

### Terms of Reference

#### Purpose

It is well known that small business owners are time-poor, vulnerable to imbalances in bargaining power, and lack dedicated resources of the kind enjoyed by larger businesses. In ASBFEO's consultations with small businesses, access to justice is consistently brought up alongside payment times and practices as a pressing issue. The ability of small businesses to resolve disputes affects the viability of the sector and, as a result, the efficiency of our economy.

In Phase I we explored the nature and incidence of disputes, actions taken by small business when faced with a dispute and the factors that influence a small business to continue to seek resolution of or abandon a dispute.

Phase I found payment times and terms remain the biggest cause of disputes. Time and cost are the most significant factors when determining how far to pursue resolution of a dispute. Where a dispute was escalated through formal pathways, the average cost of resolving disputes has doubled over the past decade to over \$130,000.

Phase II will look at the formal and informal pathways, our court system, explore emerging ideas for streamlining processes and make recommendations to improve access to justice for small business owners.

#### Scope

The research will aim to identify:

- the factors that impact the cost, time frame and effectiveness of non-legal resolution pathways
- the factors that impact the cost, time frame and effectiveness of legal pathways resolution
- existing affordable, accessible and timely dispute resolution mechanisms around the world.

#### Timeframe

The inquiry will commence in December 2018 with a final report to be published in the first quarter of 2019.