *'Was unaware of the services provided or received any prior correspondence from this office.'* Another stakeholder emphasised, *'There needs to be a further education awareness campaign around who you are and how you help. Also, a campaign on what small business owners need to know about their obligations.'*

Question 2: Have you ever had a dispute with another business or government agency and how did you resolve it?



Note: Response 1: Resolved it through discussion with the other party, Response 2: I used the State Small Business Commissioners or an ombudsman’s services, Response 3: My solicitor resolved it, Response 4: A third party helped me resolve it, Response 5: I didn’t resolve it, Response 6: I’ve not had a dispute.

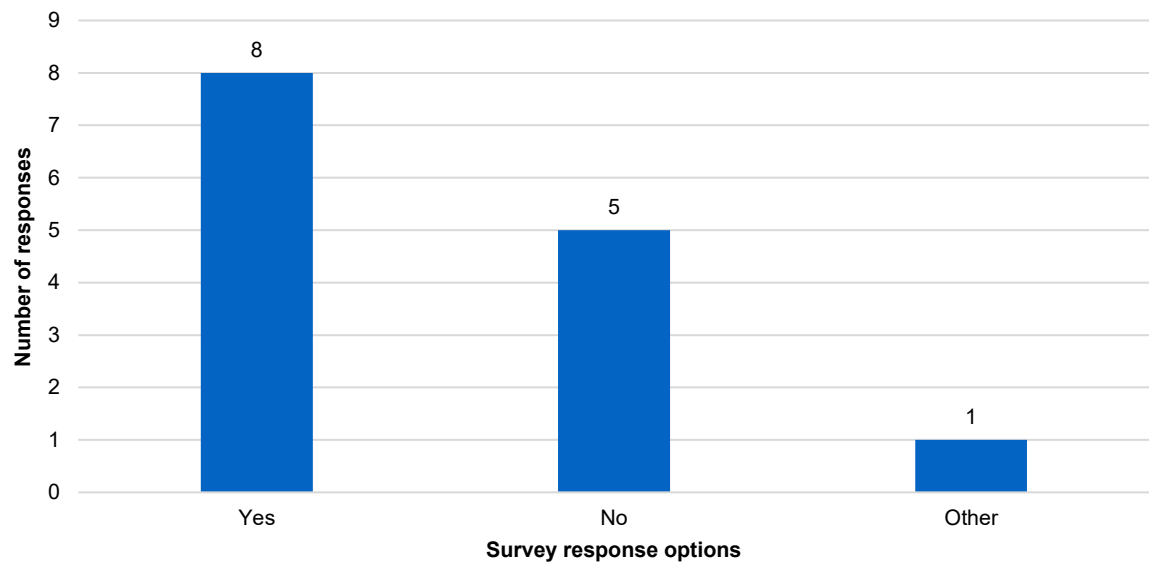
Approximately 50 per cent of respondents (96 respondents) reported having a dispute with other businesses or government agencies. Among the respondents who experienced disputes, the most common resolution approach was through direct discussion with the other party (17 per cent, 35 respondents). This was followed by seeking assistance from solicitors, state commissioners, or other third parties. Although the third parties were not explicitly defined, written responses suggested they might include friends working in similar agencies, industry associations, or chambers of commerce/business chambers for direction or referrals to the appropriate agency. Additionally, the data suggests a high rate of unresolved disputes, with 20 per cent (40 respondents) indicating their disputes remained unresolved.

Question 3: What best describes your engagement with ASBFEO?

Notes: Response 1: Advice or assistance on a dispute with a business or government agency, Response 2: Updates or newsletters from the ASBFEO, Response 3: The ASBFEO website, Response 4: The ASBFEO call centre, Response 5: Attended meetings/roundtables with ASBFEO, Response 6: Other.

25 per cent of respondents engaged with ASBFEO through ASBFEO's website and another 25 per cent through advice or assistance on a dispute with a business or government agency. ASBFEO's call centre received the lowest response at 3.6 per cent, indicating lack of engagement through this service. Around 20 per cent engaged through the newsletter and another approximately 20 per cent engaged through meetings and roundtables. 'Other' responses constituted 9 per cent of responses. Overall, most engagement is through the ASBFEO website and advice or assistance on a dispute with business or government agency.

Question 4: If you have sought advice or assistance from ASBFEO for a dispute with a business or government agency, was the dispute resolved to your satisfaction?

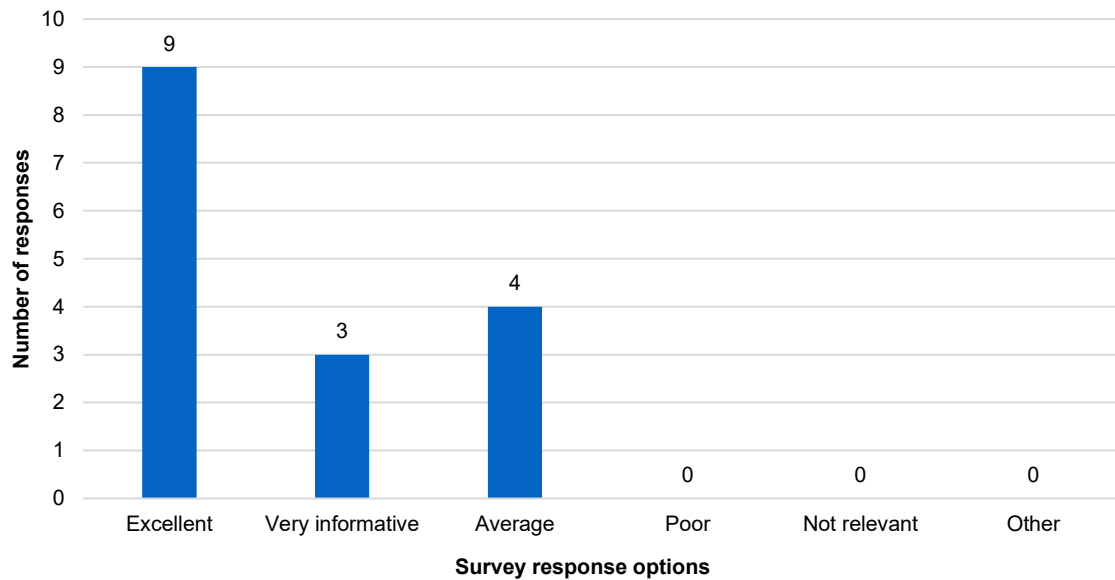


Satisfaction with dispute resolution was generally positive, with almost 60 per cent of respondents indicating their disputes were resolved satisfactorily. About 36 per cent of respondents expressed dissatisfaction, citing specific issues such as a lack of financial help.

Question 5: If not resolved to your satisfaction, please specify why?

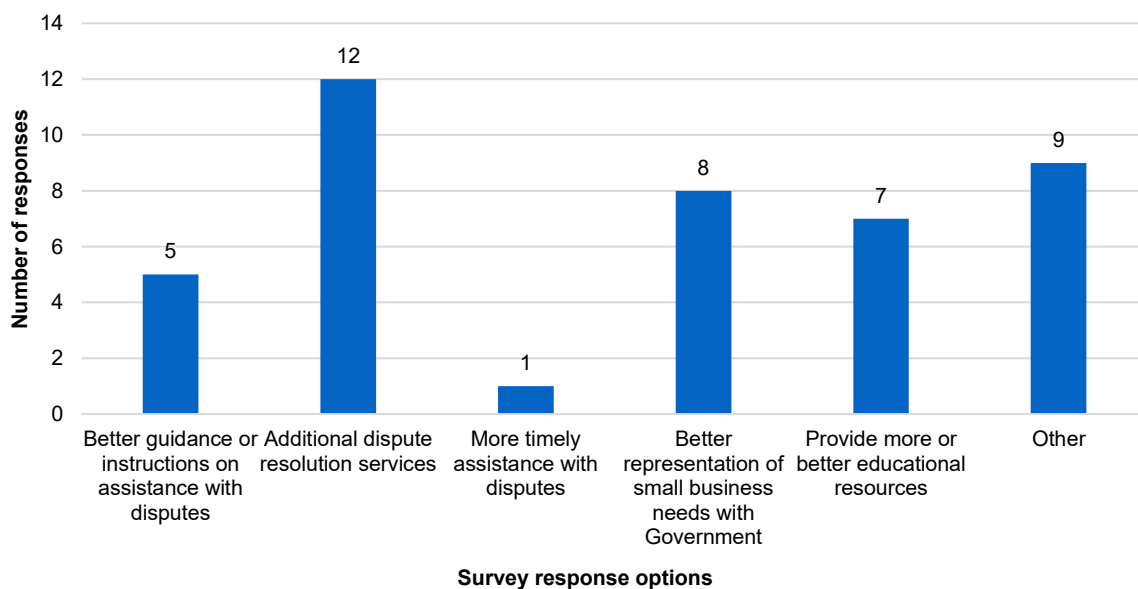
This was a free text field. 5 respondents provided a response to the question.

Question 6: If you engaged in other services of ASBFEO, how would you rate the information provided?



The information provided by ASBFEO for other services outside of dispute resolution was rated as 'Excellent' by 56 per cent of those who engaged with these services. "Very informative" by almost 19 per cent (3 responses) and 'Average' by 25 per cent (4 responses). The remaining categories received no responses.

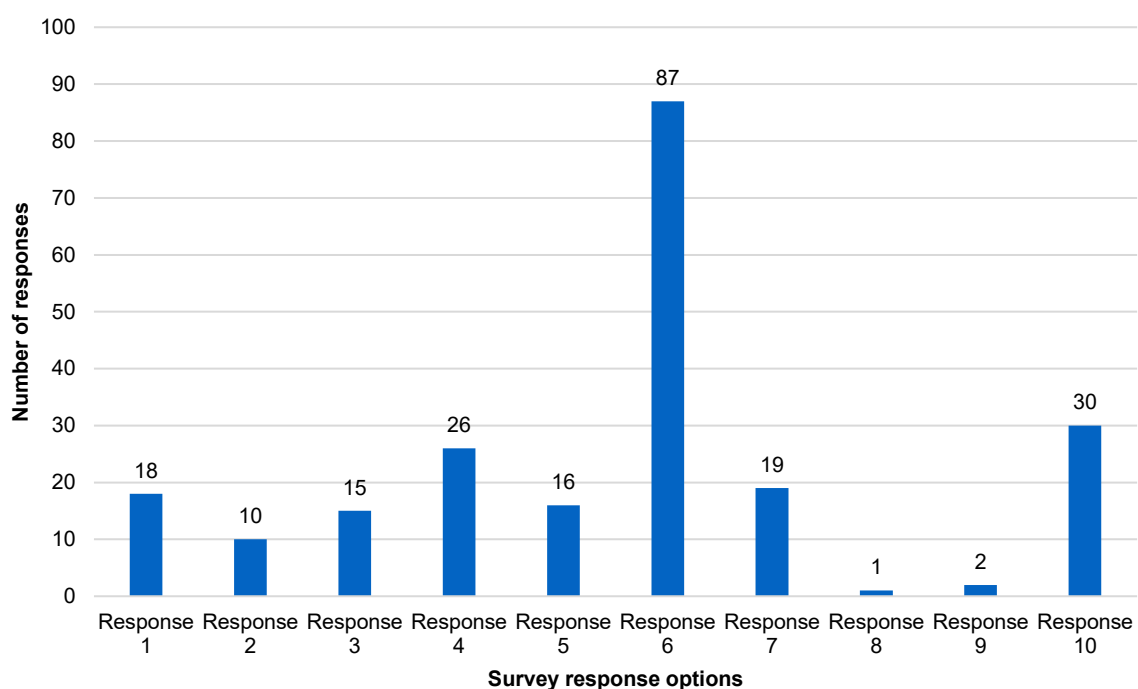
Question 7: What improvements could be made to ASBFEO services?



