

Mike Freer MP
Parliamentary Under Secretary of State
Ministry of Justice
Via email



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Dear Minister,

As the Legal Services Board looks forward to another year of delivering on our priorities to reshape the legal services sector, we are keen to continue sharing our insights regarding small business legal needs with the Ministry of Justice (MoJ), as a key partner for delivering change in this area.

As you may be aware, in May 2022 we shared a letter with the MoJ detailing our research into the legal needs of small businesses and encouraging the creation of a legal support strategy to fulfil unmet need amongst small businesses. In response, on 7 June 2022 we received a supportive letter from James Cartlidge, then Under Secretary of State for Justice, that highlighted government actions aligned with our key asks and welcomed further collaboration between the MOJ and the LSB on improving access to justice for small businesses. I attach those letters for your information.

Since then, we have spent time engaging further with small business stakeholders and legal sector innovators, including Local Enterprise Partnerships (LEPs) across regions in England, the Federation of Small Businesses (FSB), LawtechUK and the British Chambers of Commerce to gather further evidence on the legal challenges experienced by small businesses; and to identify actions that would have the most impact in reducing unmet need. Our key learnings are:

- the LEPs¹ we spoke with noted that small businesses face challenges with: the availability of legal expenses insurance catered specifically for smaller businesses; the ability to correctly identify an issue as a legal one; and a lack of awareness that membership organisations have facilities available to provide legal help and how to access this legal help. We also learned from the LEPs that microbusinesses are the least likely to seek help, due to fear of the cost of legal advice. The LEPs are broadly supportive of the areas we identified for inclusion within a legal support strategy. Representatives from the Black Country LEP expressed particular interest in exploring how the key asks may be delivered at the local level. Capacity building through networking between smaller and larger businesses, to facilitate legal knowledge sharing, is also looked upon favourably.

¹ Cumbria, The Marches, New Anglia and Black Country

- The FSB's priorities align with our key asks 1 and 4, which we identified for inclusion within a legal support strategy for small businesses, namely engaging businesses to resolve their legal issues at an early stage and incorporating ADR.
- In his capacity as an independent consultant for SMEs, Neil Sharpley noted that there is considerable reluctance among small businesses to engage with court processes, such as Small Claims, due to fear of cost. He advocated a separate service for early information and advice provision and suggested the inclusion of mediation and a service akin to the ACAS service as part of a revised ADR process.
- LawtechUK has expressed support on our key asks and is focussed on the technological development of the legal sector which services the needs of SMEs. It wants to help foster innovation in legal services for the benefit of small businesses under key ask 2, as well as to help with access to better dispute resolution mechanisms under key ask 4, namely the improvement of the claims process for debt recovery.

In light of increasing costs for individuals and small business owners alike, improving access to justice for small businesses will be a key tool in supporting effective and healthy small businesses that help strengthen the UK's economy. We at the LSB would encourage the MOJ to continue working to address the justice gap faced by small businesses, including through the development of a coordinated strategy that builds on and amplifies the individual actions being taken by small business stakeholders.

We have set out below our responses to the points made by James Cartlidge.

MoJ's call for evidence on dispute resolution

We are pleased to see that the MoJ is making progress with this work and that the responses to the consultation will shape future policy proposals in this area. Under key ask 4 (*access to better dispute resolution mechanisms*), we've already acknowledged the MoJ call for evidence on dispute resolution and its ambition to mainstream non-adversarial methods. We are pleased to hear that the MoJ is also considering the introduction of compulsory mediation for lower value claims in civil courts.

LawtechUK

We are pleased to see that the MoJ has invested £2 million in the LawtechUK programme, and we understand that LawtechUK took forward a proof-of-concept feasibility study on recovering unpaid debts through an online dispute resolution platform. We think it would be valuable to see this project developed further in the future.

BEIS support to businesses

We recognise the support and guidance that the PBSC, Government Growth Hubs and Business Support Helpline provide to businesses. Key ask 3 (*making the market work better for small businesses*) identified the need to help small businesses engage with the market, shop around for a legal provider, and scope alternative financing options for legal services, including legal expenses insurance. We are particularly interested to know how BEIS and PBSC might work together to help small businesses engage with the legal services market and explore ways to finance legal expenses, drawing in other organisations such as the FSB and BCC to facilitate this.

It is clear from our engagement with the small business community that there is wide ranging support for action to address the key areas we have identified for a legal support strategy. SMEs account for 99.5% of the UK business population and are vital to the UK economy. There is also [new research](#) which supports our key ask of early information and advice

provision; and indicates that supporting free legal advice would save the Treasury £4 billion in a single year.

I hope that MoJ and BEIS will continue to take a lead in developing a legal support strategy for small businesses which addresses the five areas outlined in our key asks.

We look forward to continuing discussions on the small business legal needs research and the development of a legal support strategy for small businesses with your department.

Yours sincerely

A handwritten signature in black ink, reading 'Alan Kershaw', followed by a long horizontal flourish line.

Alan Kershaw

Alan Kershaw

Chair

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