

**BBRS.**<sup>TM</sup>

Business Banking  
Resolution Service

# BBRS Live Pilot Perspectives

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Business Banking Resolution Service

**London, July 2020**

## About the BBRS

**The BBRS is a non-profit organisation set up to resolve disputes between eligible small and medium-sized businesses and participating banks.**

It has been established to deliver an accessible and transparent service, giving eligible businesses the opportunity to have their complaint heard and independently reviewed. It will make decisions based on what is fair and reasonable in the circumstances and seek to inspire confidence through consistency of approach. It was established in response to the [commitments](#) made by the banking and finance industry following the [Simon Walker Review](#). It flagged up the need for an independent service to resolve eligible historical and current complaints for small and medium sized businesses that have not previously had access to independent review.

The service is in a [Live Pilot](#) phase and will be fully launched later this year. There are currently seven participating banks for which the BBRS is able to accept complaints: Barclays, Danske Bank, HSBC, Lloyds Banking Group (including Lloyds Bank and Bank of Scotland), RBS Group (including Royal Bank of Scotland, NatWest and Ulster Bank Northern Ireland), Santander UK plc, Virgin Money (including Clydesdale Bank and Yorkshire Bank).

## Introduction

The BBRS is currently running a Live Pilot of its future service, looking at real cases and how these can be resolved. This is a critical part of the work to ready the service for its launch this autumn.

This report provides a summary of interviews conducted with four of the people most closely involved with the Live Pilot. It covers the perspectives and insights that have been gleaned regarding the practical operation of the scheme, and the lessons learned so far.

Talking to those involved, it is clear that the BBRS is already learning a lot from the Live Pilot, even before cases come to a conclusion. The learning objectives set for the Live Pilot, in terms of the evolution and inception of the service, are being met. And, importantly, the Live Pilot is giving the BBRS food for thought regarding what it will need to have in place to support those SMEs likely to encounter difficulties in the wake of the covid-19 pandemic crisis.



## Perspective one: James South

### Managing Director of the Centre for Effective Dispute Resolution (CEDR)



*As a mediator, facilitator, consultant and trainer, James has over 25 years of experience in over 30 countries, working with individuals, organisations and public institutions to prevent, manage and resolve conflict effectively. CEDR is working closely with the BBRS on delivering the service.*

#### **How would you say the evolution of this service compares to your other experiences of delivering schemes across a very wide variety of sectors?**

When you are in the middle of dealing with the detail of the casework on the Live Pilot it is easy to forget that one of the original objectives of the BBRS was to help restore faith from the SME community in relation to the banks.

In CEDR's experience, in a lot of the services that have been set up in the past, the whole idea of improvement and learning from doing has really been an afterthought. Other services have focused on just 'doing' and jumping to resolve the disputes straight away. So, it is really encouraging that the BBRS, right from the beginning, has designed this objective of learning and really thinking about the best approach to provide the SME community with the best form of resolution for their need in relation to these issues. And that is why having the Live Pilot has been so crucial.

***Not all services start with pilots, but when you are dealing with cases of the complexity of the ones which are part of the BBRS, it is always better to go through this process. So, from that perspective, the BBRS is following best practice here***

I think there are three points I would make in respect of what we are learning from the Live Pilot and whether it follows the same pattern as other services.

First, a pilot is designed to test and refine the processes, so that you can get the best resolution process for the types of disputes that you are dealing with. And that has definitely been the case here. We have seen the policies and the processes tested. We have examined the customer journey - how the customer engages with the service, from the initial intake through to the Customer Champion phase, through to the determination. And we have learned a lot about how to get that journey ready, tailored and focused on the customer.

I think the second thing is that we have enabled really early engagement with a cohort of customers. This is crucial. We have engaged with over 100 separate customers just through the Live Pilot and that engagement has given us feedback on how the process should be designed to suit their needs.

So I guess all of that then feeds into the third point, which I made at the beginning, that the Live Pilot has enabled us to learn and made sure that we establish a process to resolve these disputes which really meets the needs of the disputants in it, and one that is as effective as it possibly can be.

It is never perfect, and we have had to learn and adapt the pilot as we go. But that is the whole purpose behind a pilot.

**What is your view of the concept of the Customer Champion? These are the individuals who will be supporting customers as they go through the BBRS experience. How is that concept evolving and what do you draw from the way in which that interaction might work most effectively, once the process has gone live?**

One thing we know is that engaging with the customers in a meaningful way is really important.