Stakeholders expressed the need for improvement across all services provided, including 29 per cent for additional dispute resolution services and 17 per cent for better educational resources, 2.4 per cent wanted more timely assistance with disputes. A significant portion of respondents – about 21 per cent (9 responses) – selected 'Other', suggesting a range of unmet needs beyond the

provided options. Providing more or better educational resources received 17 per cent (7 responses), better guidance/instructions 12 per cent (5 responses), and better representation of small business needs with government 19 per cent (8 responses). Overall, analysis of the stakeholder responses indicates that the ADR function requires improvements.

Question 8: Who would you most likely contact for assistance?



Note: Response 1: ASBFEO, Response 2: business.gov.au, Response 3: State Small Business Commissioner, Response 4: Industry association or body, Response 5: Local Business Chambers/Chambers of Commerce and Industry, Response 6: Professional adviser (for example, lawyer, accountant), Response 7: State Ombudsman office, Response 8: The Inspector General of Taxation and Tax Ombudsman, Response 9: The Office of the Commonwealth Ombudsman, Response 10: Other.

When asked who the stakeholders are more likely to contact for assistance, 39 per cent of respondents contacted professional advisers, with only 8 per cent (18 responses) of respondents selecting ASBFEO. The next highest categories were assistance from industry associations at 11 per cent (26 responses) and 'Other' sources at 13 per cent (30 responses). The Office of the Commonwealth Ombudsman 0.9 per cent (2 responses) and the IGTO 0.4 per cent (1 response). Only 8 per cent (18 respondents) selected ASBFEO, business.gov.au 4.5 per cent (10), small business commissioners 8.5 per cent (15), business chambers 7.1 per cent (16) and State Ombudsman office 8.5 per cent (19). Overall, the stakeholders appear to be more comfortable reaching out to professional advisers who might already be assisting their business before contacting other agencies.

Question 9: General feedback

This was a free text field. 81 respondents provided a response to the question.

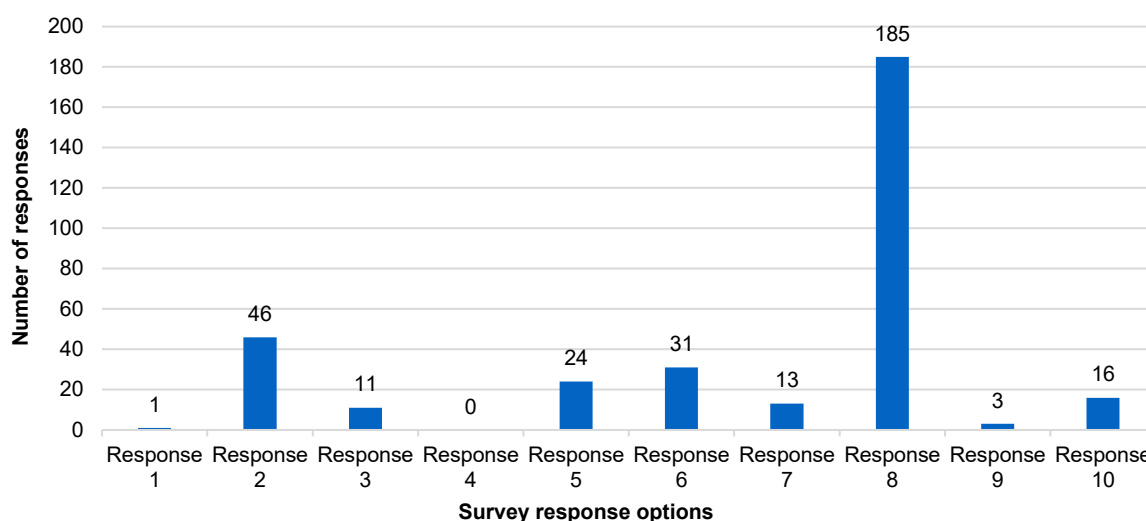
Respondents expressed a need for dispute resolution system that serves small businesses, that is more affordable and puts less financial pressure on businesses already going through a difficult time resolving a dispute. One respondent stated, *'Next door sent us legal threat (sic). We spent odd \$5k to defend ourselves. Glad it didn't require going to court. But lawyers and system shouldn't make things difficult for us already financially struggling businesses.'* Another respondent provided a detailed case study of issues that caused their business to close down. Written responses from the stakeholders highlighted concerns about the lack of support and awareness of ASBFEO services, with some respondents providing detailed accounts of their experiences. For example, one respondent stated, *'ASBFEO lacks a true awareness of the small business landscape, especially the role of micro business.'* While a number of stakeholders expressed the professionalism and effectiveness of ASBFEO for small businesses, especially in the franchising space, the majority will first consult with their professional advisers for assistance. One responded stated, *'I've never had a serious problem, but when I have problems, I first go to the Industry Association or TCCI and seek guidance from there as to which direction to head for resolution, be it ombudsman, professional advisor etc.'*

Question 10: Demographics

Respondents were asked to provide their Australian post code. 179 respondents provided response to this question.

The demographic data collected demonstrated strong representation from a broad cross-section of the Australian small business community, including rural, regional, and remote areas.

Question 11: Please indicate if you identify with any of the following:



Note: Response 1: Commonwealth Agency, Response 2: Family Enterprise, Response 3: Franchisee, Response 4: Franchisor, Response 5: Interested member of the public, Response 6: Professional advisor (for example, lawyer, accountant), Response 7: Representative of Industry Association or Body, Response 8: Small Business, Response 9: State and Territory Agency, Response 10: Other.

Most of the responses were from small businesses at 56 per cent (185 responses), followed by 14 per cent of family enterprises (46 responses) followed by professional advisers at almost 10 per cent (31 responses) and then 7 per cent from interested members of the public (24 responses). Franchisors were notably absent from the responses, while franchisees made up 3 per cent of responses (11 responses).

Franchisee

Out of the 3 per cent of franchisees that responded to the survey (11 responses), 55 per cent have never heard of ASBFEO (6 responses). Out of those who have never heard of them (6 responses), 50 per cent (3 responses) identified as being from regional and remote areas. Furthermore, out of the 11 responses received, 27 per cent identified as CALD and 27 per cent as being from a regional and remote location.

Franchisees provided several comments to support their responses. These are listed below.

One franchisee from a regional area, who had an unresolved dispute stated, *'I have lost faith on [sic] these agencies from the dealing with ASBFEO.'* Furthermore, a statement was made about improvements to ASBFEO services. It said, *'They are an agency which is not much of [sic] use to the small business/franchisees and is a big waste of taxpayer money.'*

Franchisees provided further comments under general feedback. These are listed:

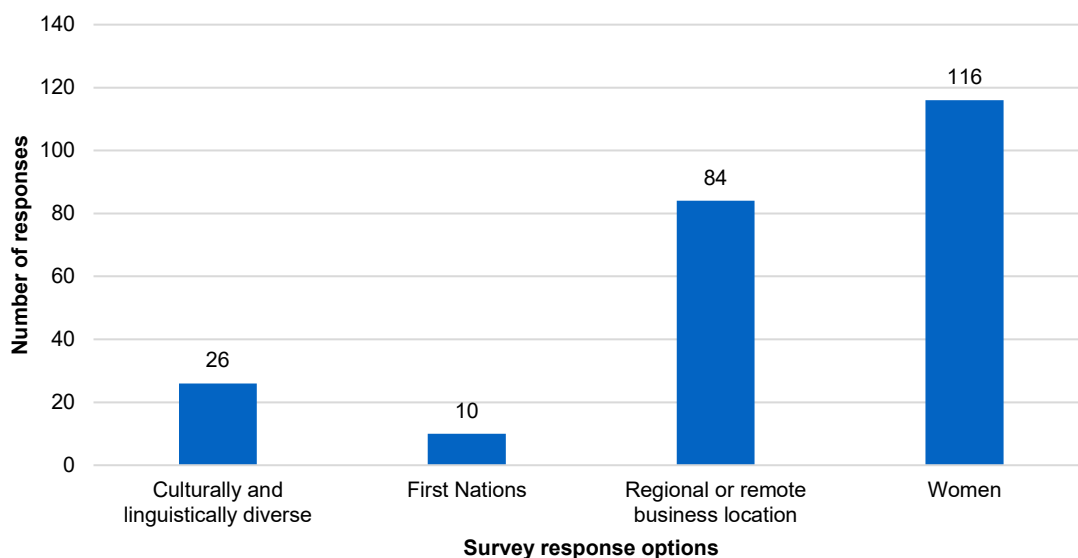
'There is still no protection for tenants of major shopping centres, as our rent is too high, and we are considered 'big business' despite the massive power imbalance we face. I have had to sit in a room with six lawyers and leasing executives from Westfield with only me and my lease negotiator. I ended up getting the (then) commissioner for small business to assist. If that were to happen again, I would

have zero protection under the act and would have to rely on ‘unconscionable conduct’ to get anywhere – which is extremely difficult.’

‘Without Prejudice, I have also contacted ACCC, Scam Watch, ATO etc regarding the Franchise and Fraud, misrepresentations, and embezzlement with written proof and they appear to have just ignored it and taken no action. Hundreds of people have lost their money, I guess because the funds range in the low level (between \$16-50K approximately) no one is interested. Guess it is ok for hard-working people to lose money. Perhaps the franchisor has an interest in this department as it is crystal clear there are breaches of the law.’

The dispute for the 3.3 per cent of franchisees (11 respondents) was resolved in the following ways: 9 per cent (1 respondent) did not resolve the dispute, 27 per cent (3 responses) resolve it through discussion with other party, 9 per cent (1 respondent) stated that their dispute was not resolved to their satisfaction as *‘They did not attend to my queries and they did not do anything to resolve the dispute’*.

Question 12: Please indicate if you identify with any of the following:



Women represented the largest group of survey respondents at almost 50 per cent (116 responses) followed by those identifying as being from regional or remote business locations at 36 per cent (84 responses). CALD and First Nations participants represent smaller proportions of the total, at 11 per cent (26 responses) and 4 per cent (10 responses) respectively.

CALD

Those survey respondents that identified as CALD presented the following data. 77 per cent (20 responses) had never heard of ASBFEO and 50 per cent (13 responses) did not have a dispute. For those who did have a dispute, 38 per cent (5 responses) resolved it through a discussion with the other party, 23 per cent (3 responses) had their solicitor to resolve it, 8 per cent (1 response) had a third party help to resolve it and 15 per cent (2 responses) did not resolve it.

In the improvements to ASBFEO services section, one respondent suggested, *'Integrate some of the information with what the ATO provides so that we don't receive multiple pieces of information'*.

CALD respondents provided general feedback stating the following

'Proactively improve your brand, mission and services constantly to be known and remembered.'

'All you get when dealing with anything with.gov.au is the run around.'

'ASBFEO has done a fantastic job in presenting information in an easy-to-read format. The challenge is that the ATO also has a SME hub so it would be great if some of the information is streamlined.'

'A lawyer can be handy sometimes. I have used an Ombudsman; my experience was that they are too careful and cautious not to make a mistake and struggled to give clear direction!'

'Next door sent us legal threat. We spent odd \$5k to defend ourselves. Glad it didn't require going to court. But law and system shouldn't make things difficult for us already financially struggling businesses.'

First Nations people

Those respondents that identified as First Nations people presented the following data. 70 per cent (7 responses) had never heard of ASBFEO, 20 per cent (2 responses) did not have a dispute and 10 per cent (1 respondent) noted that they are most likely to contact ASBFEO. From those respondents that did have a dispute 50 per cent (5 responses) did not resolve it, 20 per cent (2 responses) resolved it through discussion with the other party and 10 per cent (1 respondent) third party helped to resolve it.

First Nations respondents provided general feedback, stating the following:

'The state government doesn't care for small business and the 2022–23 floods on the Murray proved that. Their arrogance nearly squashed my business and nobody cared.'

'Specific issue I'm referencing is a contract with a telecommunications provider for the business.'

