



Australian
**Small Business and
Family Enterprise**
Ombudsman

MEDIA STATEMENT

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Amended bill would give small businesses a fair go in court

The Australian Small Business and Family Enterprise Ombudsman, Kate Carnell supports the amended bill, championed by Shadow Assistant Treasurer, Andrew Leigh that passed the Senate yesterday, which would allow small businesses better access to justice when in dispute with big business or government.

“At the moment, if a small business owner takes big business or the government to court, they have to cover their own costs and take the risk of paying the other side’s cost if they lose or withdraw from the case.

“The *Treasury Laws Amendment (2018 Measures No. 5) Bill 2018* would allow a small business to request a ‘no adverse costs order’ early in the court case and if the judge decided the case was in the public interest, the small business wouldn’t have to pay the other side’s cost if they lost.

“Access to justice is regularly raised as an issue with us by small businesses, particularly how expensive and time-consuming the court system can be. Small businesses don’t have that kind of money and time.

“We are half way through our Access to Justice Inquiry, which is looking into how we can improve access to justice for small businesses in dispute with the big end of town.

“Phase 1 of the inquiry, *Access to Justice: Where do small businesses go?* showed the average cost of a dispute through formal channels was over \$130,000. I don’t know many small businesses that have that kind of money lying around in their bank account.

“The Phase 1 report also showed one in three disputes were not escalated through a formal process because the expected costs were considered to be more than the potential gain.

“This amendment would be an important step towards levelling the playing field and would help address the power imbalance that currently exists.”

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