***Often, customers have been dealing with these cases for a number of years and the impact on them can be quite severe. They really want someone to hear them and to listen to them***

So the feedback that we have been getting is that having a Customer Champion who has the skill set to be able to engage in an empathetic way with the customers, to really listen to them, understand their story and gain their trust is the first step in the customer journey. Then once that trust has been gained, the Customer Champion can work effectively to engage with them, to help them build their case. Engagement and empathy are a really important first step in the process.

The other thing with the Customer Champion is that they are going to have to balance rapport building with the realities of the process. The Customer Champions may have developed a good rapport and trust in the initial phases, and we have heard phrases from customers such as: "You are my last chance", "you are an angel". That is great but when determinations are given, the Customer Champion is also going to have to help communicate those and talk to the customers about how they feel about them. So, there is going to be a real balance between that engagement or rapport and dealing with the realities of the outcomes of a dispute resolution process.

**To what extent do you think, whatever the outcome, that actually the engagement in an alternative dispute resolution process can, in and of itself, bring closure. Or is it the case that in your experience, a disappointed customer who does not get the result they want, remains disappointed?**

I think I would make a general observation about cases that have been going on for a long time: often it becomes part of people's lives and especially in cases where it might have had a particularly big impact, there is almost a "settlement panic", in that people are afraid to let go of the dispute.

So even if they are successful, there may be ongoing issues. They may ask themselves “well, what do I do now that this has been resolved?”. One area we may want to consider as we move forward is an approach to ‘after care’ so the support does not necessarily end, successful or unsuccessful, at the determination stage.

**Do you imagine that could mean making connections with other voluntary sector organisations, not for profit agencies and others who may be able to provide guidance and support, once the BBRS phase has closed?**

Absolutely. And I think that is consistent with the ethos of what BBRS is trying to do. To make sure that this is not a "one size fits all" approach. It is really trying to actively engage with customers to best meet their individual needs and that is why it is so different to other services.



## Perspective two: Lyndy Geddes

### Interim Director of Technical Operations at the BBRS



*Lyndy brings extensive experience of shaping, commissioning and delivering business improvement, technical solutions and culture change across public, private, regulatory and not-for-profit sectors. She was formerly Chief Operating Officer of Ombudsman Services, a dispute resolution service set up to address conflicts between consumers and businesses across the energy and communications sectors.*

**When you approach a project like the Live Pilot, what is it that makes a system work smoothly or not? What sort of bugs are you are trying to remove from a system like this to make it operate to the best effect?**

I think with a scheme of this nature, and particularly during a pilot, it can be really easy to lose track of the person or the business at the centre of the complaint. Quite rightly, one tends to focus on the tools that can be deployed to make sure the process works. We want to ensure that the process is robust, that our policies are fit for purpose, and that our systems are able to support and track a case from start to finish and that our Customer Champions can anticipate and meet the needs of our customers.

All of that is really important, but we must not lose sight of the fact that they are tools which will enable us to support a business' complaint through to its conclusion and resolution.

***I have been very keen to keep things as straightforward and adaptable as we possibly can. We have built our approach and our processes to be flexible; and to make sure we communicate in a clear and timely manner***

I think one of the many strengths of the Live Pilot – that will carry on to the future live service - is the deployment of a customer's own personal adviser in the shape of a Customer Champion who will not only guide people through the journey, but will support them practically in the preparation of anything they need to submit to support their case. The Customer Champions will prepare customers for the next stage of the process and will liaise with the various other parties involved in that complaint.

So what we have absolutely done within the Live Pilot, is develop an approach that is completely centred around the needs of that person or business, insofar as we can without compromising our neutrality.



And I think that one of the real strengths of our approach is that we have not followed a rigid flowchart. We accept that there will be segues, that every case will be different, that's not a problem for us. And unlike a lot of schemes, we have embraced and built our pilot to work with that - and learnt from the variety of different case types and challenges that we have seen along the way.

**Part of the quality of the service will relate to the user experience and the customer management system that sits behind that. What are the lessons that you are drawing out of that, in terms of user experience and what are the kind of early conclusions, in terms of the quality and character of the technology that sits behind that?**

We have a robust, custom-built system that we are using to manage our cases, that is accessible by both the customer and the banks, with their own private and secure areas. And that will make it easier, in a much more timely and secure way, to submit and share key documents for consideration than perhaps some other schemes have relied on in the past; so real time feedback, real time ability to manage a case comes as standard with this scheme. And of course, a customer will have support throughout via the Customer Champion. So, for example, if someone struggles with using technology, the Customer Champion will always find another way to enable them to fully engage in the management of their complaint.