'Most issues revolve around failure to supply or deliver. We always use the banks as first course of action to block or recover funds. ACCC never responds or follows up.'

'All you get when dealing with anything with.gov.au is the run around.'

'My dispute wasn't resolved, which wasn't an option for that question.'

'Managing compliance is becoming increasingly expensive and fast reaching the point where I don't want to continue trading. Some of the tipping points are the container refund scheme, the toilet tax and the trade waste requirements.'

'For a small, family-owned enterprise trading less than ten hours a week, these costs have become prohibitive.'

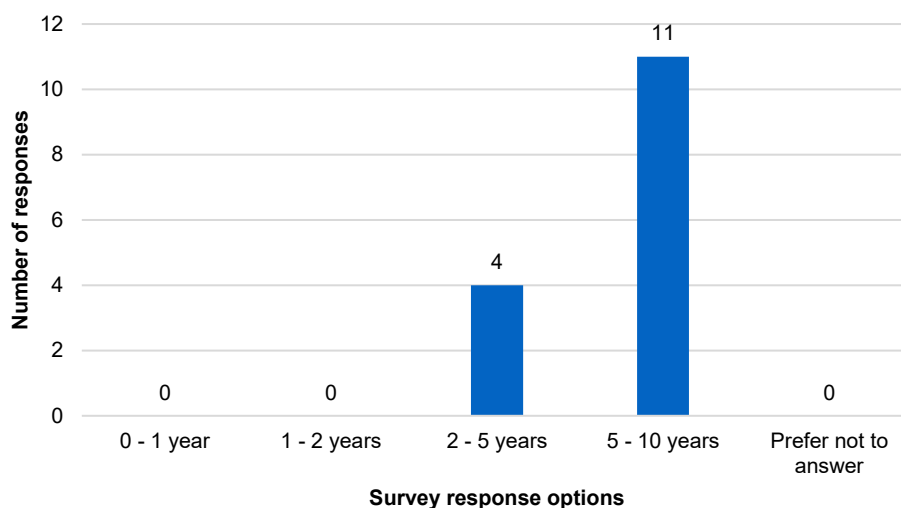
'My business partner and I both have relevant tertiary qualifications so please don't assume we're just a couple of yokels who shouldn't be in business.'

The survey responses indicate a significant need for improved communication, support, and awareness of the services provided by ASBFEO. Notwithstanding the positive support expressed by several stakeholders, the survey findings identified some gaps related to awareness, effectiveness, and accessibility of ASBFEO's dispute resolution services.

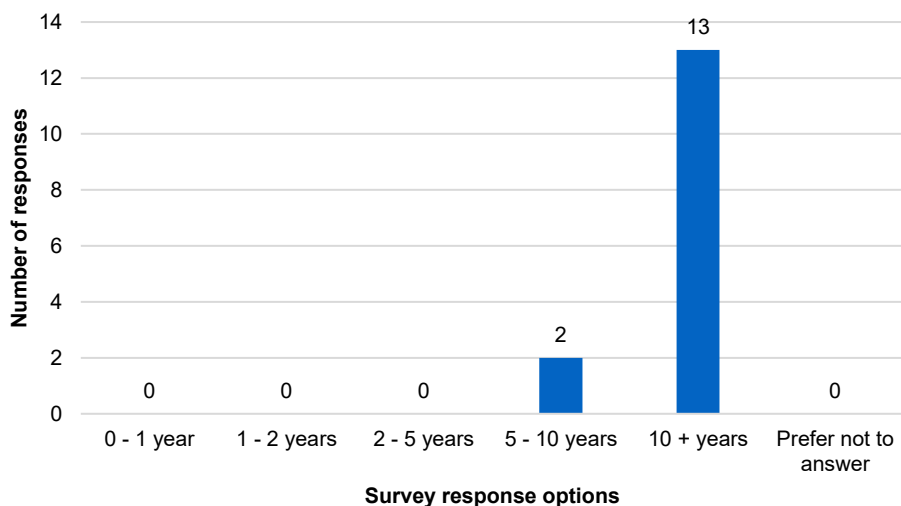
Appendix D: Mediator survey

Survey questions and responses

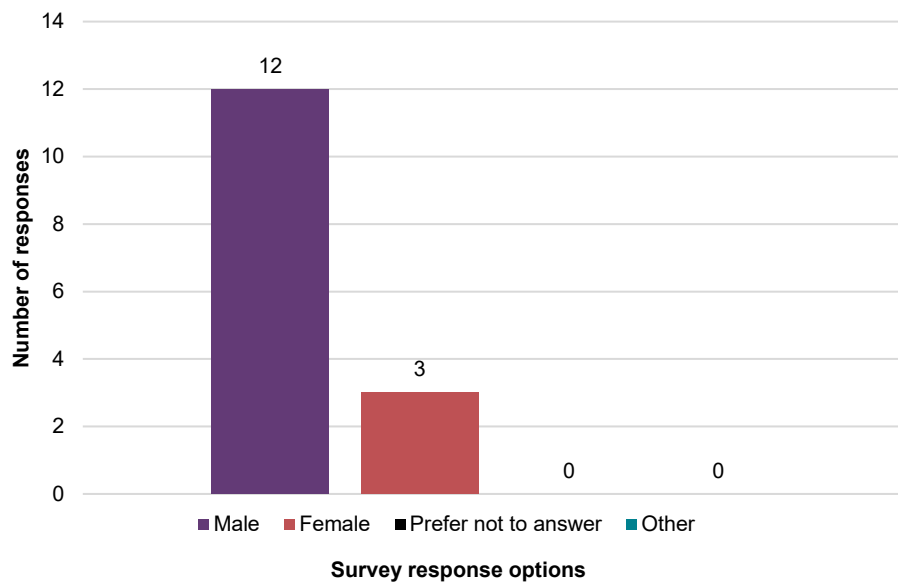
Question 1: How long have you been providing mediation services on behalf of the ASBFEO?



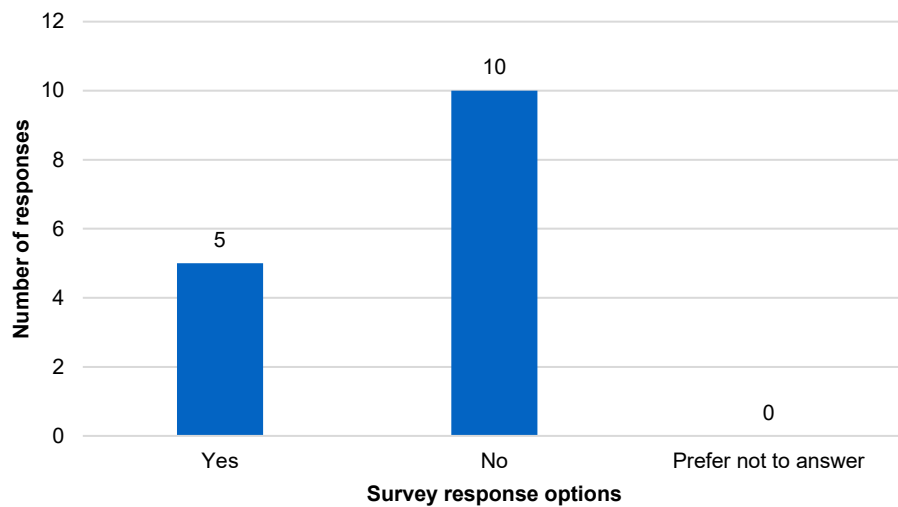
Question 2: How long have you been an accredited mediator?



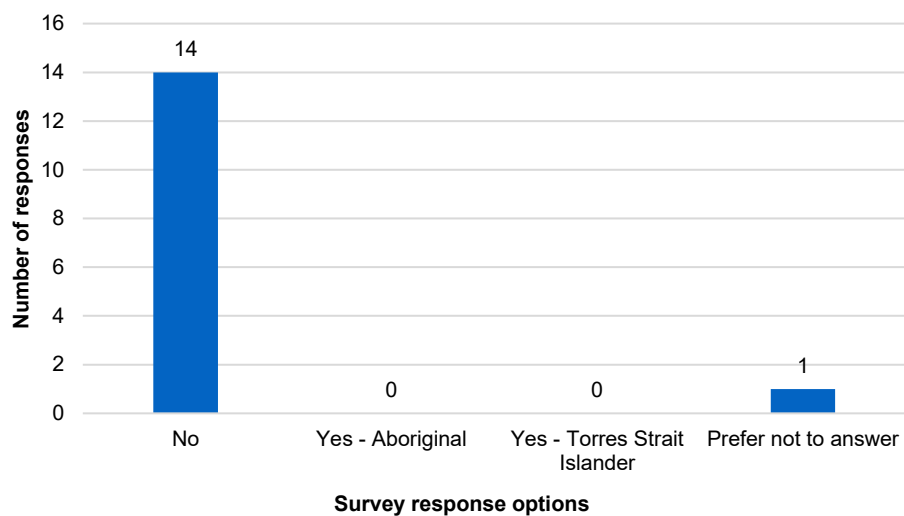
Question 3: How would you describe your gender?



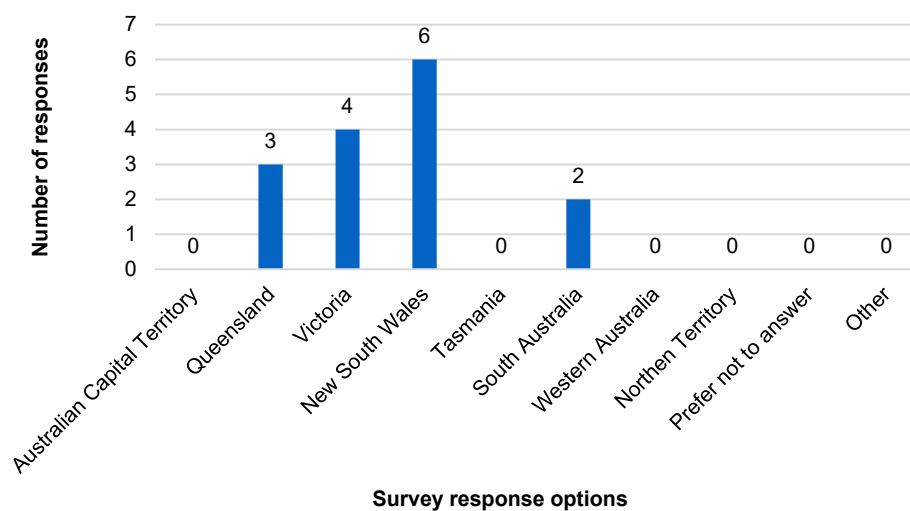
Question 4: Do you speak a language other than English?



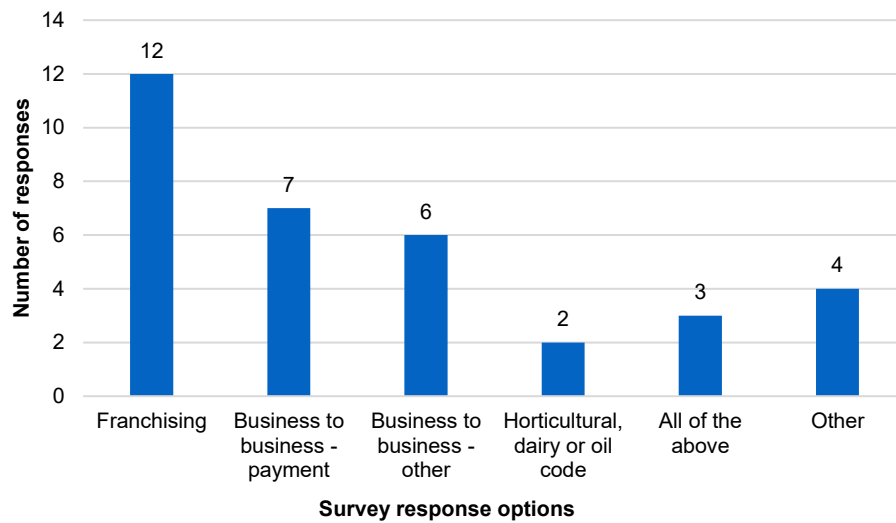
Question 5: Do you identify as Aboriginal or Torres Strait Islander?



