

Advocacy services guide



Small
Business
Commissioner

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ACKNOWLEDGEMENT OF COUNTRY

We acknowledge and pay our respect to the traditional custodians of the lands and waters of NSW, and all Aboriginal Elders, past, present, and emerging.

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Introduction

Welcome to the NSW Small Business Commission Advocacy Services Guide.

The NSW Small Business Commission (the Commission) aims to support small businesses in New South Wales, ensuring they have the best possible environment to start, operate and grow. The Commission achieves this by providing a range of services, including up to

date information, guidance for small businesses, mediation and advocacy assistance.

This guide provides key information on how the Commission's advocacy services may be able to help you. The purpose of this guide to clarify our role and ensure mutual understanding and expectations about how our advocacy services can help.

Our legislation

The *Small Business Commissioner Act 2013* (SBC Act) details the Commissioner's objectives, including dealing with small business issues, providing a point of contact for complaints, encouraging fair treatment of small businesses and facilitating dispute resolution. It also provides the Commissioner's functions, such as making representations and advising the Minister for Small Business on matters affecting small businesses.

'Advocacy' is a term used by the Commission to describe our services which include representing individual small businesses in instances of unfair treatment and making the case for more supportive policy and a regulatory environment that is more friendly to small businesses.

When we advocate on behalf of small businesses, we do so in accordance with the SBC Act.

Understanding our Advocacy role

Small businesses have needs that should be considered when developing policies and programs.

To highlight these needs, the NSW Small Business Commission is committed to advocating on behalf of small business. While we may not be able to help in every case, we use the information provided and our interactions with small businesses to inform and prioritise our advocacy activities and advice to the NSW Government.

Some examples of our advocacy activities include:

- Representing small businesses in discussions with other government departments, regulatory bodies, or commercial entities.
- Advocating for policy changes and regulatory reforms when systemic issues or concerns are identified.
- Collecting intelligence and data to track common or emerging small business issues, and to provide evidence-based advice on matters affecting small business.

While we strive to assist every small business, there are limitations on what we can do:

- Our focus is on issues that are highly impactful, systemic, and likely to impact a broad range of businesses.
- We consider the likelihood that our advocacy will resolve issues to the satisfaction of a complainant.
- We assess what activities represent an appropriate response.

It is important to understand what we can and cannot do as determined by the SBC Act:

- We can consider your matter, ensuring we properly understand the issues raised and evaluating if further actions are warranted.
- We cannot guarantee resolution of an issue, even if we decide to take an action on your behalf.
- We cannot compel another government agency to change a decision or amend legislation/regulation.





How does advocacy differ from mediation?

In addition to advocacy, the NSW Small Business Commission also offers a mediation service.

If your issue involves a civil dispute or disagreement with another party (an individual, a business or government agency), our mediation services may be more appropriate depending on the circumstances.

Mediation is facilitated by an independent professional mediator who helps both parties in a dispute to communicate with each other, exchange information, discuss the issues from each party's perspective and consider options to find a solution that both parties accept.

We do not advocate for you as part of the mediation process, but our mediation team will assist you to prepare and achieve outcomes which are agreed by both sides. You can find out more about our mediation services through our [Mediation Services Guide](#).

Some differences between advocacy and mediation include:

- Advocacy involves the Commission exploring the issues raised and taking a direct role in representing your issue(s) to government or another party whereas mediation focusses on creating the right conditions for parties to work collaboratively to resolve disputes themselves.
- Our advocacy may involve considering whether multiple businesses are affected and advocating for businesses as a collective (rather than your specific business). Mediation is focussed on the specific issues of the parties involved.

Because it is important for the Commission to remain neutral, we will not advocate on your behalf while you have an active application for mediation.

When contacting the Commission, we will consider both mediation and advocacy as potential pathways to help you resolve any challenges you raise. Our customer service officers will be able to discuss your options with you.

Frequently asked questions (FAQs)



What matters are dealt with through advocacy versus mediation services?

Mediation assists in helping to resolve disputes and is useful where parties can negotiate mutually agreed outcomes. Advocacy work includes listening to the views and experiences of business owners to understand key issues and the Commission evaluating what actions should be taken. You can discuss your options with our customer service officers.



What should I do if the matter is urgent?

You should let us know if your issue is time sensitive. Before contacting us, consider whether you have done all that you can to resolve the matter on your own. Our customer service officers will generally seek to confirm that you have exhausted all other avenues to reach a resolution before considering what advocacy options may be available. If you are experiencing financial difficulties, please contact the National Business Debt Hotline.



