



# Proposal for a Corporate Mediator

## Summary

The future health of our economy depends on mending relations between small businesses and the banks. Tomorrow's entrepreneurs need confidence in order to take the risks required to innovate, grow, create jobs and take us out of recession. Faith in the banking system is the bedrock for this confidence.

For a number of years, the FSB has been concerned that the relationship between small businesses and their banks has deteriorated. This is not a problem that started in 2008, but one which has grown over a longer period of time. We believe it will take a similar period of time to return to good working relations.

Successive surveys have identified the problems and the possible solutions. More recently, the Finance Forum and Lending Panel have provided an arena for these problems to be discussed and addressed. The FSB has played an active part in this forum, but believes that we now need to look to medium term solutions.

The FSB recommends the creation of a Corporate Mediator to solve problems and facilitate dialogue in the banking / business community, as well as de-politicising and defusing the issue of bank lending. The FSB's proposal borrows heavily from models in other European countries, not least France, where the mediation service has a 64 per cent success rate in helping viable small businesses access finance.

The FSB proposes that the Corporate Mediator should NOT have powers to order banks to lend, but be NEUTRAL and trusted by all parties. Access to the Corporate Mediator should be free to those small businesses that have been filtered through a rigorous online questionnaire.

## Why do we need a Corporate Mediator?

### 1. Our economy is underpinned by the ability of small business to access finance

Small businesses rely on bank lending in the form of term loans and overdrafts, with 53 per cent<sup>1</sup> of small firms saying they use the bank as a major source of finance. Small businesses keep a vast store of capital within bank deposits amounting to £53 billion in term loans and overdrafts and borrow £54 billion in term loans and overdrafts<sup>2</sup>. A healthy banking system which understands the importance of the small business community is vital for steering the UK economy back to positive growth.

### 2. Dialogue between small businesses and banks has broken down

Research conducted by the FSB's Professor of Small Business Alistair Anderson, showed that 31 per cent of small businesses had seen their bank being less helpful than before, and 60 per cent replied saying there had been no change in the banks attitude despite the difficult economic period. In a recent survey, over half of small businesses (54 per cent) said they prefer to communicate in person with their bank rather than via letter, online or over the phone, while 86 per cent said they believed decisions on lending should be made by a local branch rather than centrally<sup>3</sup>.

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<sup>1</sup> <http://www.fsb.org.uk/policy/assets/business%20support%20and%20finance.pdf>

<sup>2</sup> [http://www.bba.org.uk/content/1/c6/01/54/60/Small\\_Business\\_Monthly\\_Press\\_Release.pdf](http://www.bba.org.uk/content/1/c6/01/54/60/Small_Business_Monthly_Press_Release.pdf)

<sup>3</sup> FSB, Business Finance Survey, March 2009

### 3. We need medium-term replacements for Finance Forum & Lending Panel

During the initial stages of the recession, the last government set up the Finance Forum and the Lending Panel. This was a short-term measure and there were limits to what could be achieved.

The short-term solutions, and dialogue, fostered in the Finance Forum now needs to be projected into the business / banking community. A Corporate Mediator would carry forward the spirit of the Finance Forum and apply solutions to individual relationships between businesses and banks.

Government would also benefit from ongoing and independent data on the state of lending to small businesses. The Corporate Mediator could serve this function, succeeding the Lending Panel.

#### The role of a Corporate Mediator in the transition back to economic growth:



#### What role would a Corporate Mediator perform?

In general terms, the Corporate Mediator would bring together opposing parties and replace misunderstanding and confrontation with dialogue and negotiation. Its objective would be to find a workable agreement between the parties and repair the medium to long term relationships on which our economy is based. It would apply mediation and problem solving techniques to individual cases and use the intelligence gained from this across a network of mediators, as well as reporting into government.

#### Possible tasks for a Corporate Mediator:

1. To serve as a point of contact for entrepreneurs encountering problems accessing finance.
2. To facilitate dialogue and consultation between companies and their banks.
3. To examine individual cases where viable businesses are unable to access finance and, when appropriate, to provide mediation.
4. To report periodically to the authorities, identifying trends and specific problems and solutions.

#### How could a Corporate Mediator be structured?

Rather than creating a new institution, the FSB believes a Corporate Mediator should reside within existing or future structures and could serve to augment business support programmes already on offer.