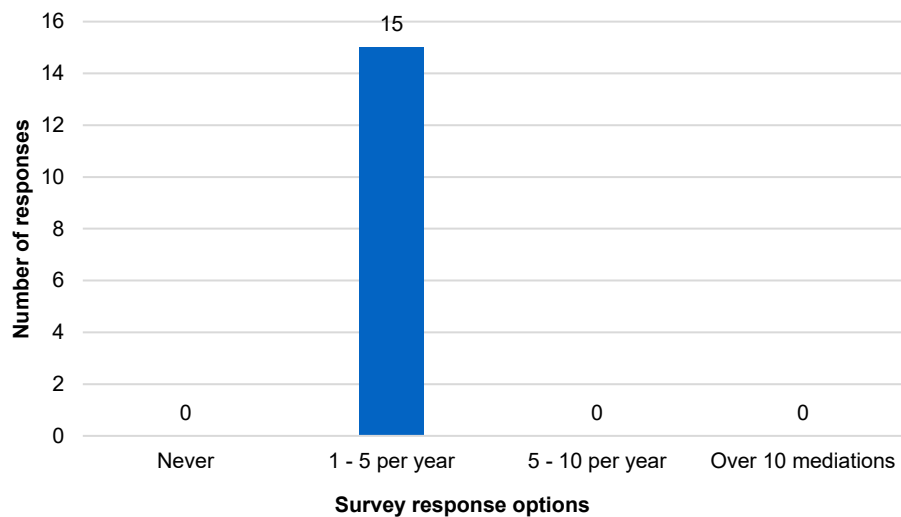
Question 6: Where is the location of your business?



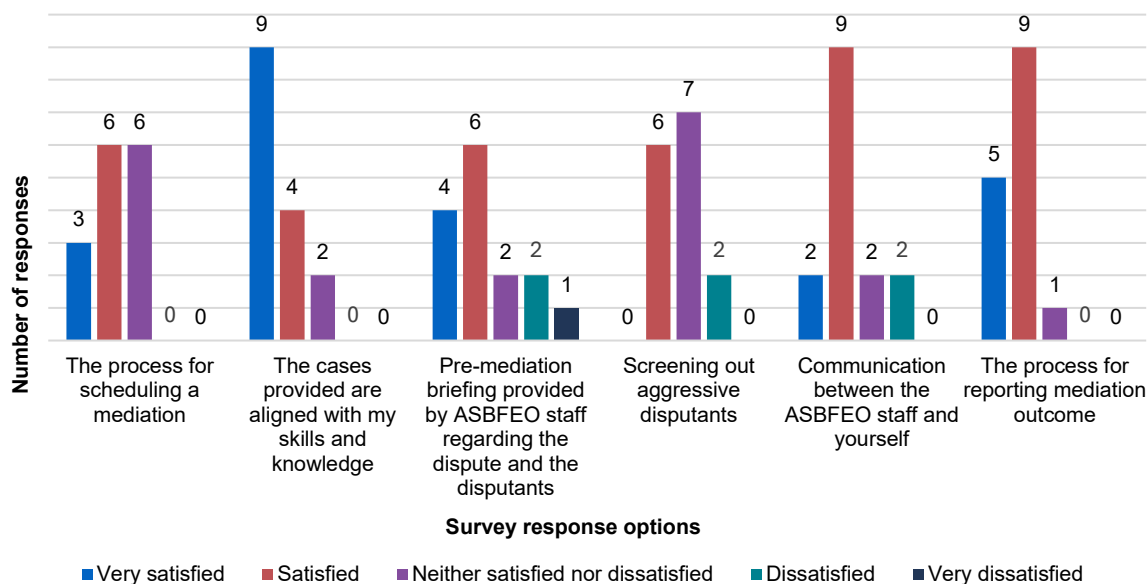
Question 7: What types of mediations have you mediated?



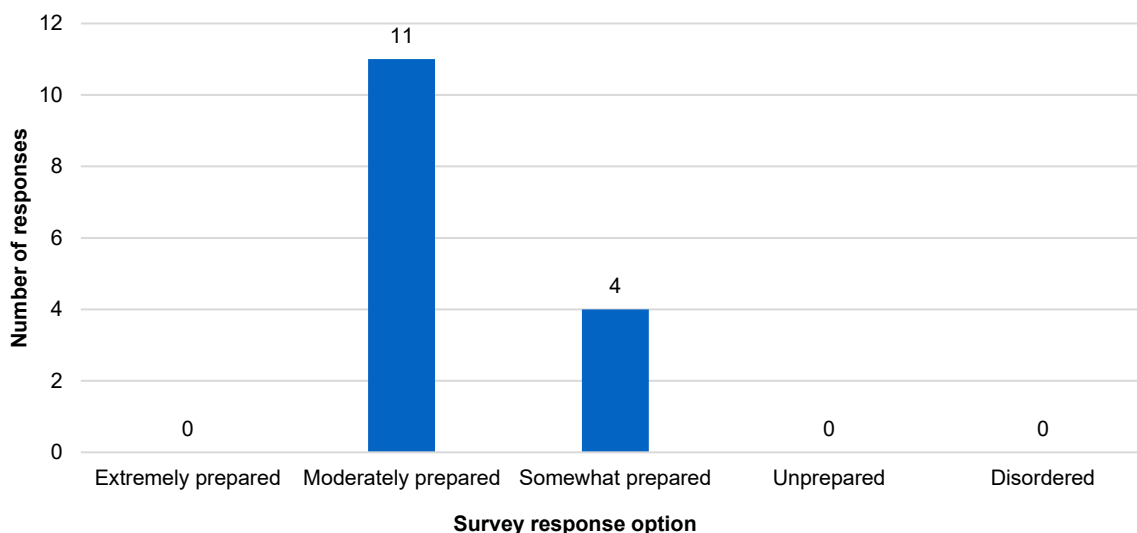
Question 8: How often do you mediate for ASBFEO?



Question 9: What is your level of satisfaction with the following aspects of the ASBFEO's pre and post mediation processes?



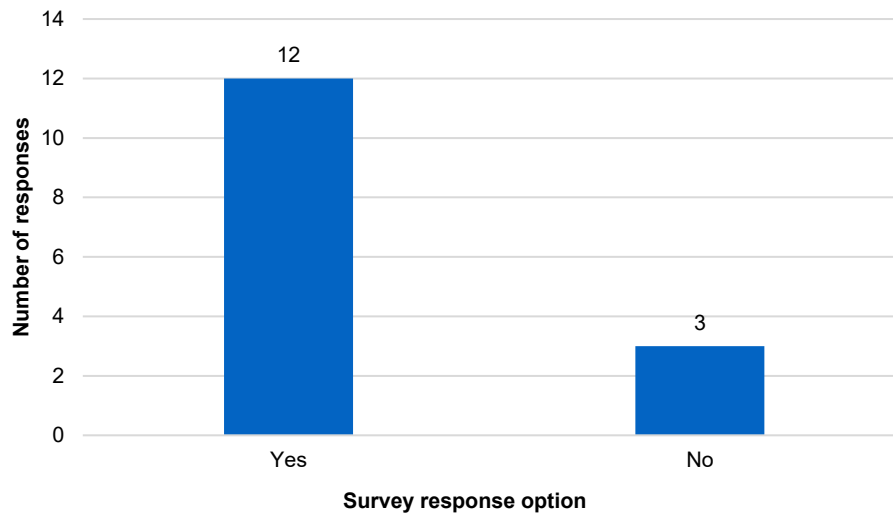
Question 10: In your experience mediating on behalf of ASBFEO, how well prepared for mediation have you found most disputants?



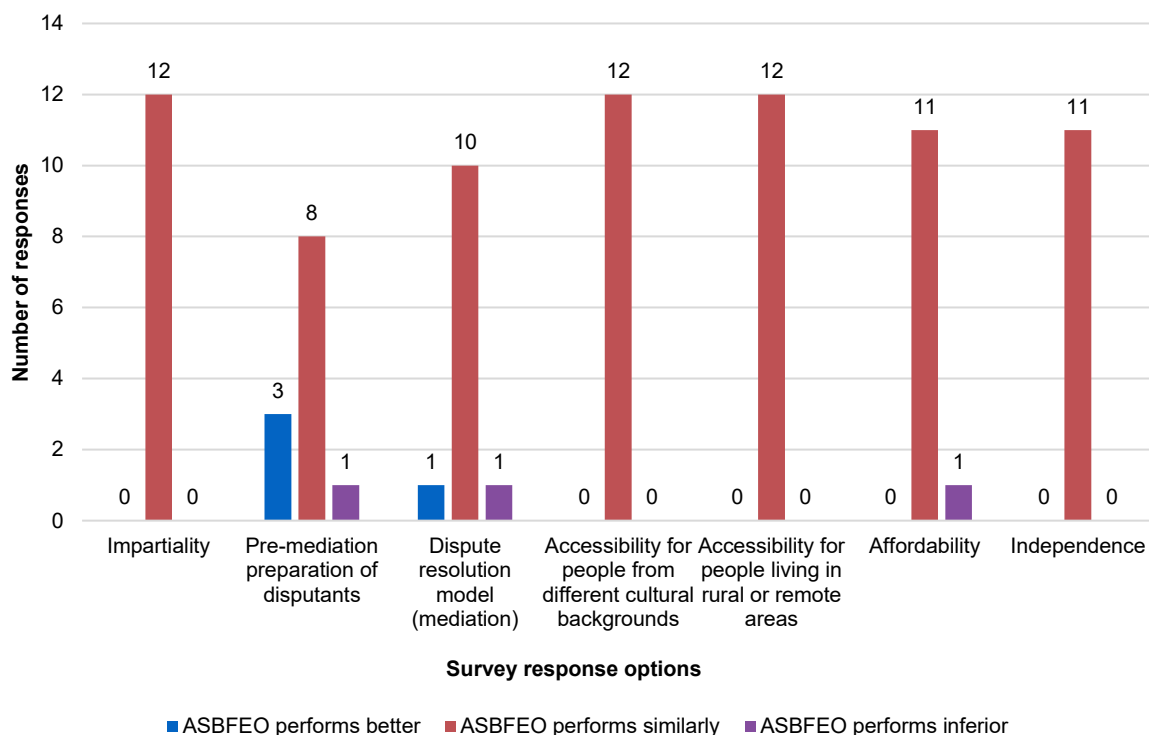
Question 11: If you would like to provide more information regarding your answer, please elaborate in the space below.

This was a free text field. 9 respondents provided a response to the question.

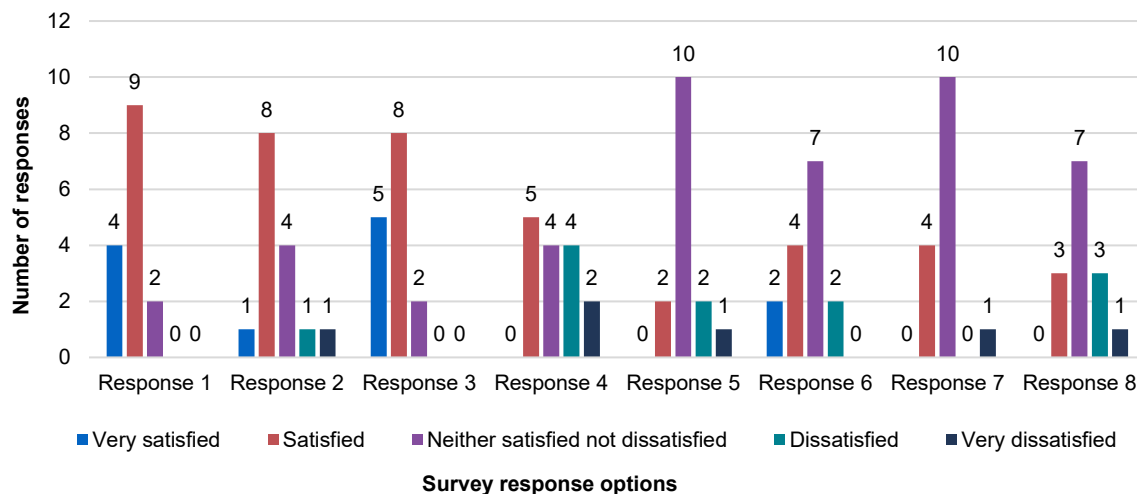
Question 12: Do you have experience providing mediation services on behalf of other government funded services or in state jurisdictions?



