

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

Business Banking  
Resolution Service

# BBRS stakeholder consultation summary

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Business Banking Resolution Service

**London, September 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), Natwest Group (including Royal Bank of Scotland, NatWest and Ulster Bank Northern Ireland), Santander UK plc, Virgin Money (including Clydesdale Bank and Yorkshire Bank).



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# Introduction

This document provides a summary of responses to the Business Banking Resolution Service's (BBRS) stakeholder consultation as the organisation prepares to go live. The consultation ran from June to August 2020. The aim of this document is to provide a summary of the responses received.

## Background

The consultation was conducted in advance of the BBRS' launch in the autumn. The objective of the research was to seek input from potential customers and interested stakeholders. This is to ensure the service is developed in line with the needs of customers and others with an interest. The BBRS wants to ensure that the service is:

- Tapping into the widest sources of information possible.
- Alerted to any concerns and issues not picked up through existing dialogue, evidence or research.
- Reflective of those who may use the service.

This consultation looked to understand:

- Awareness, experience of and favourability towards Alternative Dispute Resolution .
- Current and potential complaint types between SMEs and their banks, in addition to the types of complaint which may arise as a result of covid-19.
- Perceptions of certain operational aspects of the BBRS.
- Effective methods and channels for promoting the BBRS' launch.

## Methodology

The BBRS benefited from the participation of 15 key organisations in the consultation exercise, working via its research partner Portland. These included business membership organisations; professional advisers and their membership bodies including representatives of the legal and accounting profession; and dispute resolution experts. Stakeholders were invited to attend a telephone interview, or to offer a written response to the consultation. Both forms of submission have been confirmed to be on the record by those participating.

This document summarises the main points raised and the themes that arose. The consultation was conducted to invite qualitative input and was not designed to be a representative survey of all possible respondents. This summary is not intended to be an exhaustive record of all the points made and the absence of any issue does not indicate that it has been ignored or that it is of lesser importance.



## Consultation respondents

The Business Banking Resolution Service received 15 responses to its consultation: 12 were conducted via phone interview, and 3 received as written responses. The names and organisations or respondents are listed below:

1. Glenn Collins, Head of Technical Advisory, the Association of Chartered Certified Accountants
2. Suren Thiru, Head of Economics, British Chamber of Commerce
3. Emma Lovell, CEO, Lending Standards Board
4. Philip King, Small Business Commissioner
5. Andy Chamberlain, Director of Policy, the Association of Independent Professionals and the Self-Employed
6. Chris Wilford, Head of Financial Services Policy, Confederation of British Industry
7. Professor Robin Jarvis, Professor of Accounting, Brunel University
8. Ken Bishop, Northern Ireland Assembly Group on Fair Banking and Finance
9. Giles French, External Affairs Director, City of London Corporation
10. Sue Chapple, CEO, Chartered Institute of Credit Management
11. Brian Speers, Chair, The Law Society of Northern Ireland Mediation Service
12. Heather Buchanan, Director of Policy and Strategy All Party Parliamentary Group on Fair Business Banking
13. Tony Baron, Finance Policy Chair, The Federation of Small Businesses
14. Geoff Noon, Statistician, Manufacturing Technologies Association
15. Stuart McMillan, Policy Analyst: Legal Practice & Remuneration, Bar Council

## Summary of responses

The key findings from each section of the consultation questions are summarised below.

### **1. Awareness, experience of and favourability towards Alternative Dispute Resolution**

Although some stakeholders had extensive direct experience of using Alternative Dispute Resolution (ADR) and others had little or no experience, all stakeholders had an awareness of the concept. ADR was felt by all to be an advantageous alternative to litigation when deployed effectively, particularly for the cost and time savings which serve to lower barriers to SMEs.

Respondents saw the primary drawback of ADR to be the risk that it does not lead to resolution. It was felt that an ADR service may lack the power to compel parties to act on its rulings and that it may lack the documentary evidence to enforce its decision-making. In this light, it was felt that the remit of an ADR service should be made clear to avoid confusion.

However, when participants were prompted with information about the availability of ADR, and its methods and processes, they felt that there was likely to be greater uptake around such options from SMEs when expectations are managed correctly.