What documentation might I need?

Supporting documentation may be required to help us assist you. This can include correspondence with other involved parties and any other documentation that helps us better understand the issue. The evidence or documentation required will depend on the nature of the matter.



What if English is my second language?

If English is your second language, it may be useful to know the information on our website can be translated automatically using the language function. For phone calls with the advocacy team, we can dial an interpreter into calls or call back with one on the line. We utilise language services and can still assist you if you are not comfortable speaking English.



What types of small business matters can you handle?

We can advocate on behalf of your business in cases where we identify systemic unfair treatment or regulatory issues which may impact other small businesses. We may encourage mediation as being more appropriate if it involves a contractual or commercial dispute.



Are you a regulatory or enforcement body?

We do not have the power to compel parties to act or change a decision. We cannot take legal action on your behalf and generally try to resolve issues by working constructively with other parties.



How is the Small Business Commission different to the NSW Ombudsman?

The NSW Small Business Commission exists to provide support to small businesses in NSW. The NSW Ombudsman can handle complaints, including from small business operators, about most NSW Government agencies, local councils and community service providers. The NSW Ombudsman may investigate a complaint if they suspect wrongdoing has occurred. Wrongdoing can include unlawful, unreasonable or unjust conduct. More information about the NSW Ombudsman can be found at <https://www.ombo.nsw.gov.au/>.



My matter doesn't involve the NSW Government, can you help?

The NSW Small Business Commission can consider matters involving local, state or Australian Government bodies as well as those involving other businesses. However, we may encourage you to exhaust all other options before considering what actions are warranted. For matters involving the Australian Government agencies, you may wish to explore what assistance can be provided by the [Australian Small Business and Family Enterprise Ombudsman](#).



What if you cannot help me?

It is important to consider all options available to you including mediation, legal advice, speaking with another relevant government department or the other party involved. Even if we cannot help you achieve the outcome you are seeking, we may be able to provide guidance or refer you to another service.



Example scenarios

My business is about to fail

A business contacts the commission seeking financial assistance to help trade through a tough period. The Commission provides information about where the business can get further advice and assistance but does not offer financial support of the kind requested.

Problem with my local council

A business wants to operate a food van but has been shut down because they do not meet the planning requirements for a bricks and mortar food outlet. The business believes the planning rules have not been applied correctly as different rules apply for mobile food and drink outlets. The Commission reviews the circumstances, and if it assesses there may be an error, the Commission may contact the authorities to confirm the correct rules are applied.

Proposed new laws that would affect my business

A restaurant contacts the Commission expressing concern about proposed new laws that would affect how they operate. The Commission discusses the new laws and the impact it would have for their business. The Commission uses this information to contribute evidence in support of recommendations to policymakers.

Assistance with a grant

A business applied for a small business grant. The owner submitted all requested documentation, and believes they met the eligibility criteria, but was ruled ineligible for reasons unknown. The Commission contacts the agency responsible for administering the grant to find out why the business was deemed ineligible and to ensure the application was correctly assessed.

Disruption related to construction activity

A cafe was unable to trade due to council works on the footpath outside of the shop. The business received no advance notice of the works and lost several days of trading during a busy period. The Commission raised the concerns with council. While the Commission was unable to change what happened, council agreed to implement new protocols to improve communication for future projects.

I offered my services to the government but was unsuccessful

A small business was disappointed having missed an opportunity to supply their graphic design services to government for a small project worth \$500. In their view, they offered superior value for money compared to their successful competitor. The business sought for the Commission to overturn the decision. Having reviewed the case, the Commission determines it is unable to intervene. The Commission instead provides information about possible opportunities to obtain agency feedback.

I am an online business and I have lost access to my account

A business' online account was banned without explanation. The owner was unable to communicate with the online marketplace provider to address the issue and recover access to the account. The Commission contacted the platform on behalf of the business to determine any reasons for the ban and for access to be restored if it was an error.

I now require a licence to run my business

Due to a regulatory change a business is no longer able to operate without a licence. The business complains that the new licencing requirement creates additional 'red tape' for the business. The Commission examines details of the regulatory change to understand the reason for the new requirement. The Commission is satisfied the benefits of the requirements outweigh any costs. The Commission advises policymakers of the concerns but does not advocate for a policy change.