***A real strength in building this system has been the involvement of both SME representatives and the banks in its development***

We have recently gone through a phase of testing, trying to break our system with a diverse group of users before we go live. I am pleased to say it did not break, but we took the opportunity to gather feedback and we now have some great improvements planned for phase 2 which will happen in the very near future.

So, we are confident that the system that we are using to back up our personalised and person-centred approach is of a similar vein. That is – one that is sufficiently flexible, where it is not essential that people follow a rigid route, and one where they do not feel pushed into a sausage machine. It is a system that supports the way that we and customers want to work rather than one which dictates the way we work. Our computer should never say “no”!

I'm confident that our system will do what it is designed to do. It will underpin and support the articulation, communication and resolution of what can often be very complex and entrenched matters.



## Perspective three:

### Alexandra Marks, Chief Adjudicator of the BBRS



*Alexandra currently sits as a Deputy High Court Judge. She has been a lawyer for over 35 years and for the past 15 years, she has sat as a part-time judge in the Crown Court, High Court and First-tier Tribunal. Before that, she was a partner in one of the world's leading law firms, and an accredited mediator. Alongside her day-jobs, Alexandra has been actively involved in human rights and social justice organisations. She was Chair of Amnesty International for 10 years and has been a Council Member of JUSTICE since the 1980s. Her role will be to make decisions, based on what is fair and reasonable in the circumstances, for those eligible SME businesses bringing their cases to the BBRS for independent review of their unresolved disputes with their banks. She was Chair of the Centre for Effective Dispute Resolution (CEDR) from 2018 until 2019.*

#### **What were the key objectives for the Live Pilot at the outset and how we are progressing in ticking those off as we move forward?**

There are four principal objectives for the Live Pilot, three of which Lyndy and James have already talked about; and they are the testing of our operating model and our processes; testing the customer interaction model which James has referred to; and confirming the skills and capabilities required to deal with customers and indeed with the kind of disputes that we are handling.

But the aspect I have been focusing on most is testing and revising the BBRS' draft policies.

***There are seven policies that we are particularly testing during the Live Pilot and I am pleased to say that we have tested nearly all of them so far***

The exception is those dealing with awards. We are not actually going to be making awards during the Live Pilot; so it is perhaps not surprising that we have not got to those yet. The policy that has been the most controversial is that on eligibility, but I will talk about that a bit more later.

#### **What do you think are the key learnings from the Live Pilot so far and what do they mean for the style and approach of the organisation? What conclusions are you beginning to draw for the final report that you will be producing later this year?**

I would put our key learnings into two categories:

The first is that even the most seemingly straightforward case can have complexities that we did not anticipate when we first heard about it; and that we therefore have to approach all cases not only empathetically but also iteratively, supportively, patiently and thoroughly, because there are nuances and subtleties with these cases which are not necessarily apparent at the start.



As James said, it is very important that customers feel that they are being heard, that they are being listened to, especially those customers with historic cases where disputes have been unresolved for ten years or sometimes quite a lot longer than that. Understandably some customers are frustrated and angry. They have often been through other processes which they feel have not really addressed the core of what they are complaining about.

And beneath that, it has become apparent that customers are sometimes totally bewildered by what happened to them in the first place that gave rise to their complaint. What had been a trusted relationship with their bank has been damaged by the customer's sense that things were done that they did not know about, they were not told about, that they were not properly communicated with, and this has led to longstanding difficulties.

The other key learning, which I touched on just before, is that eligibility, even in seemingly straightforward cases, can be really quite challenging. This is perhaps unsurprising, given the age of some of the historical complaints that we have been looking at; but also unsurprising because our eligibility policy is not even finalised yet so, for example, our website wording on eligibility is rather tentative and surrounded with qualifications. We suspect that at least some of the customers who have registered complaints with the BBRS did not know whether they were eligible or not. They might even have believed that their complaint was not eligible, but nevertheless thought it was worth applying because the policy has not yet been settled.

So, we have sought to adopt a very supportive approach to eligibility issues, because clearly it is going to be disappointing to customers to hear that their case is not going to be eligible for our service.

We are therefore approaching cases constructively, seeing if there is anything that we can do in cases which, on the face of it, do not appear to be eligible for our service.

