Submission to the Productivity Commission Inquiry into Business Dynamism

6 July 2026

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The development of this submission was led by Financial Counselling Australia (FCA) in consultation with Financial Counselling Victoria (FCVic) and the Small Business Debt Helpline (the Helpline).

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About the submission

This submission is informed by the casework of financial counsellors supporting small business owners in financial hardship, including through the Small Business Debt Helpline, and Victorian small business financial counsellors doing extended casework. The evidence and case studies presented here inform our response to the Commission's terms of reference on barriers to entry, expansion and exit, insolvency design and the role of the ATO.

Business dynamism is not advanced by reducing friction alone. Small businesses are not a homogeneous group, and at the micro end business is people who can experience vulnerable circumstances. For necessity-driven and "accidental" microbusiness owners, and those in vulnerable circumstances, poorly calibrated entry, trading and exit settings can convert labour-market insecurity into tax debt, household hardship, creditor contagion and long-term exclusion from productive participation.

The Commission should assess business dynamism not only by whether barriers to entry, expansion and exit are reduced, but by whether people can enter business safely, trade sustainably and exit in an orderly way.

The inquiry's focus on barriers to entry, expansion and exit is important, but for many small businesses the greater challenge is not excessive friction. It is poorly calibrated systems that permit fragile business formation, delayed intervention when distress emerges, and prohibitively expensive pathways to exit. From the perspective of financial counsellors, strengthening business dynamism requires both fewer barriers and better guardrails.

We recommend that government:

1. Review employment law and related regulatory settings. Strengthen protections against exploitative or sham contracting arrangements that effectively require workers to adopt business structures as a condition of getting work; and ensure that business registration, tax and social security frameworks do not inadvertently legitimise nongenuine business arrangements that undermine fair work standards and expose households to avoidable financial risk.

2. Introduce mandatory, low-burden onboarding on core obligations for new small business participants. Require short, plain-language onboarding modules on business structures, tax, superannuation and director duties for people obtaining an ABN or registering a company for the first time, with content tailored to common high-risk pathways such as ABN contracting and NDIS support work.

3. Fund targeted business basics support for vulnerable and necessity-driven entrants. Establish or expand free, targeted business basics programs for cohorts such as young tradespeople, NDIS support workers, migrants with low English proficiency and people moving out of unemployment or caring roles, focused on cashflow, tax, superannuation and personal risk.

4. Strengthen safeguards where households are exposed to business lending. Require proportionate vulnerability and suitability checks where personal homes secure business-purpose credit, including clear disclosure that borrowers are effectively risking their housing to support the business.

5. Strengthen safeguards against and improve responses to business-related financial abuse. Require lenders, ASIC and relevant regulators to strengthen safeguards against coerced or uninformed directorships and guarantees, including clearer consent checks, vulnerability flags and referral pathways where business structures appear to be used to shift liability onto a person who does not control or benefit from the business.

Staying viable: earlier identification of distress and preventing contagion

6. Create earlier, proportionate intervention points for businesses in distress. Require the ATO, lenders and other key creditors to adopt earlier, graduated engagement when distress first appears, using realistic and flexible arrangements calibrated for asset-poor small businesses.

7. Develop accessible options for coordinated advice and support for small business owners. Map existing publicly funded assistance for small business owners in vulnerable circumstances and co-design appropriate community-based and specialist services,including small business financial counselling, accounting, legal and tax assistance,to fill identified gaps.

8. Improve the visibility and usability of small business viability tools. Develop and actively embed simple, sector-specific tools that help owners assess whether they are earning a living wage, meeting tax and superannuation obligations and remaining solvent.

Exit: a dynamic economy needs workable, proportionate pathways out

9. Create an affordable corporate winding-up pathway for small companies that cannot meet liquidation costs. Establish a government-funded or heavily subsidised liquidation pathway for small companies unable to pay upfront insolvency fees.

10. Improve coherence between personal and corporate insolvency for small business owners. Review the interface between personal and corporate insolvency regimes so options are coherent, proportionate and accessible for individuals whose personal and business finances are intertwined.

11. Introduce streamlined mechanisms to close inactive small companies. Provide a low-cost administrative process to deregister inactive, low-risk companies that meet clear criteria.

12. Use improved exit pathways to sharpen phoenix enforcement. Pair accessible, low-cost winding-up and deregistration options with targeted enforcement against deliberate phoenix activity so regulators can more readily distinguish honest failure from misconduct.

The role of the ATO

13. Make ATO obligations and payment processes easier for small businesses to comply with. Simplify lodgement, payment and communication processes, improve clarity around obligations and due dates, and ensure more proportionate treatment where penalties exceed underlying liabilities.

14. Enhance the ATO's hardship and repayment settings. Review collection, payment plan, interest and penalty remission and hardship practices so arrangements are accessible, timely, flexible, proportionate and responsive to vulnerability.

Small business lending and dispute resolution

15. Strengthen small business access to free, binding external dispute resolution. Require small business access to AFCA providing a free, binding EDR pathway so vulnerable microbusiness borrowers can challenge unfair or disproportionate lending conduct without resorting to court.

Together, these reforms help viable businesses survive, enable non-viable businesses to exit earlier and more cleanly, reduce avoidable harm to households and creditors, and strengthen confidence in the integrity of Australia's small business and insolvency systems.

About financial counselling

Financial counsellors provide advice and support to people experiencing financial hardship. They are qualified professionals who help clients understand their rights, negotiate with creditors, access hardship programs and navigate complex systems. Working in not-for-profit community organisations, financial counselling services are free, independent and confidential.

Specialist small business financial counsellors have specific knowledge about issues affecting small businesses experiencing financial difficulty.

About Financial Counselling Australia

Financial Counselling Australia (FCA) is the national peak body for the financial counselling sector. Our vision is an Australia free from financial hardship. We work to prevent financial harm and address financial hardship by advocating for a fairer marketplace and by working with the state and territory financial counselling associations to strengthen the financial counselling profession.

About Financial Counselling Victoria

FCVic is the peak body and professional association for Victoria's 300 practising financial counsellors. Our organisation was established in 1978 by Victorian financial counsellors to provide sector professionalisation, peer support, and undertake systemic advocacy.

FCVic's vision is 'a fairer and more equitable society with improved community wellbeing and better lives for vulnerable people'. FCVic develops resources, builds sector capability, and advocates on behalf of financial counsellors and community members on systemic issues that cause and exacerbate poverty and financial hardship.

FCVic's Small Business Network of specialist small business financial counsellors assisted in the shaping of this submission. We thank them for their expertise and input.

About the Small Business Debt Helpline

The Small Business Debt Helpline (the Helpline) is a national service providing financial counselling support to small businesses. The Helpline provides assistance to small Businesses with 100 or fewer employees. Since inception in 2020 to 30 June 2026 the Helpline has provided over 22,770 cases of assistance to Australian small businesses.