Question 13: From your experience, how would you compare the ASBFEO with other government funded dispute resolution services?



Question 14: What is your satisfaction with the following processes and functions of the ASBFEO?

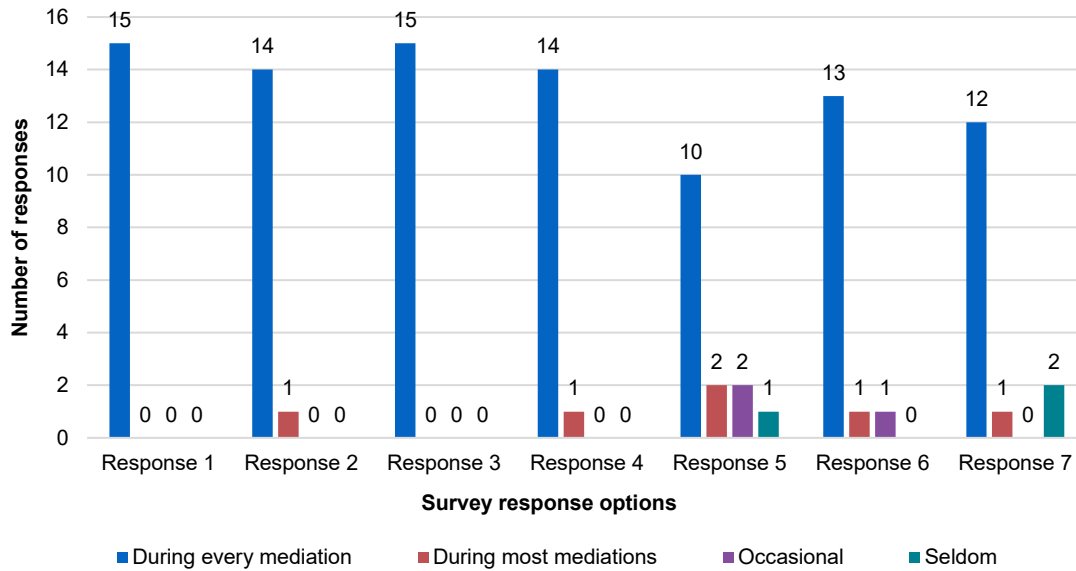


Note: Response 1: The process for applying to join the mediation list, Response 2: The process of inducting mediators, Response 3: The process for declaring a conflict of interest, Response 4: The provision of performance feedback to mediators, Response 5: Opportunities for collaboration with other ASBFEO mediators, Response 6: The process for incident reporting, Response 7: The process for recommending improvements to the ASBFEO, Response 8: ASBFEO-led training and development.

Question 15: If you would like to provide more information regarding your answer, please elaborate in the space below.

This was a free text field. 3 respondents provided a response to the question.

Question 16: Thinking about your approach when undertaking mediation duties on behalf of the ASBFEO, how routine are the following practises?

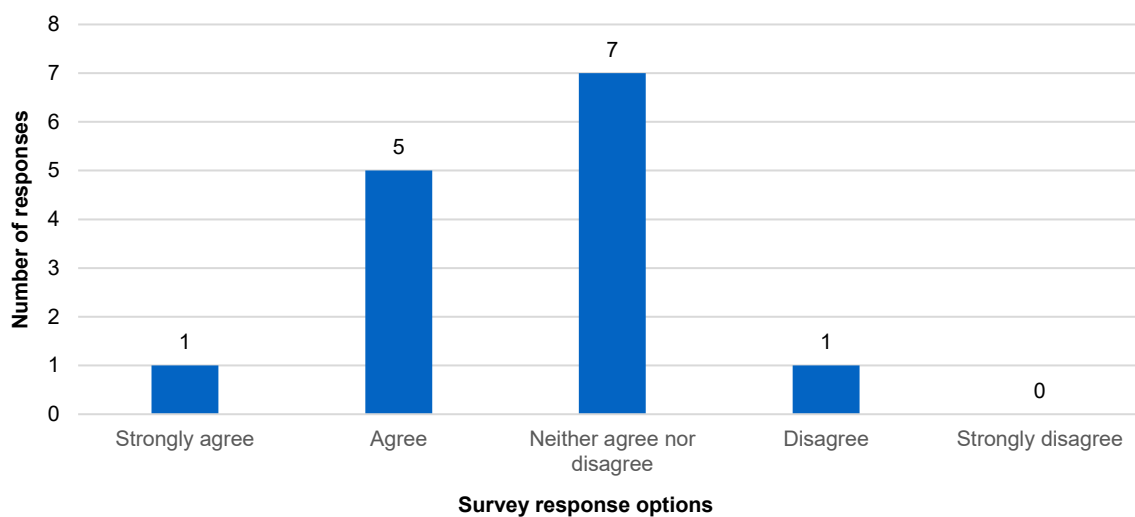


Note: Response 1: Explaining the mediation process to disputants at the beginning of the mediation, Response 2: Approaching the mediation in a way that is attentive to power imbalances, Response 3: Seeking to understand the needs of both parties, Response 4: Encouraging the parties to speak directly to each other, Response 5: Outlining possible solutions to dispute, Response 6: Testing with each other the parties that they can uphold proposed terms of agreement, Response 7: Drafting of agreements that reflects disputant's own words.

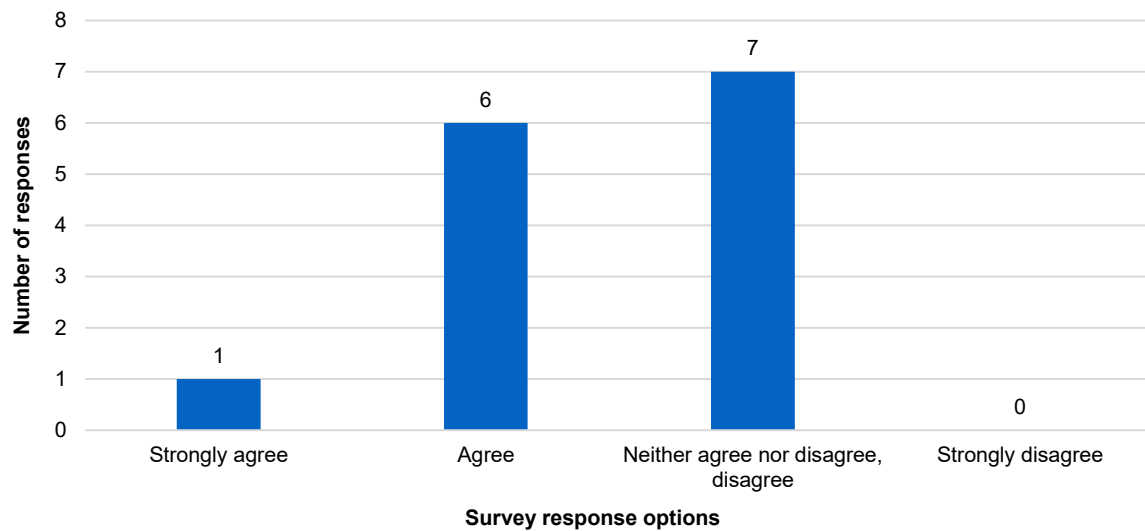
Question 17: If you would like to provide more information regarding your answer, please elaborate in the space below.

This was a free text field. 2 respondents provided a response to the question.

Question 18: To what extent do you agree that disputants from culturally and linguistically diverse backgrounds are supported to effectively participate in the ASBFEO mediation?



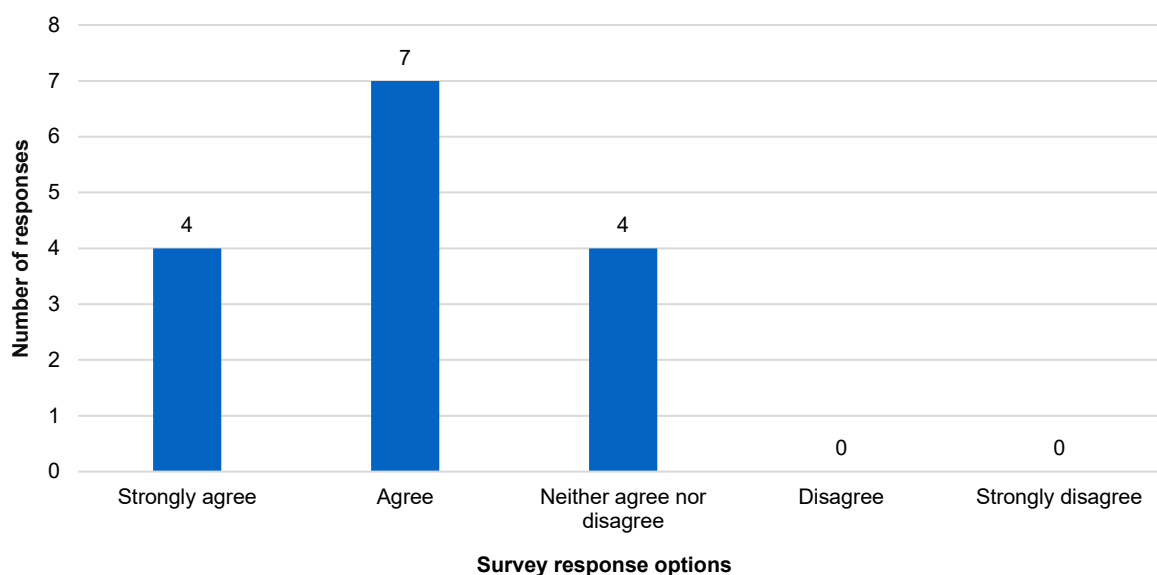
Question 19: To what extent do you agree that ASBFEO mediators are adequately equipped to attend to the needs of disputants from culturally and linguistically diverse background?



Question 20: Is there anything you would like the ASBFEO to change in relation to working with diverse cultural and linguistic backgrounds?

This was a free text field. 2 respondents provided a response to the question.

Question 21: To what extent do you agree that the mediation services offered by the ASBFEO are accessible to people living in rural or remote regions?



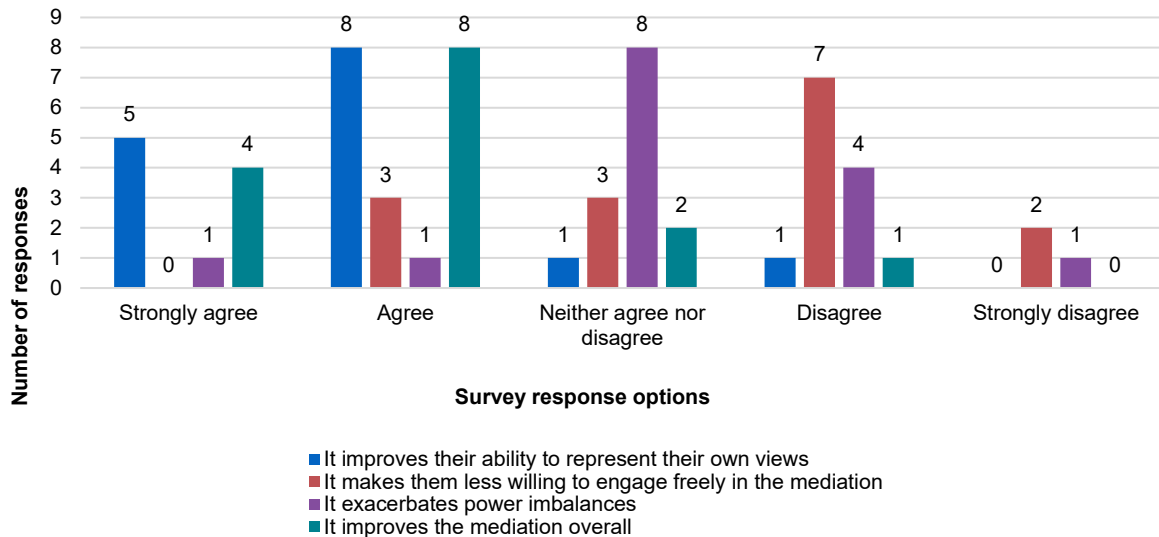
Question 22: If you would like to provide more information regarding your answer, please elaborate in the space below.