**In the event that cases fall into a 'grey area' to what extent are you able to help secure some form of resolution or closure for the customer? Is that something which is looking within reach, as part of the service?**

As with everything else within the BBRS, we will be adopting a fair and reasonable approach to these kinds of cases.

***Where eligibility issues arise, we are not adopting a tick box "computer says no" approach at the outset***

Rather, we are trying to find out more about the case to establish what happened to give rise to the issue in the first place and why the customer is still dissatisfied, having gone through at least an internal complaints process with the bank, because that is a pre-condition of coming to our service. In some cases, there has also perhaps been more than that, and customers have had their complaint reviewed elsewhere.

Now, it is obviously not going to apply in every case, but where we think that it falls in a 'grey area' - close to the kind of cases that we might be able to deal with - we will be treating this as I would any other jurisdictional issue.

When, in other roles, I have a question about whether I have the right to hear a case or not, the important thing to do is to hear both sides present the arguments and, on that basis and on the basis of my own judgement about the rules, make a decision. Now, that still means that there will be customers who will be disappointed when our decision is ultimately that theirs is a case we cannot deal with.

***The 'grey area' around eligibility is necessarily narrow. It is not intended to become a backdoor for cases which the BBRS was never intended (nor is able) to deal with***

But there may well be some circumstances - and this is, if you like, with my mediator hat on - where the bank will think: "Well, actually, what happened to this customer doesn't feel quite right and even though, strictly speaking, they do not meet the eligibility criteria and therefore maybe it would not be appropriate to have an adjudication on the case, maybe there is something else we can do about it". That, from my point of view, would be the ideal scenario.

Inevitably, while eligibility is yet to be determined, there are some cases put forward which on investigation may turn out not to be within the scope of BBRS's jurisdiction. We have been aiming for an acceptable number of cases that are straightforwardly within the boundaries of the scheme. I am personally optimistic that we will meet this target. Moreover, we have, in addition, over 200 registrations of interest and we are always open to further expressions of interest in participating in the scheme.

**You have been very open and transparent in relation to the Live Pilot. You have already contributed to the publication of an interim report on its process. You have appeared as part of four and a half hours of webinars and you have now given your perspectives on this process in this interview. But what happens now, in terms of the Live Pilot, to bring it to its fruition and report formally on what you have learned from the process?**

We are going to be producing a Live Pilot end report which will give the stakeholders on the Implementation Steering Group (ISG) a rounded picture of what we have been doing. This will include all the information and understanding we have gathered to date, along with qualitative research, drawing on the experience of some customers.

We have already given ISG members a sneak preview of some sections of that report, such as policies or procedures that we have learned we will need to adjust slightly; how our communications with customers have gone down; and what steps, our experiences show, we might need to revise in the customer journey. The Live Pilot end report is going to be the tool we are going to use to explain what we have been doing, what we have learned, what we are going to do differently in our full service.

It's important to say, however, that whilst we have learnt a lot from dealing with live cases and real customers, the draft policies and procedures have strongly withstood demanding testing in the live environment. We have so far suggested only a few tweaks rather than major revisions. This is testimony to the care and effectiveness of the ISG in devising them in the first place. The changes we are proposing in the full service environment are all intended to smooth users' experience, rather than create barriers.

***Even after we have launched our full service, we are still going to be learning, because I think any process like this – especially one as unique as the BBRS - is necessarily going to evolve***

The number of cases that we have dealt with in the Live Pilot has been relatively few. We attempted, although we did not always succeed, to pick those which were relatively straightforward with perhaps only one issue of complaint to consider. However, some of them threw up complexities we were not expecting, and in any event we believe they are not representative of the entire caseload we expect to see.

So, once we start getting to more complex cases, those involving insolvency for example, I am expecting that we will be learning more about the appropriate approach to those. We will also be looking again regularly at policies which ostensibly have been settled - because it is a continuing process.

As we learn more from handling cases in practice, we will refine our processes accordingly and, importantly, send our learnings back, to the banks, to regulators like the FCA, to other stakeholders like the Treasury, and of course to the public. This is because we think it is really important that we are not just resolving disputes, but also that we are helping the whole industry avoid them in future.