In addition to supporting small business operators directly, the Helpline provides training and information to other financial counselling agencies and secondary consultations to generalist financial counsellors all over Australia whose clients operate a small business.

The Helpline is managed by FCA, and its frontline experience has informed the analysis and recommendations in this submission. We thank the Helpline for their expertise and input.

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1 THE BUSINESS LANDSCAPE

1.1 Changing labour market

Australia's labour market is changing in ways that complicate traditional assumptions about small business. A growing share of self-employment is concentrated in solo, part-time, platform-based and other precarious forms of work. For many people, business entry is not primarily an entrepreneurial choice, but a response to insecure work, limited employment options, or business models that require workers to carry risks previously borne by employers.

While self-employment has not grown uniformly, recent Australian research suggests it is increasingly concentrated in solo, part-time, platform-based[1] and other precarious forms of work. This is evidenced through:

- **Small businesses (those with less than 20 employees) account for 97.3% of all Australian businesses**. Of this:[2]
    - 83.6% are self-employed / sole traders, representing an increase for 4.3% from 2024-25.
    - 25.2% are businesses with 1-4 employees (often referred to as 'microbusinesses').
- **Self-employment in Australia is becoming more concentrated in precarious "solo" activities**, including short-term contracting, part-time self-employment and gig work, rather than conventional employing businesses. [3] A 2023 analysis found that, compared with what would have occurred if self-employment shares had remained constant, Australia had 112,000 fewer employers, 91,000 fewer full-time solo self-employed people, and 35,000 more part-time solo self-employed people.[4]
- **Platform work is growing, and workers are increasingly reliant on it.** QUT's 2024 national survey found participation in digital platform work increased after COVID-19, platforms and types of work diversified, and workers were increasingly reliant on platform income.[5]

[1] Sometimes referred to as the 'gig economy'.
[2] ABS Counts of Australian Business, Table 13, August 2025 and ASBFEO calculations (excludes businesses that are not registered for GST).
[3] Peetz, D., & Carmichael, L., 2023. A Better Future for Self-Employment: How is it changing, and how can 'gig' work be regulated?, the Centre for Future Work.
[4] Peetz, D., & Carmichael, L., 2023. "A Better Future for Self-Employment: How is it changing, and how can 'gig' work be regulated?," the Centre for Future Work.
[5] Williams, P., Stewart, A., McDonald P., Mayes, R., Obst, T., Kennon, C. Feldman, A. & Tran, P.A., 2024. Digital platform work in Australia: Findings from a 2023 national survey. Centre for Decent Work and Industry, QUT, Brisbane

People may move into microbusiness because they:

- **Cannot secure sufficient paid work.** In 2024–25 there were 1.2 million people without a job who wanted to work, many of whom were unable to start immediately due to factors such as caring responsibilities or health conditions.[6]
- **Are channelled into ABN arrangements as a condition of getting work.** Businesses and platforms increasingly relying on contracting and on-demand labour models, with work organised in ways that shift risk onto individuals rather than employers. Workers may be required to obtain an ABN or operate through a company structure as a condition of accessing work, even where the underlying relationship more closely resembles employment.[7]
- **Experience structural barriers that make necessity-driven self-employment more likely.** Migrants may experience delayed or partial recognition of overseas qualifications, language barriers, or limited access to formal employment pathways, leading to higher reliance on self-employment or contracting arrangements.[8] Similarly, research on gig-based care work highlights that this workforce is disproportionately composed of women and migrant workers, often in insecure and low-paid roles with limited alternatives.[9]

In these contexts, self-employment or microbusiness activity may represent one of the few flexible ways to generate income, rather than a preferred entrepreneurial pathway.

This is reflected in the experiences of the Small Business Debt Helpline (the Helpline), a national service which supports any small business owner experiencing financial difficulty.

More than 90 per cent of the Helpline's callers operate microbusinesses with five or fewer employees, and 55 per cent have no employees. most commonly the business structures are companies or sole traders, but also as partnerships and trusts and associations.

Critically, supporting small business operators experiencing vulnerable circumstances makes up over half of all cases supported by the Helpline.

[6] Australian Bureau of Statistics, 2026. Barriers and incentives to labour force participation, Australia, 2024–25. Australian Bureau of Statistics. Accessed 29 June 2026.
[7] Peetz, D., & Carmichael, L., 2023. A Better Future for Self-Employment: How is it changing, and how can 'gig' work be regulated?, the Centre for Future Work.
[8] Jobs and Skills Australia, 2024. Australian labour market for migrants – January 2024. Jobs and Skills Australia. Accessed 29 June 2026.
[9] Macdonald, F., 2023. Unacceptable risks: The dangers of gig models of care and support work. The Australia Institute.

Figure 1. Proportion of Helpline callers with vulnerability

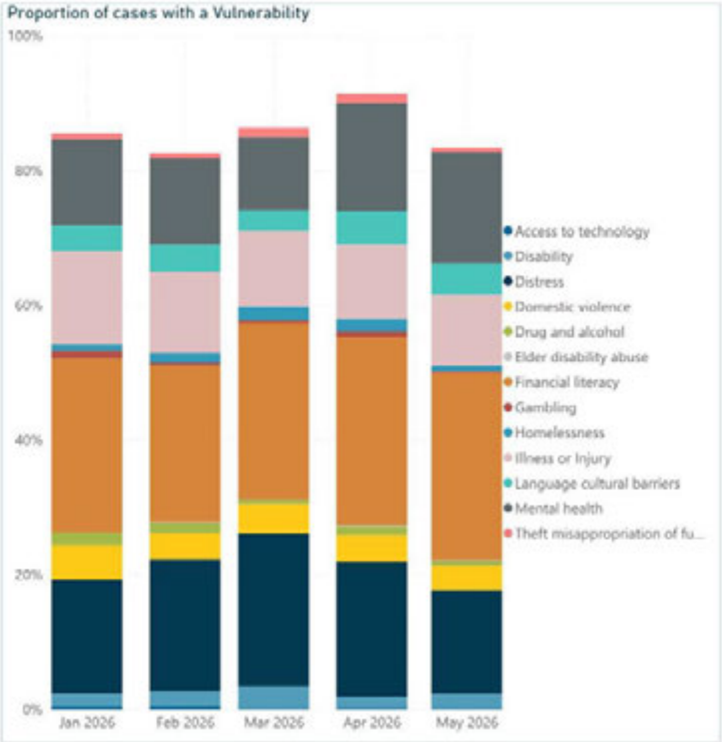
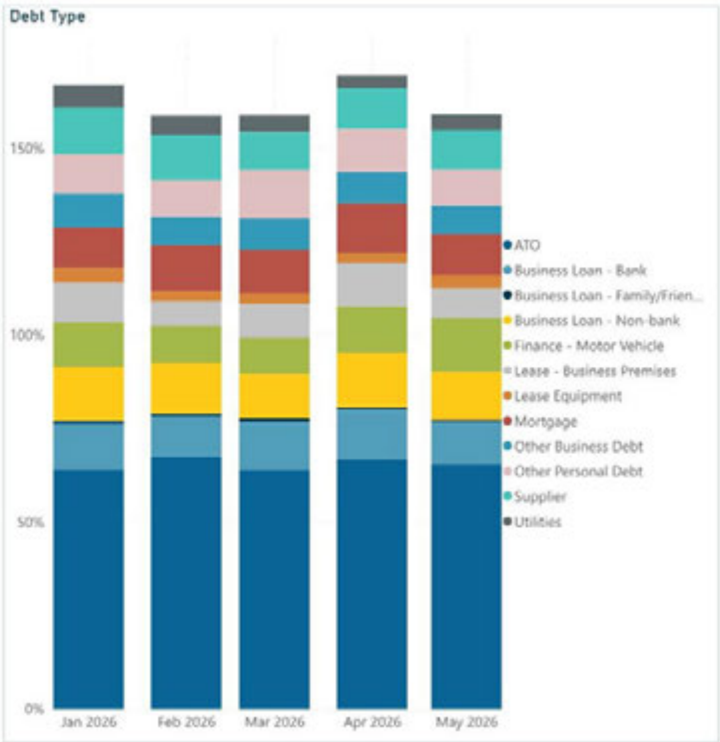