This was a free text field. 3 respondents provided a response to the question.

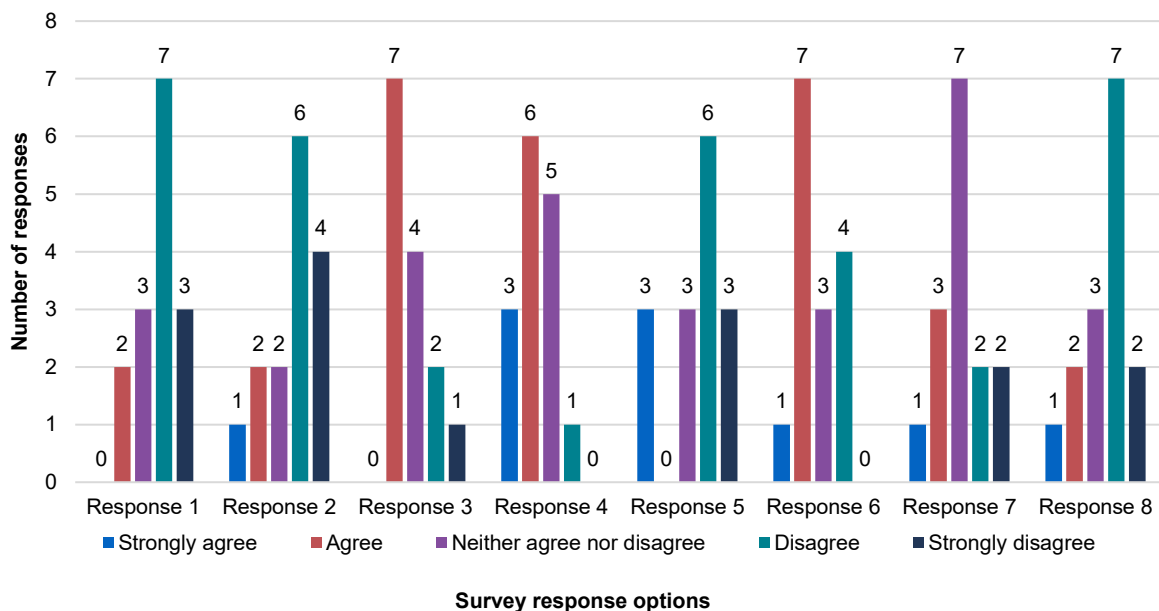
Question 23: If you would like to provide more information regarding your answer, please elaborate in the space below.

This was a free text field. 1 respondent provided a response to the question.

Question 24: In your experience mediating on behalf of ASBFEO, if the disputant has had legal advice prior to the mediation, in what ways do the following impact on their behaviour?



Question 25: When comparing face to face mediation with video conferencing, how much do you agree or disagree with the following comments.



Note: Response 1: Video conferencing creates more fatigue for mediators, Response 2: Video conferencing format reduces my activeness as a mediator, Response 3: Video conferencing is more efficient, Response 4: Video conferencing is more accessible, Response 5: Video conferencing is more difficult for mediators, Response 6: Video conferencing is a less confronting format for disputants, Response 7: Video conferencing makes it easier to manage power dynamics between parties, Response 8: Overall, video conferencing is a better way to deliver mediation services compared to in-person mediation.

Question 26: If you would like to provide more information regarding your answer, please elaborate in the space below.

This was a free text field. 4 respondents provided a response to the question.

Question 27: If you were to deliver business mediation services, what would you expect to charge?

This was a *field* to enter dollar amounts. The responses to the question have been presented as an overall estimate between all responses.

Type	Cost
Full day mediation	\$1500 – \$6000
Travel to mediation	\$50 – \$500
Half day mediation conference	800 – \$3000
Interpreting services	\$100 – \$300
Pre-mediation preparation	\$300 – \$2000

Mediator survey analysis

The mediator survey gathered insights from mediators on the ASBFEO's ADR practitioners list. The goal was to understand their experiences, challenges, and perspectives on the mediation process for cases referred to by ASBFEO. The survey received a response rate of 31 per cent with 15 responses and covered aspects of the mediation process, including preparation, challenges, cultural diversity and mediation fees.

Responses showed mediators on the ADR practitioners list carry extensive experience in mediation. The majority have experience of 10-plus years in mediation, with focus areas being franchising (35.3 per cent) and business-to-business – payments (20.6 per cent). None of the mediators identified as Indigenous and 43 per cent spoke languages other than English.

The survey identified that ASBFEO's pre-and post-mediation communication with disputants could be improved, with 26 per cent of mediators indicating they were neither satisfied nor dissatisfied with the process. None of the mediators believed disputants were highly prepared for mediation, with 27 per cent only somewhat prepared. Comments include, *'In the few mediations that have been referred to me, it has not been clear if the participants have had any direct conversations with ASBFEO staff.'* And *'Often the participants seek far more information about the process, so perhaps more information up front will assist them.'*

66 per cent of mediators would like to see improvements in performance feedback to mediators, and 40 per cent of mediators thought the process of inducting a mediator could be improved. Comments

included, 'I have had no induction, training, or information regarding collaboration with colleagues. There was no feedback on the mediation done or why so little work has been allocated to me as a mediator.'

Additionally, only 43 per cent of mediators thought that ASBFEO adequately supported the CALD community in participating effectively in mediation. Mediators recommended providing adequate notice to engage cultural advisers or interpreters in a timely manner and suggested implementing a standard list of questions to understand participants' expectations better.

Most respondents either agreed or strongly agreed that if the disputant had legal advice prior to the mediation, it would improve their ability to represent views and enhance the mediation overall.

Appendix E: ASBFEO forums

Small Business Stewardship Group attendees

Attendees

Australian Taxation Office

Australian Automotive Aftermarket Association

Australian Chamber of Commerce and Industry

Australian Retailers Association

Australian Small Business and Family Enterprise Ombudsman

Australian Veterinary Association

Chartered Accountants Australia and New Zealand

Council of Small Business Organisations Australia

Direct Selling Association of Australia

Indigenous Business Australia

Institute of Certified Bookkeepers

Institute of Public Accountants

Real Estate Institute of Australia

Restaurant and Catering Industry Association

Rural Doctors Network

Small Business Debt Helpline

Small Business Operator x6

Supply Nation

Treasury

UNSW Tax & Business Advisory Clinic

FRAG attendees

Attendees

Chair: Australian Small Business and Family Enterprise Ombudsman (ASBFEO)

Executive Director, General Counsel (ASBFEO)

Executive Director, Policy & Advocacy (ASBFEO)

Small Business Deputy Chair, Australian Competition and Consumer Commission (ACCC)

General Manager Consumer & Small Business Strategies Branch (ACCC)

Executive General Manager, Consumer & Fair-Trading Division (ACCC)

Deputy Chair, Australian Securities and Investments Commission (ASIC)

Senior Executive Leader, Small Business Engagement and Compliance (ASIC)

Senior Executive Leader, Registered Liquidators (ASIC)

Deputy Commissioner Small Business, Australian Tax Office (ATO)

Assistant Commissioner Small Business Experience (ATO)

Executive Director, Engagement, Fair Work Ombudsman (FWO)

Chief Executive Officer and Chief Ombudsman, Australian Financial Complaints Authority (AFCA)

Lead Ombudsman (AFCA)

Chief Executive, Inspector-General in Bankruptcy and Registrar of Personal Property

Securities, Australian Financial Services Authority (AFSA)

National Manager, Enforcement and Practitioner Supervision, Australian Financial Services Authority (AFSA)

National Manager, Government Business, Australian Financial Services Authority (AFSA)

Deputy Secretary, Small Business, Corporate and Law Group (Treasury)

First Assistant Secretary, Small and Family Business Division (Treasury)

Payment Time Reporting Regulator (Treasury)

State based Small Business Commissioners attendees

Attendees

Australian Small Business and Family Enterprise Ombudsman

Victorian Small Business Commission

Western Australian Small Business Development Corporation

South Australian Small Business Commissioner

Queensland Small Business Commissioner

ASBFEO Policy Forum attendees

Attendees

Chair: Australian Small Business and Family Enterprise Ombudsman

Australasian Association of Convenience Stores

Australasian Convenience and Petroleum Marketers Association

Australian Dental Industry Association

Australia Foodservice Advocacy Body

Australian Hairdressing Council

Australian Hotels Association

Australian Industry Group

Australian Retailers Association

Chartered Accountants ANZ

Commercial & Asset Finance Brokers Association

Council of Small Business Organisations Australia

CPA Australia

Energy Consumers Australia

Family Business Association

Finance Brokers Association of Australia

Franchise Council of Australia

Housing Industry Association

Institute of Certified Bookkeepers

Institute of Public Accountants

Lift Brands

Mortgage and Finance Association of Australia

Small Business Association of Australia

National Electrical and Communications Associations

National Road and Transport Association (NatRoad)

Real Estate Institute of Australia

Restaurant & Catering Australia

Retail Drinks Australia

Small Business Institute

Small Enterprise Association Australia & New Zealand Ltd

Airconditioning and Mechanical Contractors Association

Australian Chamber of Commerce and Industry

Australia Chamber of Fruit & Veggie Industries

Australian Computer Society

Australian Institute of Business Brokers

Attendees

Australian Trucking Association

Independent Contractors Australia

Independent Food Distributors of Australia

Law Council of Australia

Master Builders Australia

Master Grocers Australia

Independent Retailers

Master Plumbers & Mechanical Contractors Association

National Farmers Federation

National Retailers Association

Small Business Association of Australia

Supply Nation

Australian Owned Contractors

Pharmacy Guild

Appendix F: Table – Franchising Review

Chapter 5 Franchising review recommendations relating to ASBFEO and Government Response and Implementation

Franchising Review recommendation	Government Response	Implementation
Recommendation 1: The Australian Government should ensure the provision of more comprehensive, robust statistics about the franchising sector.	<p>Agree</p> <p>The Government notes the limitations of existing data collected by public and private bodies about the franchising sector.</p> <p>The Government agrees that improved data on the franchising sector will support policymakers and the franchising community to better understand the sector, including the true level of disputation within it and assess the sector's health and the effectiveness of regulation. In the first instance, the Government will require the ASBFEO to lead on improving comparability and publication of existing data sets held by the ASBFEO, the ACCC, the state small business commissioners and the Treasury.</p> <p>Once a decision on licensing occurs, the Government will revisit enhancements to data collection.</p>	<p>In progress</p> <p>The ASBFEO is leading this work, in consultation with other agencies (for example, ACCC, SBCs, the ABS, and other relevant agencies), over the period up to 30 June 26.</p>
Recommendation 10: Enhance the public visibility and usage of the Franchise Disclosure Register.	<p>Agree</p> <p>The Government notes widespread support for the Franchise Disclosure Register to remain a part of the regulatory environment. The Government's immediate priority is to leverage existing mechanisms to promote the public visibility and use of the Franchise Disclosure Register.</p> <p>Once a decision on licensing occurs, the Government will consider if there are other initiatives that could enhance visibility and usage, such as mandating the disclosure of franchise agreements.</p>	<p>In progress</p> <p>Treasury promotes the use of the Register at conventions, expos and other events. The ASBFEO also promotes the Register through its communication channels.</p> <p>ACCC compliance guidance directs franchisors to the Register.</p>
Recommendation 12: Franchise systems should be encouraged, through education, to consult franchisees regarding any major change to the business model during the term of the franchise agreement.	<p>Agree</p> <p>The Government acknowledges there is an opportunity to support improved franchise relationships through improving the nature and access to education and guidance materials for the sector.</p> <p>The Government will require the ASBFEO to lead the development of best practice guidance in consultation with the sector and the ACCC.</p>	<p>In progress</p> <p>The ASBFEO is leading implementation of this work, in consultation with other agencies (such as ACCC and academics with expertise in franchising and education) with implementation over the period up to 30 June 2026.</p>