### **2. The effectiveness of ADR for SME complaints against their banks**

In the realm of disputes between SMEs with their banks, ADR was seen to be particularly effective, as there was understood to be a gap currently for a business too large to use the Financial Ombudsman Service but for whom it would be onerous to challenge a bank in court.

Considering this gap, the launch of the BBRS was seen positively by all participants. However, it was deemed essential to promote trust that the service is independent and neutral. Participants suggested that the BBRS could best show its independence by being transparent about its funding arrangements and the processes used for resolving disputes. If these were not clear, potential customers may assume there are hidden drawbacks to using the BBRS.

One other area where transparency is particularly important is around the eligibility criteria for the service. As the service will serve a relatively small community of businesses, respondents felt that eligibility criteria must be clearly explained from the outset to avoid businesses being disappointed in the service.

### **3. Current and potential complaint types between SMEs and their banks, and what complaint types may arise from covid-19**

Stakeholders expected disputes between SMEs and banks to centre around two areas: first, product-related disputes, such as miscommunication relating to loans and payments terms; secondly, disputes relating to banks' handling of previous queries, where a bank's perceived action or inaction has led to cost for an SME.

It was also noted that, beyond the covid-19 loan schemes, disputes were also likely to arise concerning loans agreed before the pandemic that may have become untenable given the government restrictions put on businesses.

In this context, stakeholders felt that the BBRS was launching at a pivotal moment and would have a role to play in such disputes. However, participants also felt that the service should not neglect its duty to continue investigating historical complaints at this time.

### **4. Perceptions of certain operational aspects of the BBRS**

As part of the consultation, we asked respondents for views on the planned SME liaison panel and the data and insights the service could gather from its operations.

The proposition of the SME liaison panel was well received by all respondents. However, stakeholders felt it very important that the panel act as a genuine feedback mechanism. Stakeholders noted that while some SME liaison panels, they had encountered had added great value, others had not generated the challenge needed to have a real impact. The make-up of the panel was seen to be pivotal in this regard; requiring a mix of genuine businesspeople and those from SME advocacy organisations required to ensure a balanced view.

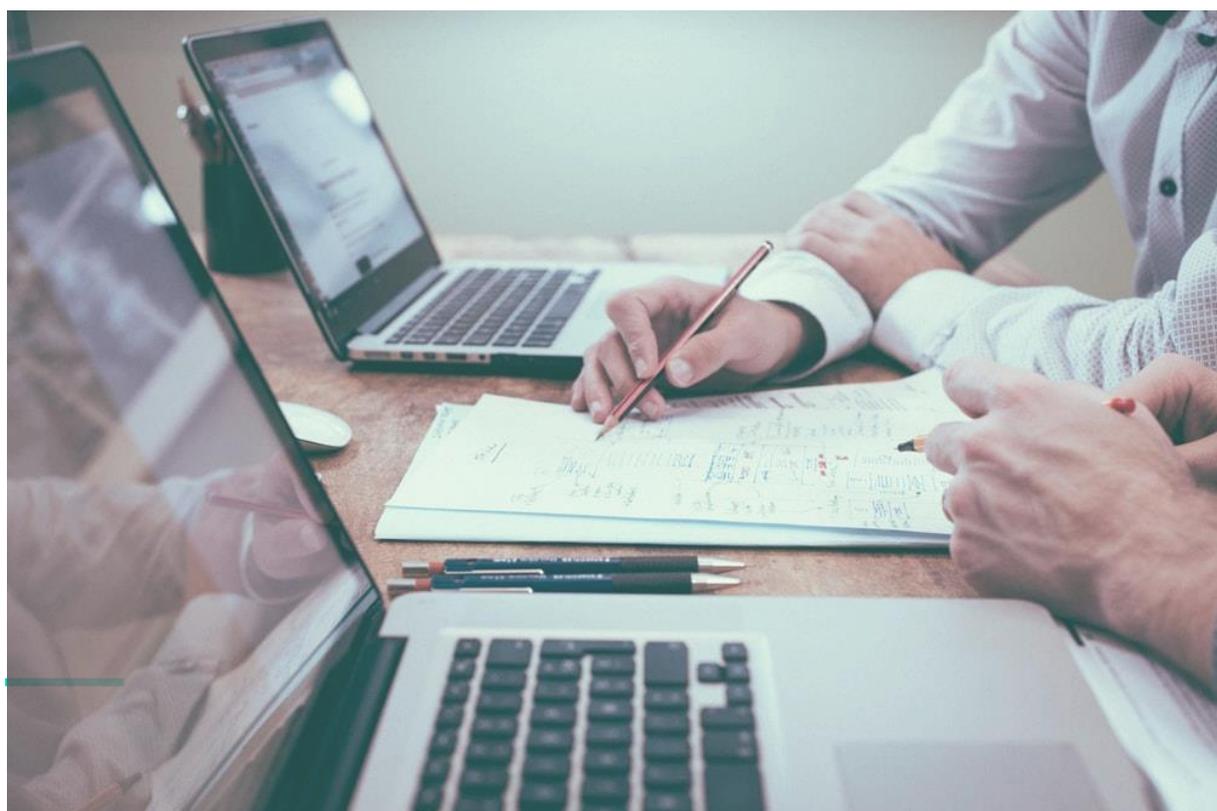
Stakeholders also saw particular value in the data that the BBRS could gather and publish as part of its public interest mission. They felt that findings shining a light on the SME landscape at a regional and sectoral level would be particularly valuable in informing policymaking. This data was also seen as an excellent opportunity to evidence the BBRS' transparency and further build credibility around the organisation.