Figure 2. Debt type of Helpline caller



Financial counsellors are concerned with the many small business owners, including microbusiness owners, whose experiences of entry, operation and exit differ materially from the assumptions that underpin business policy. These include:

- **'Accidental' business owners:** people effectively channelled into self-employment, subcontracting or ABN-based work
- **Necessity business owners**: people turning to self-employment after unemployment, underemployment, migration barriers, caring responsibilities, illness, or discrimination
- **Vulnerable microbusinesses**: businesses where the operator has low financial capability, low buffers, language or literacy barriers, health issues, family violence/systems abuse, remoteness, or other compounding vulnerabilities

1.2 Limits of current policy assumptions

Policy and regulatory settings for business registration, taxation, regulation and insolvency are largely predicated on an implicit model of the small business owner as a resourced, opportunity-driven entrepreneur. The model assumes that individuals entering business have:

- access to financial buffers
- professional advice, and
- the capability to navigate regulatory systems.

As example of the last point, the ATO's "Obligations for business registration" guidance frames registration as the first step in "starting your own business". [10] It then lists ABN, GST, PAYG withholding and other registrations as actions you take to "meet your tax, super and reporting obligations" once you decide to operate. This assumes the person has already made an informed, voluntary decision to start a business, and can navigate multiple registrations and ongoing reporting (BAS, super, etc).

These assumptions run counter to the reality of many micro business operators who may operate with limited financial reserves, constrained access to advice and capability-building support, and limited capability to navigate complex regulatory systems.[11] This loads disproportionate risk onto vulnerable microbusiness operators, and has significant consequences for these individuals and the wider system.

1.3 Impacts on individuals, families and the system

Without appropriate guardrails, settings intended to promote dynamism can instead facilitate fragile business formation, tax debt, unpaid superannuation, household financial collapse, small business creditor contagion and long-term exclusion from productive participation. These impacts can be severe for individuals and families, because when these businesses fail, the spillover to household finances is often immediate.

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[10] Australian Taxation Office 2026, *Registration obligations for businesses*, Australian Government.
[11] Kayis-Kumar, A., Noone, J., Lim, Y., Walpole, M., & Mackenzie, G. (2022). Tax accounting for financial wellbeing: Quantifying the unmet need for pro bono tax advice. *AUSTRALIAN TAX REVIEW*, *51*(3), 228–257.

Financial counsellors often see clients who have accessed a credit under their ABN, as this is easier than under their personal name. They may have a business loan, credit card, and car loan but also have personal debts – credit cards, Buy Now, Pay Later (BNPL) loans, mortgages or rates arrears. The terms of the business credit itself, including security over the home, mean that when small business operators experience hardship, their personal assets may be at risk, even where the business is legally separate.

Case study 1: Food truck operator faced losing her home after missing daily repayments during a family emergency overseas.

A woman operating a food truck took out a $5,000 business loan on a 90-day term. The total scheduled repayments were $8,100, making the cost of the short-term credit very high relative to the amount borrowed.

The loan required daily repayments. When a family emergency required the client to return overseas, she missed eight daily repayments and it triggered a series of defualts

Following the missed payments, the lender placed a caveat on the client's home. Within four months of the loan origination issued a statement of claim for $68,000. A relatively small short-term business loan therefore escalated quickly into a serious risk to household assets.

Once issues arise and a business becomes non-viable, the way business structures and exit pathways are designed can also limit individuals from receiving other supports to help them through hardship, such as income support like Centrelink.

Case study 2: An older client could not access income support because an inactive company had not been formally closed.

A person who was no longer operating a business faced difficulty accessing Centrelink because the company still formally existed. The practical effect was that, although the business was not viable and had ceased operating, the person could not readily move into the income support system while the company remained unresolved.

This is a common issue for older or vulnerable business owners who cannot afford formal liquidation or do not understand the steps required to close a company.

In these circumstances, alternative supports may be limited. Many community support services that are only able to provide services to individuals, not small businesses, even when the reality of the situation is that the small business is just one individual.

These examples show that once problems emerge, the interaction between business structures and social security rules can trap people between systems, with neither viable business income nor access to the safety net.

Business distress can also spread to creditors, workers, suppliers and market confidence; unviable businesses remain trading, accumulate tax and other debts, and pass financial stress along supply chains to suppliers, staff and landlords.

Case study 3: Home renovations business owner with about $300,000 in debt faced an unaffordable liquidation pathway, leaving bankruptcy and an inactive company as the likely outcome.

A man operating a home renovations business was the sole director of the company.

The business has total debt of approximately $300,000. In theory, the company should be liquidated so the business debts can be dealt with properly and the director can understand the remaining personal position. In practice, the client has no realistic way to pay the costs of liquidation.

Without an affordable liquidation pathway, the client is likely to enter personal bankruptcy while leaving behind a shell company. This creates a contagion effect: business failure flows through into personal insolvency, while the company structure remains unresolved.[12]

In many cases, directors simply walk away without formally closing the business, leaving "ghost" companies on the register that clog systems, complicate regulatory oversight and continue to create uncertainty for creditors and for the individuals associated with those entities.