Franchising Review recommendation	Government Response	Implementation
Recommendation 14: Best practice guidance should be provided to franchisees and franchisors regarding franchise-initiated exit, to enhance the effectiveness of clause 26B of the Code.	<p>Agree</p> <p>The Government acknowledges there is an opportunity to improve the nature of, and access to, education and guidance materials for the sector.</p> <p>The Government will require the ASBFEO to lead the development of best practice guidance, in consultation with the sector and the ACCC.</p>	<p>In progress</p> <p>The ASBFEO is leading implementation of this work, in consultation with other agencies (such as ACCC and academics with expertise in franchising and education) with implementation over the period up to 30 June 2026.</p>
Recommendation 17: Australian Government agencies should work with relevant sector participants to improve standards of conduct in franchising by developing best practice guidance and education.	<p>Agree</p> <p>The Government agrees that small businesses need greater support to recognise and act against unfair contract terms and prospective new unfair trading practices under Australian Consumer Law.</p> <p>The Government will require the ASBFEO to lead the development of best practice guidance in consultation with the sector and the ACCC.</p>	<p>In progress</p> <p>The ASBFEO is leading implementation of this work, in consultation with other agencies (such as ACCC and academics with expertise in franchising and education) with implementation over the period up to 30 June 2026.</p>
Recommendation 18: ASBFEO should be given additional powers to name franchisors who have not participated meaningfully in alternative dispute resolution.	<p>Agree</p> <p>The Government recognises there are benefits in allowing for the naming of franchisors who have not participated meaningfully in dispute resolution, such as encouraging active participation.</p> <p>The Government will amend relevant legislation to provide the ASBFEO with the power to publicly name franchisors that fail to participate meaningfully in alternative dispute resolution.</p>	<p>Complete</p> <p>The powers commenced on 1 April 2025 as part of the Franchising Code of Conduct remake.</p>
Recommendation 19: The Australian Government should assist franchisees to access low-cost legal advice on prospects prior to formal ADR.	<p>Agree</p> <p>Being able to obtain low-cost assistance for resolving franchising disputes is important for supporting access to justice for franchisees.</p> <p>The Government will expand the ASBFEO's SBTC Service to support small businesses, including franchisees to access low-cost legal advice on alternative dispute resolution prospects.</p>	<p>Complete</p> <p>The expanded service commenced on 3 March 2025.</p>

Source: Dr Michael Schaper, Independent Review of the Franchising Code of Conduct, December 2023, p6
Commonwealth Government, Government response to the Independent Review of the Franchising Code of Conduct | Treasury.gov.au, Commonwealth of Australia, 2023, accessed 6 May 2025.

Appendix G: Table – Comparison of agencies in international jurisdictions

Comparable international agencies to ASBFEO

Country	Agency	Assistance	Advocacy
UK	Office of the Small Business Commissioner (OSBC) Government reporting independent statutory body, with both advisory and dispute resolution functions to manage late payment and unfavourable payment practices in the private sector.	Yes Does not have inhouse mediation services. Refer to external ADR.	Yes Conducts awareness campaigns. Works with Department for Business and Trade to inform policy decisions.
UK	Financial Ombudsman Service for Small Business (FOSSB) Ombudsman that is independent, statutory body, operating on a not-for-profit basis within the regulatory framework. Set up as an informal and free alternative to the courts, resolves things over the phone and in writing.	Yes Conducts independent investigation rather than mediation.	Yes Guidance to financial firms. Publishes reports and statistics on complaints. Policy engagement is through discussions with regulatory bodies and industry to highlight issues affecting small businesses.
Canada	Office of Procurement Ombudsman (OPO) Ombudsman that is independent with dispute resolution to help resolve contracting disputes between businesses and the federal government.	Yes Inhouse ADR for suppliers and federal departments.	Yes Review of federal departments procurement practices. Publishes reports and studies on procurement. Outreach and engagement with suppliers.
US	Office of the National Ombudsman (ONO) within the Small Business Administration (SBA) Federal advocacy and case management agency with focus on regulation. SBA's Office of Advocacy includes advocacy (amplify the voice of small business owners in the regulatory space) and Office of the National Ombudsman (help small businesses when they experience excessive or unfair federal regulatory enforcement actions).	Yes – independently through ONO. Resolving regulatory issues.	Yes – independently through Office of Advocacy. Influencing policy and regulatory environment.

Country	Agency	Assistance	Advocacy
US	<p>The Asbestos and Small Business Ombudsman (ASBO)</p> <p>Program within the the U.S. Environmental Protection Agency (EPA) that has two distinct roles, Asbestos Ombudsman and Small Business Ombudsman.</p> <p>The ASBO helps make technical resources on environmental regulations, asbestos, and compliance assistance information more accessible.</p> <p>The ASBO also fosters partnership opportunities for collaboration to assist small businesses in achieving their environmental performance goals and to address asbestos-related questions.</p>	<p>Yes</p> <p>Liaison and offer information guidance.</p> <p>No</p> <p>Inhouse mediation, they do not mediate disputes.</p>	<p>Yes</p> <p>Advocates for small business interest during the EPA's rulemaking process.</p>
New Zealand	<p>The Ministry of Business, Innovation and Employment (MBIE)</p> <p>Government agency with support and referral role, mainly providing informative services.</p>	<p>Yes</p> <p>Inhouse mediation for employment related issues.</p>	<p>Yes</p> <p>Collaborates with industry bodies and stakeholders.</p> <p>Conducts surveys and gathers data to understand the needs and challenges.</p>

Sources:

- (a) Small Business Commissioner, [About us-Small Business Commissioner](#), Small Business Commissioner website, n.d, accessed 9 May 2025.
- (b) Financial Ombudsman Service, [Financial Ombudsman for Small Businesses](#), Financial Ombudsman Service website, n.d, accessed 9 May 2025.
- (c) Government of Canada, [The Office of the Procurement Ombud](#), Canada.ca website, n.d, accessed 9 May 2025.
- (d) U.S Small Business Administration, Office of the National Ombudsman | U.S. Small Business Administration, U.S. Small Business Administration website, n.d, accessed 9 May 2025.
- (e) United States Environmental Protection Agency, [Asbestos and Small Business Ombudsman | US EPA](#), United States Environmental Protection Agency website, n.d, accessed 9 May 2025.
- (f) Ministry of Business , Innovation and Employment, [Home | Ministry of Business, Innovation & Employment](#), Ministry of Business , Innovation and Employment website, n.d, accessed 9 May 2025.
- (g) Employment New Zealand, [Mediation | Employment New Zealand, Ministry of Business](#) , Innovation and Employment website, n.d, accessed 9 May 2025.

Appendix H: Calls to ASBFEO Call Centre

Calls to ASBFEO call centre, by dispute/reason and year

Number of calls				
Type of call	2021–22	2022–23	2023–24	3-year total
Payment Dispute	1,213	1,408	2,023	4,644
General Information	721	659	742	2,122
Contract Dispute	729	634	598	1,961
Request to speak to ASBFEO staff member #	360	397	371	1,128
Franchise Dispute	316	178	211	705
Product/Service Issue or Quality	265	307	127	699
Lease Dispute ^	174	148	47	369
Financial Services/Insurance Provider Dispute	77	40	50	167
Postal Industry Dispute	119	13	6	138
Commonwealth Government Dispute	60	28	35	123
Negative decision letter from ATO	47	24	35	106
State/ Territory Government Dispute	50	17	13	80
Attending an event or meeting	42	25	6	73
Local Government Dispute ^	15	6	2	23
Oil Dispute	3	4	3	10
Dairy Dispute	3	2	4	9
Internal Business Disputes	4	3	0	7
Horticulture Dispute	2	0	1	3
Other	259	368	584	1,211
Total*	4,459	4,261	4,858	13,578

Notes: # Requests to speak to an ASBFEO staff member include calls to update ASBFEO on the small business' experiences (with no further action) as well as requests to speak to case managers.

^ Lease and local/state government disputes would generally be immediately referred at the call centre level to relevant local/state government support

* The annual figures for 2021–22 and 2022–23 do not reconcile to the quarterly figures. They were re-compiled to produce the Year in Review section of the ASBFEO June Quarterly Report to ensure more consistent reporting rules. The 2022–23 annual figure includes a minor revision to the June 2024 Quarterly Report Year in Review section (originally published 4,204). ASBFEO undertakes periodic data quality checks, which can result in minor revisions.

The table only include data for 3 years and not 4 as the full data set is not available for 2024–25.

ASBFEO have advised it takes great care to ensure reporting is accurate at the time of compilation, but classifications can change as a result of a range of factors and this may also result in slight discrepancies in data published in ASBFEO's relevant quarterly and annual reports. Factors which may impact classifications and comparisons with other published reports include:

- New web forms (key data sources) were implemented in December 2021 and July 2023.
- Reliance on aggregate data. Records from the case management system replaced previously used aggregated data from Contact Centre. Implemented in reporting since September quarter 2023.
- Treatment of test calls and contacts by email updated. To ensure consistency, from September quarter 2023, test calls are no longer included in reporting, but contacts by emails are included.
- Many disputes have multiple facets. ASBFEO call centre agents classify calls using the brief information provided by the small business during the call, with more information the disputes may be re-classified.

Source: ASBFEO Review's analysis of *ASBFEO calls since 2021–22* [unpublished document], ASBFEO, Canberra, 2024.

Appendix I: Table notes

Notes for Table 4.1: New cases where ASBFEO provided one-to-one assistance, by type of dispute

Notes: Data in this table is based on the number of cases received in reporting period (date received). The table only include data for 3 years and not 4 as the full data set is not available for 2024–25.

ASBFEO have advised it takes great care to ensure reporting is accurate at the time of compilation, but classifications can change as a result of a range of factors and this may also result in slight discrepancies in data published in ASBFEO's relevant quarterly and annual reports. Factors which may impact classifications and comparisons with other published reports include:

- Case managers' investigations. For example, if a small business owner initially alleges a franchising dispute but it is actually a licensing dispute, ASBFEO reclassifies this as a business-to-business dispute. This may include Codes (franchising, oil, dairy).
- Refinements to classification – Better reflected the breakdown of initial calls and requests for information compared to disputes. Previous reporting sometimes provided a total while others combined the 2 as enquiries.
- Migration of ASBFEO's case management system. Live system was migrated without an audit trail as a result of multiple Machinery of Government changes.
- New web forms (key data sources) were. Implemented in December 2021 and July 2023.
- Changes to reporting of self-identified as a small business/individual for example, sole trader.
- New data capture implemented in January 2024. Better reflects queries for information from franchising participants that have not become disputes. Implemented in January 2024.
- New data governance processes introduced from late 2022. Enhanced consistency in reporting.

Source: ASBFEO Review's analysis of *ASBFEO new cases since 2021–22* [unpublished document], ASBFEO, Canberra, 2024.

Notes for Table 4.2: Outcome of cases managed by ASBFEO

Note: Data in this table is based on the number of cases closed in reporting period (date closed). It includes cases that were finalised in this reporting period but received in a previous year and may include cases that have been reactivated at any time then closed in the reporting period. The table only include data for 3 years and not 4 as the full data set is not available for 2024–25.