## Perspective four:

### Lewis Shand Smith, Chair of the BBRS



*Lewis is a highly experienced dispute resolution expert and qualified mediator. He has worked as a politician, priest, and most recently spent ten years as the Chief Ombudsman in Energy, Telecoms and Property. In every role, Lewis aims to do everything in his power to resolve disputes in a way that is reasonable and fair. During the formation of the BBRS, Lewis was appointed as Chair of the Implementation Steering Group and has also been Chair of the BBRS on an independent basis since its formation.*

#### **As Chair, what are you beginning to take away from the Live Pilot, given your experience as an ombudsman?**

The first message I would take away from the Live Pilot, the first piece of learning, is that what we are setting up is different from anything that is there already; and that pleases me, because it is exactly what we were trying to do.

Right from the beginning of the process, the idea of having a Customer Champion, somebody looking after the person bringing the complaint, has been very, very important to us and it is not common. I actually do not think that Customer Champions giving this level of support and advice have ever been part of another ombudsman or Alternative Dispute Resolution scheme.

Through the pilot, it is very important to note how well that is working; and to understand that not only is the Customer Champion there at the beginning of the process, but they are there at the end of the process too. They are basically holding a customer's hand all the way through but those are the key touch points; the beginning, as the case is being put together, and at the end when the result is known. At the end it could be a positive result or a negative result for the customer and even if they have got what they wanted, for some people their dispute has been the whole centre of their lives, perhaps since 2001. And you are actually taking something away from them, even though they have won.

***So, whether the outcome is a negative or positive one, ensuring there is continuing support is really important and I think that the role of the Customer Champion is critical in achieving this***

I think the other big difference is that this is a scheme dealing with historical cases and that is not typical of normal ombudsman schemes at all. Usually when an ombudsman scheme is set up, it has a starting date and the date of the complaint is probably six months before that point. We are taking complaints going back to 2001 and that makes it really unusual. The Live Pilot is one of the things that is helping us to assess what the difference is between dealing with very old disputes and dealing with something that is contemporary.

**The Live Pilot is clearly focusing primarily on historic cases; but part of the public interest mission of the BBRS will be to deal with contemporary or future cases, perhaps those arising from the economic effects of the pandemic crisis. What do you think this tells us about how we prepare for those instances of the customers being dissatisfied with the way the banks have handled complaints?**

Of course, I, as Chair, do not know the details of any of the cases. But in the Live Pilot, we do have some contemporary cases and I think it helps us with the question of whether the historical cases and the contemporary cases are the same or are there differences? And if so, should they be handled in different ways?

Perhaps just an example, or I guess a question really, is: can a contemporary case be handled more quickly? Is the kind of emotional attachment to the dispute and the emotional damage, the same in a case that goes back several years, as a case that is contemporary?

And I think the other learning from it is that as a result of the covid-19 pandemic, we have seen a huge increase in businesses taking loans and many small businesses taking loans. And I think with the best will in the world, that means that there will be an increase in things that go wrong. Something like 75 per cent of customers have said they expect their bank to handle a complaint well according to a survey we conducted. But then there is a huge number who are concerned; 25 per cent is still a very large number. The BBRS has to be ready to deal with that.

***The service has to understand the nature of business loans. But it also has to really understand the nature of the businesses that come to the BBRS and the environment in which they are operating. The Live Pilot can give us insight into the businesses with similar disputes already***

But in terms of future customers the Live Pilot will help us to check if the processes are working. It will help us ask: "Have we got that right?". One of the main learnings for me from the Live Pilot is that the service needs to have as wide a range of tools at its disposal as possible. And that has been mentioned over and over again, people must have an opportunity to be heard and listened to.

Another of the reasons for doing the Live Pilot was that in a normal set up process of an ombudsman scheme, the legal context and policies are already clear and given. That has not happened with the BBRS and the Live Pilot is helping us test not just the policies that are there, but also test those areas where, as Alexandra has said, there is not yet clarity. For example, some of the areas around eligibility and other areas that might otherwise trip us up when we launch.

And then there may be cases where customers are not typically eligible, but nonetheless there is something that needs to be reconciled, through the Live Pilot we can learn about them and explore whether there is a way in which the BBRS can help without formal investigation.