[12] See section **3.2 Staying viable**

2 WHY THIS MATTERS FOR BUSINESS DYNAMISM

Entry, operation and exit settings must be assessed not only by whether they reduce formal barriers to business, but by whether they support safe entry, sustainable operation and orderly exit. This is a productivity issue because unresolved microbusiness distress traps labour, capital and household resources in unviable activity and delays reallocation to more productive uses.

In some recent cases, the absence of effective guardrails has contributed to severe outcomes, including large-scale tax fraud and other forms of misconduct, such as the Australian Taxation Office's Operation Protego scheme involving false business registrations and fraudulent claims. These harms could have been prevented or mitigated by better system design that detects and disrupts non-genuine business activity earlier, rather than allowing risk to accumulate in tax, social security and household finance systems.

Weak guardrails can also enable misuse of business structures in ways that extend beyond conventional business failure. For example, business structures may be used in the context of economic abuse to obscure income, under-report earnings, shift liabilities to a partner, or frustrate child support, property settlement or other financial obligations. These risks are relevant to business dynamism because they undermine trust in business systems, distort the allocation of risk and leave households carrying liabilities they did not control or benefit from.

The purpose of this is not to argue that people in vulnerable circumstances should be prevented from starting businesses, or that all business risk should be removed. Risk-taking is central to business dynamism. Our concern is that risk should be informed, proportionate and fairly allocated, and not open to being abused, particularly where people have limited bargaining power or are effectively channelled into business structures.

3 WHAT GOOD LOOKS LIKE: GUARDRAILS ACROSS THE BUSINESS LIFECYCLE

For the cohort financial counsellors see, effective reform is less about a single program and more about a coherent set of guardrails. By guardrails, we mean light-touch, proportionate protections that help people understand risk, identify distress early and exit safely. They do not prevent viable businesses from starting or growing; they reduce the risk that people enter inappropriate structures, trade while unviable, or remain trapped in failed entities. Guardrails sit alongside deregulation and competition measures, ensuring that people can participate in business on realistic terms and step away safely when they cannot.

These should be considered across the business life cycle:

- At entry, guardrails help people understand their obligations and set them up for compliance.
- During trading, they provide early warning and low-friction access to advice before distress becomes entrenched.
- At exit, they ensure there are affordable, proportionate and workable pathways through personal and corporate insolvency, supported by creditor behaviour and integrity settings that distinguish honest failure from misconduct.

These guardrails should be underpinned by clear principles such as:

- **Proportionality** – obligations, processes and costs that scale with the size and capacity of the business and the degree of risk to self and others.
- **Accessibility** – pathways that are usable for people with low financial literacy, low English proficiency, limited digital access, and no capacity to pay for advice.
- **Early intervention** – settings that create natural touchpoints (ATO, lenders, regulators, banks, digital platforms) where emerging distress can be identified and options explained before crisis.
- **Joined-up personal and business perspectives** – recognising that for microbusinesses, personal and business finances, debts and legal exposures are tightly intertwined.
- **Integrity and fairness** – strong enforcement against deliberate misconduct and phoenixing, alongside safe, humane exits for honest failures, including government-funded options where appropriate.
- **Safety-by-design** – systems and processes co-designed to minimise foreseeable harm by embedding protections at key decision points, rather than relying on individuals to identify and manage complex risks on their own.

Attempts to create appropriate guardrails are often dismissed as formal barriers to entry. However, guardrails shape *how* risk is taken, not *whether* people can start, grow or close businesses. They narrow the decision space at high-risk points so that entry, expansion and exit are more productive and less harmful, especially for microbusiness operators in vulnerable circumstances.

When systems are designed to work for the most exposed microbusiness operators, they tend to work better for everyone because distress is identified earlier, failures are resolved more cleanly, and productive risk-taking is less likely to tip into long-term hardship.

More broadly, better guardrails can mean:

- Fewer failing microbusinesses trading on with escalating ATO and supplier debts reduces contagion risk through supply chains.
- Affordable, orderly exit pathways may improve creditor recoveries on average, reduce phoenix risks, and make enforcement more predictable.
- Settings that are calibrated for microbusinesses in financial distress can enhance trust and willingness to participate in formal systems, supporting compliance and, over time, more sustainable business dynamism.

3.1 Entry: good settings require both fewer barriers and better guardrails

Current set-up processes assume too much knowledge and capability. Financial counsellors' experience shows that:

- Microbusiness operators often cannot afford professional advice and may not have the information needed to assess their options properly.
- Many clients struggle to understand business structure, director duties, BAS, superannuation and tax obligations, record-keeping requirements, and even their own financial position and viability.
- These knowledge gaps can allow debts to compound over time, particularly once professional advice drops away.

Case study 4: A disability support worker was pushed into operating through an ABN and company structure without understanding the obligations of being a company director and employer.

A disability support worker caring for high-needs NDIS participants was told she needed an ABN to continue working and was later encouraged to establish a company and become an employee of her own company.

Her day-to-day work remained focused on providing care, but she became responsible for payroll, superannuation, tax lodgements and business cashflow. When NDIS payments were delayed, she continued providing care and personally carried wages and operating costs. She relied on administrative support but did not have the business literacy to oversee compliance obligations.

Over time, BAS and superannuation obligations were missed and the company received a statutory demand for about $137,000, including superannuation, penalties and interest. The client had already ceased trading and transferred participants and staff to other providers, but she faced ATO winding-up action and personal liability under the Director Penalty regime. The debt also placed her home at risk.

Case study 5: A young tradesperson entered ABN contracting with little business education, leading to a tax debt that followed him for more than a decade.

A young tradesperson left school at 15 and became a plasterer. At about 20, he was encouraged to work through an ABN as a subcontractor, despite having no business experience or financial literacy.

In his first year of trading, he did not set money aside for tax and was then required to manage both a tax debt and PAYG instalments. With irregular income and little guidance, he became overwhelmed, disengaged from the tax system and returned to PAYG employment. More than 12 years later, he wanted to return to self-employment, take on workers and rebuild his business, but the historic tax debt had grown to about $104,000, including around $68,000 in General Interest Charges.

With support from his accountant and the Small Business Debt Helpline, he lodged outstanding returns and established better systems. Advocacy helped secure remission of the historic interest, provided he could repay the principal debt over three years.

For some people, entry into small business happens in very personal ways, such as through family relationships, rather than through a clear, informed business decision. In these situations, small business structures can be used within families in ways that expose one partner – often the one with less information and power – to significant business risks they never intended to take on.

Case study 6: A woman became company director for her husband's plumbing business without understanding the risks.

A 63-year-old woman became director of a company because her husband, who operated the plumbing business, had previously been bankrupt and could not be the director. She was not involved in running the business and did not understand the obligations attached to the role.

