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16th January 2015

Dear Andrea Leadsom,

**Re: Your comments at Back Bench Business Debate 4th December 2014.**

We are writing to introduce you to SME Alliance. We are a new organisation but we represent a broad spectrum of SMEs who have a wide variety of issues. We founded SME Alliance as a direct result of twitter communications last August in which the founder members recognised there is a glaring gap for an organisation to deal with these issues and, while we do not pretend to have the answers to our collective concerns, we do feel it is both logical and positive SMEs and their owners should be actively involved in finding solutions.

As you might imagine (and certainly if you read our twitter feed) one of our major issues is the mistreatment of SMEs by financial institutions. However, as we try to make clear to everyone, SME Alliance was never formed with the intention of dealing exclusively with banking issues. Nor do we profess to resolve individual issues against banks although members are actively sharing information to help with each others cases. And yesterday we are happy to say this positive collaboration was evidenced in the case of our member Clive May who has been fighting long and hard to expose mis-selling of the EFG Scheme.

We read with interest your comments during the Back Bench Business Debate on 4th December 2014 regarding the mis-selling of financial products to SMEs. Unfortunately many of our members are victims of IRHP or other misconduct by Banks including EFG loans or banks so called recovery units like GRG and HBOS Reading. Your comments were brought to our attention by our member James Glanville who has asked his MP to contact you directly and we have, of course, passed your comments to other members.

However, our reason for writing today is not to bring any individual case to your attention but rather to make you aware of a serious contributory factor to what is becoming a critically inequitable situation for SMEs dealing with banks. One of our major concerns is the fact that, at present, the SME sector is totally unrepresented by existing regulatory bodies.

On the one hand, the FCA insist they do not deal with individual cases and, even where repeated systemic abuse of SMEs is identified and fully substantiated, the FCA seem to do little to ameliorate the situation and, in our opinion, much to make it worse with blanket resolutions which take little or no account of obvious and sometimes dire consequences. Quite frankly, some of the FCA decisions, including their Redress Scheme for IRHP, are totally inadequate and seem to illustrate an unhealthy collusion between the banks and the FCA which is detrimental to SMEs.

On the other hand the Financial Ombudsman Service is so limited as to the redress or compensation it can award, its remit and abilities are totally inconsequential to SMEs, many of whom have lost millions of

pounds. Additionally we have seen many instances where SME owners have waited years for a decision from the Ombudsman, as it would at least add strength to their cases, only to be told at the 11th hour, the level of compensation potentially due falls outside the FOS boundaries and therefore the Ombudsman is withdrawing from any involvement.

The only option open to most SMEs is the Civil Courts and unfortunately, and as the banks well know, those businesses who have been mistreated or defrauded are often left with no resources at all, let alone the hefty sums needed for litigation. Similarly, and we say this from years of experience investigating bank misconduct in our different capacities, reporting the potentially fraudulent conduct of banks to the police is invariably met with the response “this is a civil matter”, “there is not enough evidence” or, worst of all, “we have contacted the bank with your allegations and they assure us there is nothing to investigate.” We would suggest the police simply do not have the resources to investigate the abundance of cases reported by SMEs, as fraud and white collar crime investigations requires huge amounts of funding which, even if successful, will result in a minimal number of people going to jail at maximum expense.

A very clear example of this is Operation Hornet, the HBOS Reading case which destroyed some 80 SMEs. In that instance the 10 people arrested in 2010 and charged in 2013, have still not gone to trial and this has now been put back a further 9 months to September 2015 – if it ever happens. This case has cost millions of pounds to the tax payer and even to the Bank who, I can assure you, even although it has not been charged, has spent a fortune of shareholders (and therefore tax payers) money in its attempts to minimise its involvement in criminal proceedings and maximise brand protection. Meanwhile the SMEs owners who are victims of HBOS Reading continue to have their lives put on hold awaiting the outcome of alleged crimes committed between 2002 and 2007.

Similarly the victims of IRHP (which in many cases is blatantly fraudulent and for which no one has been arrested or prosecuted) who did believe they would be returned to their prior positions and be suitably compensated, have been further abused and damaged by what is, quite clearly, an untenable agreement between the Banks and the FCA.

In short, SMEs have no representation and minimal access to justice. Which is why, even now, the abuse of SMEs continues unabated and there seems little real appetite from anyone in authority to stop it.

We could send you multiple well documented and substantiated similar fact cases, as an example of how dire this situation is and we would be happy to do so. However, we are aware you, or someone on your behalf, would probably then want to independently substantiate our evidence to satisfy yourself it is 100% accurate (although we assure you it is) and all of this would take considerable time. What we would really like to do and what we hope you will agree to, is to meet with you so we can put our case for a separate regulatory body and mediator specifically for the SMEs sector.

In our view, this would be advantageous to all concerned. Currently banks are spending a fortune on Civil litigation against individual claimants. This is a further penalty on bank shareholders and invariably benefits no one except the legal profession. Similarly, the FCA who insist they don't deal with individual cases, are dedicating much of their time to doing exactly what they say they won't do. Collectively our members have hundreds of letters from the FCA including letters directly from Hector Sants and Martin Wheatley. Clearly the FCA does spend considerable time, money and effort on individual cases. Surely, an organisation dealing expressly with SMEs would also assist the FCA?

Mostly of course, it would be to our advantage as SMEs to have an alternative to Civil litigation or to uselessly banging our heads against a brick wall with regulators who either will not or cannot represent us. We see so many cases where bank misconduct is so blatantly obvious, a designated mediator could not help but conclude compensation is due. But presently such compensation is not forthcoming because, unbelievably, the banks, in the knowledge Civil litigation or help from regulators is rarely an option, rely on the standard practice of replying to victims to say “we do not intend to correspond further” as a full proof resolution. Such unethical practice surely has to stop?

We hope you will consider our request to meet. Not to discuss individual cases but the bigger picture. We have quite recently met very successfully with the SRA and we will be taking part in Round Table meetings

with them in the near future on the subject of how best SMEs can get adequate legal representation and also how we can deal with unprofessional advice.

As you pointed out, SMEs are the backbone of the Country and as we repeatedly point out there are over 4M SMEs in the UK who employ over 20M people. And, while we were very grateful for your encouraging comments, in reality we do not feel any political party is particularly interested in the SME vote or in protecting our interests.

Please don't feel we suggest all banks or all bankers are bad and in fact our next meeting is specifically to introduce our members to better banking and funding opportunities but we can assure you several of our major banks have brought catastrophe to the SME sector. Sadly these are the "too big to fail" banks who seem to have immunity from their own conduct and who deal with all irregularities by penalising their shareholders with hefty fines. But they do not remedy situations and clearly feel SMEs are of no consequence.

We are not a contentious organisation (one of the three founding members is a very good common sense lawyer) and, more than anything, we wish to open lines of communication to impart directly to Ministers and MPs those issues which are of most concern to our members. We are in no way trying to undermine the good work done by other organisations like the FSB. However, we are what you might call on the front line or the coal face of the SME world and our collective experiences confirm we are not, at present, making any headway to overcome or improve some very serious situations.

We really hope you will agree to meet with us to hear and consider our suggestions of how we can start to successfully rebuild the relationship between the financial sector and also some trust between SMEs and the Government.

Yours sincerely

Nikki Turner, Nick Gould and Jon Welsby  
On behalf of SME Alliance.

Cc Dr Vince Cable, Chuka Umanna MP, David Hanson MP