I have not been paid by another business

A business contacts the Commission indicating it has not received payment for work it has completed. The other party claims the work was not delivered in accordance with the contract and will only make payment when defects are rectified. The business wants the Commission to contact the other business to demand payment. The Commission encourages the business to consider mediation as an option to help resolve the dispute.

Confidentiality

At the Commission, we value your privacy. We will not share any information or contact any other parties without your approval. If you would prefer to remain anonymous, we can raise concerns in a way that does not identify you, however this may limit the ability for us to seek specific action on your behalf. Please let us know as soon as possible if you have concerns about being identified and wish to remain anonymous.

If we decide not to act in relation to your case

If you feel your matter has not been accurately assessed, you are welcome to seek further review by contacting our helpline on 1300 795 534. Your case will be reconsidered by another officer within the Commission.

You may also wish to consider other services offered by the Commission, including mediation. We may also be able to refer you to another government agency or other body that may be able to assist you.

Requesting assistance

If you are a small business facing challenges that you believe the Commission can assist with, reach out to us through:

- **Online Form:** Fill out our assistance request form available on our website: <https://www.smallbusiness.nsw.gov.au/contact-us#enquiry-form>
- **Phone:** Call our helpline on 1300 795 534 for immediate guidance

When requesting advocacy assistance, it is helpful for you to provide:

- A concise description of the issue, including reference to any specific legislation or requirements causing concern
- Any relevant documentation or correspondence
- Specific questions or areas where you seek assistance
- An outline of what you would like the Commission to do on your behalf, and what outcome you are seeking



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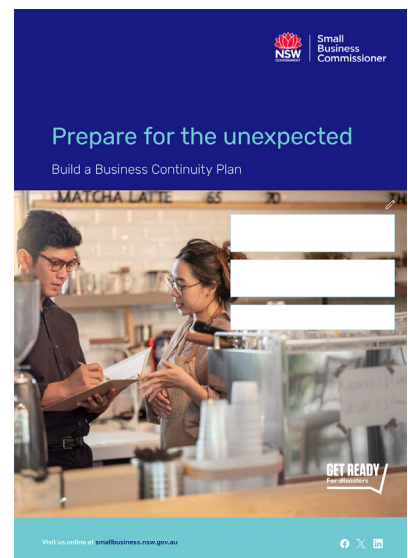


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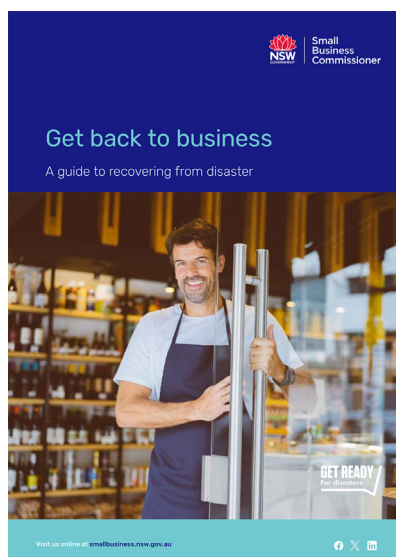
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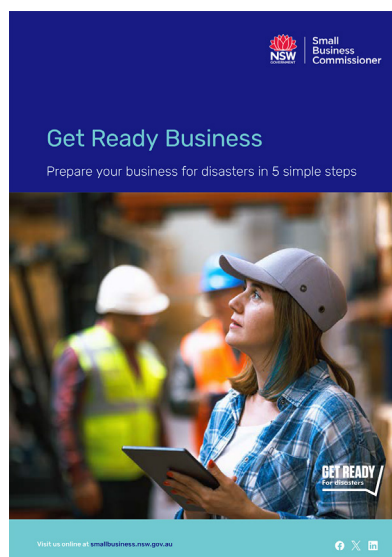
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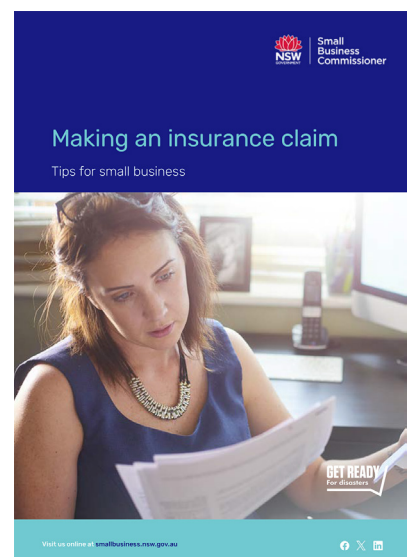
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