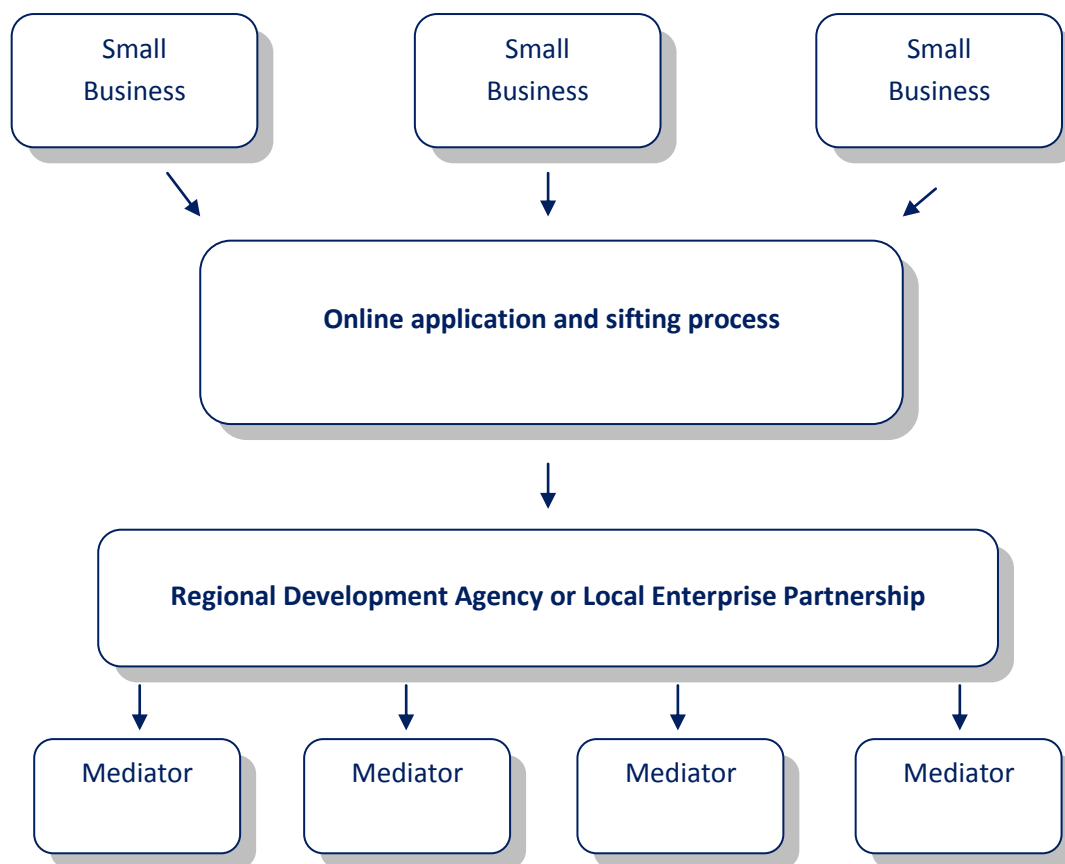
The FSB has considered a number of options for how a Corporate Mediator could be accommodated and where this function might sit. These considerations have taken account of potential costs and the crucial importance of neutrality and need for agreement through consensus. We initially considered extending the remit of the Financial Services Ombudsman, but this would be inappropriate. We also considered the French model of creating a new department within HMRC, but this would incur

considerable costs and could take too long to establish. The FSB's favoured option is to run the Corporate Mediator through the Regional Development Agency network.

Either Regional Development Agencies or Local Enterprise Partnerships could serve as a 'host network' for mediators contracted from the private sector<sup>4</sup>. Continuity across mediators could be assured through a contract and terms of reference drawn up by BIS in cooperation with the Banks and business groups. It is essential that both the Banks and business representatives agree on the terms that would guide the mediators' work.

In order to filter applications for mediation, businesses would first have to complete a rigorous online survey hosted on the Business Link website. This would serve as a filter, directing applicants to a registered mediator, or to alternative advice if mediation is not appropriate.

### **Accessing the Corporate Mediator:**



### **How much would a Corporate Mediator cost?**

The FSB believes that the Corporate Mediator should be free for those viable businesses with a genuine case for mediation (this would be identified through the online filtering questionnaire). However, any scheme must be cost efficient for the taxpayer.

<sup>4</sup> Examples of mediation service providers: <http://www.mediate.co.uk/> / [www.contactlaw.co.uk](http://www.contactlaw.co.uk)



By using existing networks, set-up costs would be minimal with the major costs coming from the mediation process itself. The FSB recommends that BIS contract professional mediators from the private sector and offer a day rate, as is the case with employment tribunals.

### **How do Corporate Mediators operate in other countries?**

#### **France:**

**[www.mediateurducredit.fr](http://www.mediateurducredit.fr)**

A Credit Mediator was established in October 2008 by the French President to ensure banks continue lending to companies during the current financial crisis.

As of January 2009 the Mediator had received 4, 439 complaints from small businesses and out of the 1,869 cases already dealt with, the success rate was 64 per cent. 95 per cent of businesses seeking help employed fewer than 50 people.

As the French mediation service is on a much larger scale than the Belgian system, the initial start up costs will have been high. As well as the Credit Mediator there are seven sectoral mediators, 105 mediators working at a department level and a further group of financial analysts (number not specified). The Credit Mediation Department also employs secretarial staff and press officers. The Credit Mediation Department is a branch of the French Treasury.

Working alongside the professional staff are business organisations, chambers and trade unions that feed information about the service back to their members and to encourage them to use the service.

#### **Belgium:**

**[www.kredietbemiddelaar.be/eCache/SEC/1/563.bGikPUVO.html](http://www.kredietbemiddelaar.be/eCache/SEC/1/563.bGikPUVO.html)**

In Belgium the Corporate Mediator is entrusted to the Knowledge Centre for Belgian SME Financing. It is enshrined within the framework of the Federal Plan for SMEs and within the Federal Government's economic revival programme.

It is a mediation service that is accessible to any company, company head, craftsman, shopkeeper, professional person or individual entrepreneur encountering difficulties with banks in solving his, her or its financing problems.

In order to contact the Mediator directly businesses need to complete a form on line, this acts as a filter so that only genuine SMEs with problems are helped and time is not wasted. Other more general enquiries can be made by phone or e-mail. In order for the service to work, the Mediator requires a huge amount of information to be supplied by the SME so that it can be fully aware of the situation.

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#### **For further information**

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