The company accrued about $53,000 in tax debt and also had a $20,000 business overdraft, for which she was guarantor. The client worked part time, struggled with personal expenses and could not afford a payment arrangement. English was her second language, making it harder to understand company debt, liquidation and the Director Penalty regime.

Her daughter had already taken out a loan to help her and she was considering selling the company car, which she needed for work, to fund liquidation.

This risk is not limited to coerced or uninformed directorships. Small business structures may also be used by perpetrators of economic abuse to obscure income, under-report earnings, accumulate tax or business liabilities in a partner's name, or otherwise frustrate child support, property settlement or other financial obligations. These issues sit at the intersection of corporate regulation, taxation, family law and family violence, and highlight the need for a more coordinated, safety-by-design approach across government systems.

These examples show that "reducing barriers to entry" in the abstract can mask real risks if people are effectively required to take on business structures and liabilities without the information, support and protections they need.

For this cohort, good entry settings must combine low administrative friction with clear, low-burden guardrails so people can:

- Understand what will change when they move from employment to ABN or company structures.
- Choose business structures that are proportionate and maintainable for their circumstances and risks.
- Obtain clear, accessible and practical disclosure and independent advice before personal homes or other critical assets are put at risk to support a business.

Reform should not focus only on making business entry easier; it should also improve the chances that people start in a way that is viable, compliant and sustainable.

What would help at entry

Drawing on these cases, we suggest that effective entry-stage guardrails should include:

- Ensure that self-employment and contracting arrangements genuinely contribute to business dynamism, rather than operating as a vehicle for shifting risk onto workers with limited bargaining power.

- Mandatory short, plain onboarding modules on core obligations for anyone moving into ABN or company structures, rather than relying on static guidance that people may never read.
- Targeted, free business basics programs for high-risk cohorts (young tradies entering ABN contracting, NDIS support workers, migrants with low English, people moving out of unemployment or caring roles) that explain tax, superannuation, director duties and personal risk in plain language.
- Requiring clear, accessible and practical disclosure of key terms at the point of signing for small business credit and major contracts, including what constitutes default, how security (especially the family home) can be enforced, and realistic downside scenarios.
- Proportionate checks where personal homes or assets are security, can become security under a term of the finance, or through personal guarantees "business" finance, including vulnerability flags and requirements to ensure borrowers understand that they are effectively risking their housing to support a fragile business model.
- Require lenders, ASIC and relevant regulators to strengthen safeguards against and improve responses to business-related financial abuse, including clearer consent checks, vulnerability flags and referral pathways where business structures appear to be used to shift liability onto a person who does not control or benefit from the business.

These measures would not prevent people from entering business. They would increase the chances that those who do so are genuinely equipped to participate, rather than unknowingly taking on obligations that can later cascade into insolvency and long-term hardship.

Recommendation(s) for entry

1. **Review employment law and related regulatory settings.** Strengthen protections against exploitative or sham contracting arrangements that effectively require workers to adopt business structures as a condition of getting work; and ensure that business registration, tax and social security frameworks do not inadvertently legitimise non genuine business arrangements that undermine fair work standards and expose households to avoidable financial risk.
2. **Introduce mandatory, low-burden onboarding on core obligations for new small business participants.** Require short, plain-language onboarding modules on business structures, tax, superannuation and director duties for

people obtaining an ABN or registering a company for the first time, with content tailored to common high-risk pathways such as ABN contracting and NDIS support work.

3. **Fund targeted business basics support for vulnerable and necessity-driven entrants.** Establish or expand free, targeted business basics programs for cohorts such as young tradespeople, NDIS support workers, migrants with low English proficiency and people moving out of unemployment or caring roles, focused on cashflow, tax, superannuation and personal risk.
4. **Strengthen safeguards where households are exposed to 'business' lending.** Require proportionate vulnerability and suitability checks where personal homes secure business-purpose credit, including clear disclosure that borrowers are effectively risking their housing to support the business.
5. **Strengthen safeguards against and improve responses to business-related financial abuse.** Require lenders, ASIC and relevant regulators to strengthen safeguards against coerced or uninformed directorships and guarantees, including clearer consent checks, vulnerability flags and referral pathways where business structures appear to be used to shift liability onto a person who does not control or benefit from the business.

3.2 Staying viable: earlier identification of distress and preventing contagion

Poor – and in some cases, deliberate - system design means small business owners are often steered away from general consumer protections and mainstream community support services, including financial counselling. As a result, businesses often do not get timely signals or affordable support, so distress deepens and spreads. People commonly seek help only once collection activity resumes or intensifies, temporary supports have ended, and debts have grown during periods of deferred enforcement.

Where there are no workable early-warning supports or intervention points, distress can spread through suppliers, workers, households and other small businesses. Tax arrears may escalate over time, unpaid suppliers can create knock-on effects, and business debt may be sustained through personal credit or household borrowing.

In **Case study 3,** the operator of a home renovations business accumulated around $300,000 in debt, including amounts owed to trade suppliers and subcontractors, but could not afford the costs of liquidation. **The inability to exit and formally close the business and associated delay in ceasing trading** creates a contagion effect: business financial distress flows through to unpaid suppliers, subcontractors and customers left to absorb losses in the absence of an orderly process. Other small businesses further along the supply chain may then face their own cash-flow pressures, increasing the risk that distress spreads beyond the original failing business.

Distress needs to be identified before debts snowball, and the costs of failure are not shifted onto other small businesses and households with limited capacity to absorb them.

Case study 7: A picture framing business owner kept trading partly because of loyalty to employees, while ATO debt and potential Director Penalty Notices placed the family home and relationship under pressure.

A woman in her 50s ran a picture framing business. She had low financial literacy about business compliance and the business may not have been profitable when she bought it.

Over time, the business accrued significant ATO debt and may have been trading while unviable. The client jointly owned a home with her husband, which was at risk because of potential Director Penalty Notices. The debt placed significant pressure on the relationship.

She did not want to stop trading because she had close friendships with her employees and was conscious of the impact closure would have on them. She hoped to refinance the home to repay the debt, but this was unlikely to be straightforward. A previous accountant had done poor work, and she then had to find a new accountant and transfer records before she could even understand the full position.

Case study 8: A scaffolding worker moved into self-employment because disability limited his employment options, but the business carried tax debt the household could not repay.

A husband and wife operated a small company providing scaffolding services while also supporting two teenage dependants.

The husband carried out the scaffolding work but had lost sight in one eye, limiting his ability to obtain equivalent wage employment in the field he knew. Self-employment became one of the few practical ways he could continue using his skills, but it also increased the household's administrative burden, compliance obligations and costs.

The company accumulated about $38,000 in ATO debt and had no capacity to repay within current repayment settings.