ASBFEO have advised it takes great care to ensure reporting is accurate at the time of compilation, but classifications can change as a result of a range of factors, and this may also result in slight discrepancies in data published in ASBFEO's relevant quarterly and annual reports. Factors which may impact classifications and comparisons with other published reports include:

- Data is from a live system that regularly changes as cases can be reactivated after they are closed.
- ASBFEO's quarterly reports combine the categories of information provided and active case management, as information is provided in the course of managing a case.
- The annual figures for 2023–24 in ASBFEO's June 2024 Quarterly Report were changed to reflect cases closed by ASBFEO case managers in the reporting period (previously case received) to better capture cases active across multiple reporting periods.

Source: ASBFEO Review's analysis of *Additional Qs Outcome of cases managed by ASBFEO since 2021–22* [unpublished document], ASBFEO, Canberra, 2025.

Notes for Table 4.3: Referrals by the ASBFEO Contact Centre to small business commissioners or equivalent

Note: The table only include data for 3 years and not 4 as the full data set is not available for 2024–25.

ASBFEO have advised it takes great care to ensure reporting is accurate at the time of compilation, but that that classifications can change as a result of a range of factors and this may also result in slight discrepancies in data published in ASBFEO's relevant quarterly and annual reports. Factors which may impact classifications and comparisons with other published reports include:

- Callers to the Contact Centre can be referred to multiple parties.
- The Contact Centre web form was changed 7 December 2021 to allow agents to record 2 referral fields (prior to this, call centre agents could select 3 referrals).
- Contact Centre agents record one option for the type of dispute that best reflects their understanding of the dispute, rather than the party they are referring the matter to. This means the data in this table will not reconcile to the 'State/territory Government Dispute' category displayed in the table at *Appendix H Calls to ASBFEO call centre by dispute/reason and year*.

Source: ASBFEO Review analysis of *Referrals to SBCs* [unpublished document], ASBFEO, Canberra, 2025.

Notes for Table 4.4: Destination of referrals by ASBFEO Case Managers

- Notes: Data in this table is based on the number of cases closed in reporting period (date closed). It includes cases that were finalised in this reporting period but received in a previous year and may include cases that have been reactivated at any time then closed in the reporting period. The table only include data for 3 years and not 4 as the full data set is not available for 2024–25.
- ASBFEO have advised it takes great care to ensure reporting is accurate at the time of compilation, but that that classifications can change as a result of a range of factors and this may also result in slight discrepancies in data published in ASBFEO's relevant quarterly and annual Reports. Factors which may impact classifications and comparisons with other published reports include:
- Data is from a live system that regularly changes as cases can be reactivated after they are closed.
 - ASBFEO's quarterly reports combine the categories of Information provided and Active case management, as information is provided in the course of managing a case.
 - The annual figures for 2023–24 in ASBFEO's June 2024 Quarterly Report was changed to reflect cases closed by ASBFEO case managers in the reporting period (previously case received) to better capture cases active across multiple reporting periods.
 - A small number of referrals include referrals to State/Territory Ombudsman and referrals to multiple parties (due to a current CRM limitation). Figures: 2021–22: 16 referrals to State/Territory Ombudsman, 7 in 2022–23 and 6 in 2023–24.
- Source: ASBFEO Review analysis of *Additional Qs Outcome of cases managed by ASBFEO since 2021–22* [unpublished document].

Notes for Table 4.5: Outcomes of cases referred to ADR

- Notes: Data in this table is based on the number of cases closed in reporting period (date closed). The table only include data for 3 years and not 4 as the full data set is not available for 2024–25. ASBFEO have advised it takes great care to ensure reporting is accurate at the time of compilation, but classifications can change as a result of a range of factors and this may also result in slight discrepancies in data published in ASBFEO's relevant quarterly and annual reports. Factors which may impact classifications and comparisons with other published reports include:
- Data is from a live system that regularly changes as cases can be reactivated after they are closed.
 - The ADR practitioner report to ASBFEO (following ADR) only requests whether the matter is resolved, partially resolved or unresolved and whether the parties participated in good faith.
- Source: ASBFEO Review analysis of *Additional Qs Outcome of cases managed by ASBFEO since 2021–22* [unpublished document], ASBFEO, Canberra, 2025.

Notes for Table 4.6: Success rates of pre-mediation and mediation and costs of mediation 2023–24

- Notes: New South Wales SBC for half day mediation cost is \$304 multiplied by 4 = \$1,216 and full day mediation cost is \$304 multiplied by 7.5 = \$2280; Cost to each party \$330 + 3.5 hours multiplied by \$152 = \$862.
- Queensland SBC – \$1250 (including GST) for meditation preparation including intake, mediation conference held, and no signed agreement. \$1,750 (including GST) – meditation preparation including intake, mediation conference held, and agreement signed by both parties.
- South Australian SBC full day \$195 cost to each party and free if it falls under the *Retail and Commercial Leases Act 1995*.
- Source: Provided by State Small Business Commissioners for New South Wales, Victoria, Queensland, SBDC (WA). ASBFEO and South Australian SBC data was sourced from its website and annual reports.

Notes for Table 4.7: Mediation cost of mediators on ASBFEO's ADR practitioners list

- Source: Mediator Survey.

Notes for Table 4.8 – Small business tax concierge – Outcomes

- Note: # The 2021–22 referrals to ATO were predominately reviews of decisions regarding eligibility for Covid-19 relief measures.
- ^ This category is used when ASBFEO contact the complainant and provide information. The small business may decide not to pursue based on this information or they may decide to deal directly with the ATO. It may also be that the matter was not eligible for the SBTC service and ASBFEO could not provide assistance. ASBFEO do not keep specific data on these matters.
- Data in this table is based on the number of cases closed in reporting period (date closed). The table only include data for 3 years and not 4 as the full data set is not available for 2024–25. It includes cases that were finalised in this reporting period but received in a previous year and may include cases that have been reactivated at any

time then closed in the reporting period. ASBFEO have advised it takes great care to ensure reporting is accurate at the time of compilation, but classifications can change as a result of a range of factors and this may also result in slight discrepancies in data published in ASBFEO's relevant Quarterly and Annual Reports. Factors which may impact classifications and comparisons with other published reports include:

- Data is from a live system that regularly changes as cases can be reactivated after they are closed.
- ASBFEO's quarterly reports combine the categories of Information provided and Active case management, as information is provided in the course of managing a case.
- The annual figures for 2023–24 in ASBFEO's June 2024 Quarterly Report was changed to reflect cases closed by ASBFEO case managers in the reporting period (previously case received) to better capture cases active across multiple reporting periods.

Source: ASBFEO Review analysis of *Additional Qs Outcome of cases managed by ASBFEO since 2021–22* [unpublished document], ASBFEO, Canberra, 2025.

Notes for Table 5.1: Franchising Cases from 2021–22 to 2023–24

Notes: Data in this table is based on the number of cases received in reporting period (date received). The table only include data for 3 years and not 4 as the full data set is not available for 2024–25. ASBFEO have advised it takes great care to ensure reporting is accurate at the time of compilation, but classifications can change as a result of a range of factors and this may also result in slight discrepancies in data published in ASBFEO's relevant quarterly and annual reports. Factors which may impact classifications and comparisons with other published reports include:

- Case managers' investigations. For example, if a small business owner initially alleges a franchising dispute but it is actually a licensing dispute, ASBFEO reclassifies this as a business-to-business dispute. This may include Codes (franchising, oil, dairy).
- Refinements to classification. – Better reflected the breakdown of initial calls and requests for information compared to disputes. Previous reporting sometimes provided a total while others combined the 2 as enquiries.
- Migration of ASBFEO's case management system. Live system was migrated without an audit trail as a result of multiple Machinery of Government changes.
- New web forms (key data sources) were. Implemented in December 2021 and July 2023.
- Changes to reporting of self-identified as a small business/individual for example, sole trader.
- New data capture implemented in January 2024. Better reflects queries for information from franchising participants that have not become disputes. Implemented in January 2024.

New data governance processes to enhance consistency in reporting were introduced from late 2022.

Source: ASBFEO Review analysis of *ASBFEO new cases since 2021–22* [unpublished document], ASBFEO, Canberra, 2024.

Notes for Table 5.2: Outcome of cases referred to ADR under Franchising Code

Notes: Data in this table is based on the number of cases closed in reporting period (date closed). The table only include data for 3 years and not 4 as the full data set is not available for 2024–25. ASBFEO have advised it takes great care to ensure reporting is accurate at the time of compilation, but classifications can change as a result of a range of factors and this may also result in slight discrepancies in data published in ASBFEO's relevant quarterly and annual reports. Factors which may impact classifications and comparisons with other published reports include:

Data is from a live system that regularly changes as cases can be reactivated after they are closed. ASBFEOs quarterly reports combine the categories of Information provided and Active case management, as information is provided in the course of managing a case.

The annual figures for 2023–24 in ASBFEO's June 2024 Quarterly Report were changed to reflect cases closed by ASBFEO case managers in the reporting period (previously case received) to better capture cases active across multiple reporting periods.

- Data is from a live system that regularly changes as cases can be reactivated after they are closed.
- ASBFEO's quarterly reports combine the categories of Information provided and Active case management, as information is provided in the course of managing a case.
- The annual figures for 2023–24 in ASBFEO's June 2024 Quarterly Report was changed to reflect cases closed by ASBFEO case managers in the reporting period (previously case received) to better capture cases active across multiple reporting periods.
- A small number of referrals include referrals to State/Territory Ombudsman and referrals to multiple parties (due to a current CRM limitation). Figures: 2021–22: 16 referrals to State/Territory Ombudsman, 7 in 2022–23 and 6 in 2023–24.

Source: ASBFEO Review's analysis of *Additional Qs Outcome of cases managed by ASBFEO since 2021–22* [unpublished document], ASBFEO, Canberra, 2025.

Notes for Table 6.1: ASBFEO annual funding levels 2021–22 to 2024–25 year-to-date

Note: * Year- to-date refers to period from 1 July 2024 through to 31 January 2025.

Notes for Table 6.2: Social media activity across all platforms used by ASBFEO

Note: # Social media followers measured as at last quarter of financial year.

Social media followers and social media posts counts only the ASBFEO's social media account activity and does not include social media activity under the Ombudsman's accounts. Platforms used by the ASBFEO account are reported as:

- Facebook;
- Instagram;
- Twitter/X;
- YouTube; and;
- LinkedIn.

Source: All data taken from ASBFEO's published quarterly reports covering the period from July–September (quarter 3) 2020 through to the April–June (quarter 2) 2024.

Notes for Table 6.3: Media release activity

Note: # This category is labelled 'Media Mentions' in ASBFEOs quarterly reports. Annual data is an aggregate of published quarterly data.

Source: All data taken from ASBFEO's published quarterly reports covering the period from July–September (quarter 3) 2020 through to the April–June (quarter 2) 2024.

Notes for Table 6.4: Website visits – annual basis

Note: Annual data is an aggregate of published quarterly data.

Source: All data taken from ASBFEO's published quarterly reports covering the period from July–September (quarter 3) 2020 through to the April–June (quarter 2) 2024.

Notes for Table 6.5: Various engagement activities compared to number of contacts and cases

Note: # This category is labelled 'Media Mentions' in ASBFEOs quarterly reports.

* Social media followers measured as at last quarter of financial year. Social media followers and social media posts counts only the ASBFEO's social media activity and does not include social media activity under the Ombudsman's accounts.

^ Total contacts – includes calls to the Contact Centre, website inquiries, emails.

N/A – Cases actively managed by ASBFEO in 2020–21 is not available in a comparable data set.

Annual data is an aggregate of published quarterly data.

Source: All data taken from ASBFEO's published Quarterly Reports covering the period from July–September (quarter 3) 2020 through to the April–June (quarter 2) 2024.