## 5. Effective methods and channels for promoting the BBRS around its launch

Several channels were recommended for communicating with SMEs effectively, notably bodies that would be the first recourse of an SME in need, such as policymakers, advisory bodies and trade associations. Social media, and LinkedIn in particular, were also seen as valuable sources of information for SMEs.

Where relevant to their members and clients, representatives of industry and advisory bodies also welcomed the opportunity to promote the launch of the BBRS.

It was noted that although the launch of the service will be important in driving awareness, it will also be important to maintain momentum in publicising the BBRS over time, to ensure that businesses in need can easily access information relating to a service that has the potential to be extremely valuable to them. Stakeholders felt early successes would be key to successful uptake of the BBRS, and that case studies would be an effective means to promote the service.



## Detailed responses

### Awareness, Experience of and Favourability towards Alternative Dispute Resolution

We asked respondents for their understanding of Alternative Dispute Resolution (ADR), and of their perceptions of its advantages and disadvantages over litigation.

The levels of experience that stakeholders had in ADR processes was varied, however, representatives of larger SME organisations, or of accounting or law firms, were more likely to have a general knowledge of ADR processes or to have engaged with them previously. The experience of small business association representatives tended to be around conciliation in cases of late payments, or dealings with the Financial Ombudsman Service. However, all stakeholders had some awareness of the concept of ADR.

***According to respondents, their awareness of ADR had risen over recent years, due to the limited availability of court time and costs associated with litigation***

Participants felt that an increasing number of initiatives were being set up globally to promote ADR.

Effective ADR was seen by all respondents as a positive alternative to avoiding the length, complexity and cost of litigation. It was also perceived as a less risky solution than litigation, which would increase the accessibility of pursuing disputes for smaller businesses that may be put off by the opportunity cost of pursuing litigation. There were also perceived 'softer' benefits of ADR, including the potential for privacy during the process; the ability to protect relationships, and the space to air grievances and have them heard.

Respondents saw the primary drawback of ADR to be the potential for resolution. Several stakeholders were unclear on whether mediation bodies had the 'teeth' or power to decide outcomes and felt this may lead to confusion and expectations that could not be fulfilled within their remit. Some respondents also felt that ADR had the potential to feel distant, compared to the catharsis of 'having your day in court', and that ADR processes too had the potential to become long-winded. One stakeholder raised the difficulty of decision-making within ADR. While litigation procedures are accompanied by much precedent, the privacy afforded to ADR cases leads to a lack of documentary evidence to support decision-making and instead relies on the arbitrator's definition of what is fair and reasonable in adjudicating.