Case study 9: A couple kept an unviable business trading until debts, equipment finance and housing costs left them at risk of homelessness.

A couple with a 10-year-old son ran a business together through a company and trust structure. Both worked in the business and both were directors.

The business had previously traded well, but the business environment changed and they were unable to adapt. They continued trading and accrued supplier debts and tax debts. They also took out a $250,000 business equipment loan for an office on a five-year term. When they could no longer afford rent, they converted the office into a tiny home, placed it on farmland and lived in it.

By the time they saw a financial counsellor, they were a year behind on the loan repayments and still hoped to negotiate with creditors, although there was not enough income to do so. The clients were forced to sell, were at risk of homelessness and may need to live in a caravan. They had spoken with insolvency practitioners but could not afford liquidation. They were also looking for employed work but struggling to find it. The clients had waited four months to see a small business financial counsellor and were distressed, with mental health impacts.

For many sole operators and family businesses, the distinction between business and consumer is artificial. Business debt rapidly becomes personal debt through guarantees, director penalties, mortgages and personal borrowing, but public support systems continue to treat these people primarily as businesses rather than households experiencing financial hardship.

Unlike consumers, small business owners generally cannot access an equivalent publicly funded network of accounting, legal and business assistance, despite business failure frequently becoming personal financial hardship.

These cases illustrate how, in the absence of early-warning supports and affordable advice, business distress can:

- Erode household financial security while owners struggle to understand their position.
- Push people into continuing unviable operations, often out of loyalty to employees or optimism that conditions will improve.
- Create contagion risks for suppliers, landlords and workers when debts are allowed to build up.

What would help while businesses are trading

The solution is to create earlier intervention points that preserve viable businesses and reduce harm where viability is already deteriorating, which could involve three practical levers:

- Earlier and more graduated ATO engagement when distress first appears, consistent with the ATO's Vulnerability Framework. This should include trauma-informed hardship responses, realistic, flexible payment arrangements and proactive outreach when patterns of non-lodgement or growing arrears are detected, particularly for small business owners in vulnerable circumstances[13].
- Funded access to coordinated advice and support for small business owners in vulnerable circumstances who cannot afford professional help but need it to understand viability and options.
- Clearer signals and tools to help small business owners assess whether they are earning a living wage from self-employment and whether their business is viable, including sector-specific guidance for high-risk models such as courier work and low-margin franchises.

These interventions can help preserve viable businesses by addressing problems early and can reduce contagion by prompting timely decisions when businesses are no longer sustainable.

Recommendation(s) for viability

6. **Create earlier, proportionate intervention points for businesses in distress.** Require the ATO, lenders and other key creditors to adopt earlier, graduated engagement when distress first appears (for example after first missed lodgements or payments), using realistic, flexible arrangements calibrated for asset-poor microbusinesses.
7. **Develop accessible options for coordinated advice and support for small business owners.** Map existing publicly funded assistance options for small business owners in vulnerable circumstances to identify system gaps. Building on this, co-design appropriate community-based and specialist services – led by small business financial counselling and complemented by accounting, legal and tax services – to fill these gaps in a coordinated way.
8. **Improve the visibility and usability of small business viability tools.** Build on existing materials by developing simple, sector-specific tools and actively embedding them in key touchpoints (for example, ATO, lenders, franchisors

[13] See **Section 5 Deep dive: The role of the ATO**

and platforms), so small business owners can readily assess whether they are earning a living wage, meeting tax and super obligations and remaining solvent, with tailored guidance for high-risk models such as courier work, low-margin franchises and platform-based work.

3.3 Exit: a dynamic economy needs workable, proportionate pathways out

A dynamic economy depends not only on entry, but on whether people can exit non-viable businesses quickly, affordably and with dignity. When exit pathways are unaffordable or unclear, small business owners can be left in prolonged distress through worrying about debts they cannot repay, facing housing insecurity and mental health impacts, and feeling unable to move on. For many small business owners in vulnerable circumstances, financial counselling casework shows they simply cannot afford the accounting, legal or insolvency advice needed to identify non-viability and exit safely.

In these circumstances, people often either declare personal bankruptcy, with avoidable consequences, or walk away from a "zombie" company and carry ongoing stress for years.

The experiences in **Case study 3** (home renovations business) and **Case study 9** (family business facing homelessness) show how unaffordable liquidation can leave people oscillating between prolonged trading while unviable, personal bankruptcy and unresolved company structures:

- In **Case study 3**, the likely outcome is personal bankruptcy while a company remains on the register, leaving suppliers, subcontractors and tax authorities with unpaid debts and no orderly process for resolution.
- In **Case study 9**, continuing to trade an unviable business pushed the family into housing precarity while creditors remained exposed.

In both cases, business failure creates a contagion effect: distress flows through to households and other small businesses, and "zombie" companies clutter systems and complicate oversight.

Case study 10: A long-term restaurant operator could not afford liquidation, leaving the company debt unresolved and increasing personal risk.

A long-term restaurant operator faced declining viability as costs increased and consumer discretionary spending fell. The business accumulated about $400,000 in company ATO debt.

The operator needed to close the company and understand the personal debt position after liquidation, but could not afford the estimated $15,000 or more required to appoint a liquidator.

Without an affordable exit pathway, the client was left exposed to ongoing distress, uncertainty and potential personal liability.

This echoes the patterns in Case studies 3 and 7: where exit is too costly, small business distress does not disappear but is displaced into personal bankruptcy, unresolved shell companies and ongoing contagion risks for suppliers, workers and other small businesses that rely on clear, timely signals when a business has truly ceased.

What would help at exit

Taken together, these cases show that if exit is too costly or inaccessible, the system traps failed firms in limbo, distorts the market and undermines confidence. Effective exit-stage guardrails should include:

- A government-funded corporate winding-up pathway for where directors genuinely cannot afford the costs of liquidation (for example, because the company has no realisable assets and the individuals lack the means to pay), to enable orderly closure in circumstances where the fixed costs of formal liquidation are prohibitive.
- Administrative mechanisms to close inactive companies in low-risk scenarios, supported by clear guidance to Centrelink, the ATO and other agencies so that people are not excluded from income support due to unresolved company structures.
- Better integration between personal and corporate insolvency settings for small business owners whose personal and business finances are tightly entwined, so that pathways are coherent and proportionate for individuals rather than siloed between regimes.

These reforms would maintain integrity and deterrence for deliberate misconduct, while ensuring that honest failures can exit in a way that protects households, improves creditor recoveries on average, and reduces the prevalence of "zombie" companies that weigh on business dynamism.

Recommendation(s) for exit

9. **Create an affordable corporate winding-up pathway for small companies that cannot meet liquidation costs.** Establish a government-funded or heavily subsidised liquidation pathway for small companies that are unable to pay

upfront insolvency fees, so directors can access formal winding-up in circumstances broadly analogous to personal bankruptcy (which is free to enter but may involve contributions where assets or income allow).