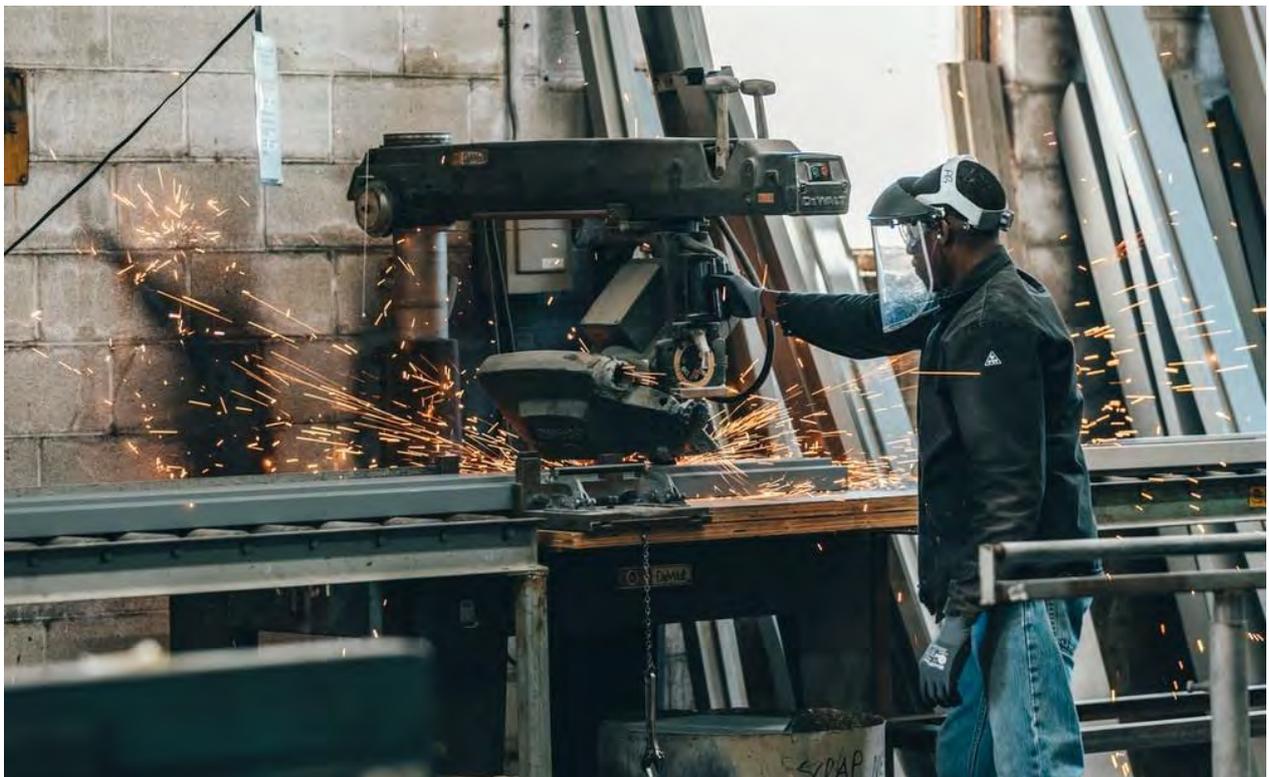
The BBRS is already learning from the Live Pilot as the cases make their way through the system, and the BBRS is committed to continuing to learn, once it has gone live. So just how important is this culture of learning and transparency to the BBRS as it moves forward into launching in the autumn?

I think any ombudsman scheme has to be a learning organisation. If it is not, it cannot understand the changes and complexities of the context in which it is operating. I think that with the changes that are taking place in the banking world and the small business world, because of the covid-19 crisis, it is particularly important that the BBRS is a learning organisation.

*We are not assessing all our policies and all our practices through the Live Pilot. But we are making sure that we are building in structures where we can test, where we can develop, where we can improve as we learn*

We are in the process of setting up two panels, a panel representing the banking industry and a panel representing small businesses. So, our learning is not just something that will take place in a vacuum, it will happen alongside both the banks and the small businesses.

But yes, continuous learning, continuous testing, continuous improvement, are at the heart of what this organisation is.



## How to find out more

If you have an unresolved complaint against one of the participating banks, you can register your interest in the BBRS service here (<https://thebbrs.org/register-your-interest/>). Even if the case cannot enter the Live Pilot, it will be ready for early review by our team once we go live.

We also invite you to visit the recently updated 'frequently asked questions' on our website (<https://thebbrs.org/faqs/>). Here you will find information in response to some of the more regular enquiries we receive. And we encourage you to read the statement from our Chair, Lewis Shand Smith, which was recently posted on our news page (<https://thebbrs.org/news-updates/>).

## Contact Us

If you have any questions about our service, you can contact us via phone by calling **0345 646 8825**.

Alternatively, you can email us at [hello@thebbrs.org](mailto:hello@thebbrs.org).

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