With increased knowledge of the availability of ADR, and of its methods and processes however, stakeholders felt that there was likely to be greater uptake around such options from SMEs if expectations were managed correctly.

## The effectiveness of ADR for SME complaints against their banks

We asked respondents how effective a policy solution ADR was likely to be in disputes between SMEs and their banks.

Respondents overall perceived ADR as an effective solution in such cases and all supported the launch of the BBRS to this end.

***Several respondents recognised that there was a gap in the support available to SMEs that are too large to use the Financial Ombudsman Service but who would struggle to contest a complaint in court***

Several recognised that disputes between banks and SMEs were particularly sensitive issues with the potential to cause great strain on business owners, and that dealing directly with the banks can in many cases could not provide the compromise possible to resolve the issues. It was felt that the BBRS would offer a next step for such disputes. One stakeholder noted that although the clarity of processes within litigation procedures made it the optimal solution for resolving banking issues, this was rarely an option for SMEs with limited resources, an ADR service, while not necessarily the optimal solution, was a very necessary creation.

***However, in order to ensure the success of any scheme, respondents felt it imperative that the entity should be clearly independent and neutral in its decision making in order to achieve fair outcomes for both parties***

Trust in this independence should be promoted. Participants suggested that this could be achieved through transparency around the BBRS' funding arrangements and processes used to resolve disputes. If these were not clear, potential customers with low trust in banking systems may assume there are hidden drawbacks to using the BBRS.

Stakeholders also felt that transparency in the BBRS' eligibility criteria was of fundamental importance. As the service will serve the needs of a relatively small community of businesses with disputes against their banks, it must be made clear from the outset which cases and businesses are and are not eligible for the BBRS' services, to avoid businesses being disappointed in the service.

Respondents were divided in comparing the effectiveness of an independent scheme to a government one: on the one hand, it was felt that government backing lends confidence and credibility, but on the other that there may be other agendas at play within a government scheme, and that true independence would ensure the most balanced view.

## Current and potential complaint types between SMEs and their banks, and what complaint types may arise from covid-19

We asked respondents what type of complaints were most likely to arise between SMEs and their banks historically, and now in the context of covid-19.

Most respondents felt complaints were most likely to centre around two areas: firstly, product-related disputes, such as around loans and payment terms, and secondly, disputes that escalate because of the perceived handling by a bank and the knock-on effects caused.

Within product-related disputes, miscommunication was seen to be one of the most likely original root causes, where SMEs may lack the understanding of the implications of their terms with banks, and banks may enforce unexpected penalties. Within disputes relating to a bank's handling of a scenario, it was believed that accusations of delays or inaction on the part of banks were likely sources of complaints, where they had led to a perceived negative impact on a business. These were seen as prime disputes to be handled through ADR.

It was noted that it was not the government loan schemes themselves that had the most potential to cause disputes in the current climate. For example, those businesses who had reasonable loans agreed with the banks before the crisis, but who have become unable to honour their covenants due to factors outside their control, such as the government ordered closure of their business due to the pandemic.

Stakeholders felt that the BBRS would have an important role to play in these difficult and sensitive disputes when they arise. It was noted that there will be justified cases on both sides: in instances where banks have been tasked with recovering borrowed money, but businesses may not have the means to pay; or where businesses have been denied funds, but for valid reasons.

***The BBRS was felt to be launching at a pivotal moment given the current economic climate, but it was felt to be important that the service does not neglect its responsibility to also deal with historical complaints***

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## Perceptions of certain operational aspects of the BBRS

### The SME liaison panel

We asked respondents how the BBRS' proposed SME liaison panel would impact the credibility of the service.

The proposition of the SME liaison panel was positively received by all respondents. It was felt that having the value and credibility of trusted third parties would impact positively on the credibility of the BBRS, would help the service to stay relevant, and would help SMEs to have their voices heard.

***Stakeholders felt it very important that the panel act as a genuine feedback mechanism. It was noted that while some SME liaison panels they had encountered had added great value, others had not generated the challenge needed to have a real impact***

The make-up of the panel was seen to be very important to this end: members must have genuine business experience, and access to research resources to make valuable recommendations. It was recommended that the panel be built of businesspeople as well as SME advocacy organisations, or those that have a role in both, to ensure a balanced view and avoid bias.