10. **Improve coherence between personal and corporate insolvency for small business owners.** Review the interface between personal and corporate insolvency regimes so options for small business owners with intertwined personal and business debts are coherent, proportionate and accessible.

11. **Introduce streamlined mechanisms to close inactive small companies.** Provide a low-cost administrative process to deregister inactive, low-risk companies that meet clear criteria (for example, no outstanding debts or enforcement activity), so that directors are not forced into full liquidation solely to close a dormant structure.

4 DEEP DIVE: INSOLVENCY IN PRACTICE

For many of the small businesses seen by financial counsellors, formal insolvency pathways exist on paper but are not practically usable. In practice, cost, creditor behaviour and the position of the ATO determine whether exits are orderly or chaotic.

4.1 Cost and structural design: why microbusinesses cannot use the system as intended

Affordability is a major barrier; small business restructuring has been limited by cost, eligibility and personal liabilities, simplified liquidation remains too expensive for many small businesses, and many asset-poor directors simply cannot afford liquidation.

This means that, by the time a microbusiness is clearly insolvent, there are usually few or no assets left to fund liquidation, and directors are already under severe financial stress. As a result, companies may cease trading and drift toward deregistration, or be informally abandoned, rather than entering an orderly formal process.

The restaurant operator and the coerced director described in **Section 3.3** illustrate how insolvency costs can be prohibitive for microbusinesses.

Many clients have outstanding tax returns or lodgements because they cannot afford accountants, national Tax Clinics are underfunded and have long wait times, and do not all provide the same level of service for business clients. Further the cost of proceeding with liquidation can be tens of thousands of dollars. For asset-poor directors, formal insolvency is effectively a “luxury good”: theoretically available, but unattainable at the point it is needed.

4.2 Languishing entities and the “bleed-out” effect

Section 3.3 described how some businesses continue trading while clearly unviable, or are left in limbo as inactive companies because the cost of formal winding up is prohibitive. When non-viable businesses cannot afford to exit and are left to languish, the unproductiveness does not remain contained within the firm, but bleeds out into the wider system. Unviable companies tend to accrue tax arrears, run down employee entitlements, delay payments to suppliers and landlords, and continue drawing on household resources, so financial stress is pushed along supply chains and into family finances rather than being resolved through an orderly closure.

The couple who continued trading an unviable business until they were living in a converted office and facing homelessness is one example of this “bleed-out” effect.[14] Their experience shows how delayed exit can convert business failure into housing insecurity and long-term distress, rather than a contained commercial loss. Similarly, the client who could not access

[14] Case study 7

income support because an inactive company had not been formally closed illustrates how unresolved entities can block timely re-entry to the safety net.[15]

In this sense, keeping unviable businesses in limbo is the opposite of productive dynamism: instead of capital and labour redeploying to better uses, scarce resources are trapped in businesses that cannot recover, and the costs are socialised through creditors, workers and households, and community support services.

4.3 Integrity and phoenix prevention

Poor exit settings can also blur the boundary between honest failure, abandonment and deliberate phoenix activity. When formal pathways are unaffordable, some directors may walk away from companies in distress or resort to informal arrangements that may resemble phoenixing, even where their primary motivation is simply to escape unmanageable debt.

Providing accessible, low-cost winding-up options for asset-poor companies, and making it easier to close genuinely inactive entities, would reduce the pool of “zombie” companies and make intentional phoenixing easier to detect and enforce against. Clear, workable exit pathways are therefore also a precondition for effective phoenix prevention, not a softening of integrity standards.

4.4 Why a government-funded winding-up pathway is needed

Microbusinesses often reach the end of their viable life with little or no surplus asset value, complex, intertwined personal and business debts, and no capacity to fund commercial insolvency services.

In this context, a government-funded or heavily subsidised corporate winding-up pathway for asset-poor small companies would:

- Give directors who have ceased trading and are genuinely trying to resolve obligations a realistic route into formal processes when they cannot afford commercial fees.
- Enable earlier, cleaner resolutions that preserve value for creditors, reduce contagion and allow individuals to move on.
- Provide a structured setting for investigating misconduct, including phoenix behaviour, rather than leaving distressed companies abandoned or drifting into deregistration.

This would not displace the existing market for insolvency services where businesses have assets and can afford commercial fees. Instead, it would fill a clear gap for microbusinesses whose size, asset profile and vulnerability mean the existing system is effectively closed to

[15] Case study 2

them, strengthening both the effectiveness and integrity of the insolvency framework for small business.

Recommendation(s) for exit

12. **Use improved exit pathways to sharpen phoenix enforcement.** Pair accessible, low-cost winding-up and deregistration options with targeted enforcement against deliberate phoenixing, so regulators can more readily distinguish honest failure from misconduct and focus integrity tools where they are most needed.

5 DEEP DIVE: THE ROLE OF THE ATO

The ATO has a dual public interest role: protecting Commonwealth revenue while engaging fairly with members of the community experiencing financial hardship. It is one of the most significant intervention points in the business lifecycle and therefore plays an important role in promoting both viability and orderly exit. This includes supporting orderly resolution of distress, but also designing obligations and payment processes with which people can realistically comply.

5.1 The issue: complex obligations and penalty settings that are misaligned with vulnerability

Many small business owners facing significant tax debt are not seeking to avoid their obligations but have become overwhelmed by circumstances including illness, family violence, disaster, caring responsibilities or business failure. Embedding trauma-informed, vulnerability-aware practices within tax administration would support earlier intervention, improve engagement and contribute to more orderly resolution of distress without compromising the integrity of the tax system.

Financial counsellors see clients who are trying to meet their obligations, and in some cases paying more than required, but who still default because payments do not align with ATO due dates, payment references or account details.

The scaffolding worker who moved into self-employment after losing sight in one eye, and then accumulated ATO debt that could not be repaid under current settings, is one example of how inflexible arrangements can tip a household into crisis.[16] The NDIS sole trader with major tax debts, and the directors grappling with potential Director Penalty Notices, similarly

[16] Case study 8

highlight how confusing communications and limited hardship pathways can delay engagement until options are much narrower.[17][18]

BAS and other business reporting obligations do not operate on a simple or predictable cadence for many small business owners. A client may have multiple obligations fall due in one month and none in another, with different payment references and account details depending on the liability. For microbusiness operators with low financial literacy, disability, language barriers, caring responsibilities or no access to accounting support, this complexity can turn willingness to comply into avoidable default.

Case study 11: A young business operator incurred failure-to-lodge penalties that exceeded their underlying GST debt, after struggling with paperwork, limited digital literacy, and no affordable access to professional tax support.

A sole trader in a personal services industry with neurodivergence had significant difficulty managing paperwork and online systems, which contributed to two BAS statements being lodged late.

When the ATO was contacted on the client's behalf, the total debt was $5,953. This comprised $2,653 in GST and $3,300 in failure-to-lodge penalties. The penalty amount was therefore higher than the GST debt itself.

The client could not afford an accountant and needed to manage her own BAS and tax returns. She avoided lodging because she believed lodging without being able to pay would create more problems than not lodging. Instead, the late lodgements resulted in penalties of $1,650 for each BAS due in March and June 2025.

The ATO suggested the client request remission of the penalties by submitting a form through the online business portal. The client did not feel confident navigating the portal or completing the form without support. She was supported by her financial counsellor to draft the remission request.

This case shows how failure-to-lodge penalties can escalate quickly for young and inexperienced sole traders who have difficulty navigating paperwork and cannot afford accounting support.

5.2 What would help: easier compliance and earlier and better resolution.

There is an opportunity for the ATO, as a major creditor, to support earlier and more orderly resolution of distress for vulnerable microbusinesses while still protecting the revenue. This

[17] Case study 4
[18] Case study 6

support should include alignment with the financial counselling sector's 10 Principles of Good Hardship,[19] so that it is timely, flexible, proportionate and responsive to vulnerability.

When issues occur, penalty settings should also be proportionate to the scale of the non-compliance and the circumstances of the taxpayer. A flat or near-flat penalty architecture can produce outcomes that feel arbitrary and excessive for low-income microbusinesses, particularly where the underlying amount is small, the person has attempted to engage, or late lodgement reflects hardship rather than avoidance. Penalties that are disconnected from both culpability and capacity to pay can reduce engagement rather than improve compliance.

Recommendation(s) for the ATO

13. **Make ATO obligations and payment processes easier for small businesses to comply with.** Simplify lodgement, payment and communication processes so people trying to comply do not inadvertently default. This should include clearer payment requirements, due dates, reference details and account information; better communication about the distinction between lodging and paying; and more proportionate treatment where low-value or hardship-related non-compliance triggers penalties that exceed the underlying debt.
14. **Enhance the ATO's hardship and repayment settings.** Review ATO collection, payment plan, interest and penalty remission, and hardship practices so arrangements are accessible, timely, flexible, proportionate and responsive to vulnerability, while still protecting the revenue. This should include earlier engagement after missed lodgements or payments, realistic payment plans for businesses that cannot clear arrears quickly, and proportionate remission of interest and penalties where non-compliance reflects hardship rather than avoidance.

6 DEEP DIVE: SMALL BUSINESS LENDING, POWER IMBALANCE AND DISPUTE RESOLUTION

Entry, viability and exit are also shaped by access to finance and the way risk is allocated between lenders and borrowers.

Small business viability is shaped not only by tax, insolvency and exit settings, but by the terms on which credit is provided, enforced and challenged. Credit can support productive activity, smooth cashflow and enable growth. However, where business credit is high-cost,

[19] Financial Counselling Australia 2025, 10 principles of good hardship, Financial Counselling Australia

unsuitable or provided on one-sided terms, it can also keep fragile businesses trading, transfer commercial risk onto households and make business failure harder to resolve.

The problem is not only whether a home or other household asset is taken as security. Security is often the consequence of a broader lending relationship characterised by unequal bargaining power, standard form contracts, limited advice, high-cost credit, short repayment cycles, personal guarantees, default interest and strong enforcement rights. For the cohort financial counsellors see, these terms determine whether a missed payment becomes a temporary setback or a threat to housing, whether a borrower can challenge poor conduct, and whether business failure leaves long-term personal debt.

6.1 The issue: small business lending can shift risk onto households, often without recourse

Small business borrowers frequently negotiate from a position of structural weakness. They may rely on lenders, brokers, accountants, business sellers, franchisors or other intermediaries for advice, while lacking the resources to obtain independent legal or financial advice.

In the experience of the Helpline, small businesses may have initially applied for relatively small amounts of credit. However, the terms of the credit arrangements are such that the amount has escalated to a comparatively largely debt relative to the size of the business and original debt. This can occur through:

- high base interest rates, including rates in the order of over 200% pa – these are often not disclosed
- exorbitant penalties and additional interest in the event of missed repayments, combined with repayments required on a daily or weekly basis
- provision of additional credit rather than hardship arrangements

Typically the loans are promoted as unsecured or no up-front security yet default events trigger security and if the borrower is a company the director(s) have provided personal guarantees. **Case study 1** (a food truck owner whose $5,000 loan came to scheduled repayments of $8,100) provides an example of a very high cost relative to the amount borrowed.

This creates particular risks where credit is secured against the family home, or used to buy or sustain a business that is already fragile, as evidenced through a number of the cases shared in this submission.

These cases show why business lending settings are a core part of the dynamism agenda. The harm is not simply that security was taken over a home, but the deeper problem is a range of issues[20] that converted a small business decision into long-term household hardship.

A dynamic economy needs people to be able to take informed, proportionate risks. It does not benefit when people are pushed into unsuitable finance, when fragile businesses are propped up by high-cost credit, or when the cost of failure is transferred to households in ways that prevent people from moving on. Business lending should support productive risk-taking, not risk transfer.

Court-based remedies are not realistic for most microbusiness borrowers, particularly where the amount borrowed may be modest but the consequences are severe. A person facing enforcement against their home, egregious default fees, broker misconduct, an inappropriate loan or harsh repayment terms may not have the money, time, confidence or legal support to pursue litigation.

The existing AFCA framework could provide an important foundation, as AFCA can assist small businesses with complaints about financial firms, its service is free to access, and its determinations are binding on financial firms. These settings provide a practical alternative to court when lending conduct, hardship responses or enforcement practices are disputed.

However, small business lenders may not be required to be members of AFCA precluding microbusiness from access free binding dispute resolution.

6.2 What would help: practical access to free, binding EDR

Free, binding external dispute resolution is a critical guardrail in small business lending. The Commission should consider whether at a minimum, all small business lenders be required to be AFCA members affording small business borrowers practical access to free, binding EDR for disputes.

This should be supported by clearer referral pathways. Lenders, brokers and regulators should identify when a small business borrower may need dispute resolution, hardship support or small business financial counselling.

Recommendation(s) for small business lending and dispute resolution

15. **Strengthen small business access to free, binding external dispute resolution.** Require small business access to AFCA providing a free, binding EDR pathway so vulnerable microbusiness borrowers can challenge unfair or disproportionate lending conduct without resorting to court.

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[20] Namely, a combination of unsuitable or high-cost credit, weak borrower bargaining power, reliance on intermediaries, inadequate front-end safeguards and enforcement tools