### Data and insights to be published

We asked respondents what data and insights the BBRS should look to publish as part of its public interest remit to support policymaking.

Respondents felt this was an important remit for the BBRS in evidencing the organisation's transparency, and for helping to inform policymaking around SMEs. Some participants felt there was currently a lack of data around SMEs access to funding, and so the BBRS' insights were felt to be particularly valuable for effective policymaking in this area going forward.

There were three key areas of interest to explore raised repeatedly:

- **Findings at a regional level** – exploring the trends and findings in how SME performance and disputes vary across the UK. This was seen to shine a light on variations in access to finance around the country.
- **Information at a sectoral level** – similarly, trends in the sectors particularly affected by disputes were seen as valuable to effective policymaking.
- **Insights into the service itself** – the volume and types of disputes most seen; the lenders typically involved; the types of ADR used in producing positive outcomes, examples of the banks interacting meaningfully, and the examples of where claims were not successful and why.

## Effective methods and channels for promoting the BBRS around its launch

A range of channels were recommended for reaching SMEs to promote the BBRS effectively and ensure visibility of the service across any channel that an aggrieved SME might use to access information. The following physical and digital channels were most frequently recommended by participants:

### Physical channels:

- **Word of mouth** – stakeholders felt that the SME sector was particularly likely to share experiences and recommendations, and as such early successes for the BBRS would likely be spread by word of mouth and drive take-up among businesses.
- **The banks and the Financial Ombudsman Service** – participants saw these as the natural route to recommend the service, where their processes could not resolve disputes.
- **Recommendations from advisors** – participants recommended promoting awareness and understanding of the service to legal and accounting advisors who are in regular contact with SMEs and act as a source of trusted advice.
- **High level political awareness** – participants saw local governmental bodies as key to spreading the word to constituents, as they will often be the first port of call for local businesses in need. The support of these bodies would also be important for building trust around the validity and effectiveness of the service, particularly for the BBRS as an independent organisation.
- **Media engagement** – a press conference and launch event were perceived to be an important moment for launching the service and attracting media attention.
- **Representative bodies & trade associations** – specific bodies such as this will often be an early port of call for businesses and were seen as an important channel to have awareness and to direct businesses on to. They also often run their own channels to reach members, such as ‘roadshows’, newsletters, webinars or podcasts, which offer an opportunity to reach potential customers. However, the limitations of these bodies were repeatedly noted by stakeholders who did not represent them, as many SMEs are not members of associations.
- **Targeted sector bodies** – One recommendation was also made that the BBRS look to identify sectors that are in dispute and target such sectors with their support accordingly.

### Digital channels:

- **Social media** – during lockdown, stakeholders felt that SMEs had been more active on social media, and particularly on LinkedIn, not only posting content, but using it as a forum for discussion and support.
- **SEO** – one stakeholder also raised the importance of strong SEO, to ensure the BBRS’ message appears for potential customers actively searching for help on the Internet.

## Content

The types of content viewed as particularly impactful to communicate to potential customers were the following:

- **Case studies** – stakeholders felt that featuring the experience of individuals who had used the service was paramount. It was recommended that case studies feature a range of customers and feel authentic: both those whose cases had achieved the outcomes they desired, and those who did not.
- **Videos** – short, informative videos were mentioned as an effective way to quickly and clearly explain the service's role to time-poor audiences.
- **Clear messaging** – participants felt that SMEs are particularly time pressured in the current climate, and clear and simple messaging emphasising the BBRS' role, success rates and that it is free of charge would be most effective.

Where relevant, we asked whether stakeholders would be willing to promote the launch of the BBRS to their members. All organisations that felt the service would be relevant to members offered their support in promoting the launch through their channels or by referring members to the service when the need might arise.

It was felt that the launch of the BBRS would be positively received by business owners, by small business organisations and advisors alike. However, it was noted by multiple respondents that was important not only to create an impactful launch campaign but also a sustained programme of awareness-building and education to drive usage of the new service in an effective and ongoing manner.



## 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 '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. To keep up with our other news, please visit the news section of our website (<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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