



The Real Deal

No credit and broke

August 2014

Citizens Advice Scotland (CAS), our 61 member bureaux and the Citizen Advice Consumer Service helpline form Scotland's largest independent advice network. Advice provided by the Scottish CAB Service is free, independent, confidential, impartial and available to everyone. Our website, Adviceguide, also provides the public with up-to-date information on a range of topics. We are champions for both citizens and consumers and in 2012/13 we helped over 314,000 people deal with over a million issues.

Our '**Real Deal**' series shows the often hidden issues faced by Scottish consumers that can quickly emerge in fast changing markets and leave people facing substantial detriment or cost alongside recommendations for change.

Summary of findings

The rise in payday lending in the UK has led to a concurrent rise in the number of credit brokers who offer to search for loans for consumers for a fee. Evidence from the citizens advice service indicates that consumers can experience significant detriment and hardship caused by the (often unintentional) use of a credit broker. While brokers can offer a legitimate service, many of the industry practices, including providing misleading information, sharing personal details with other brokers, offering customer applications for the highest commission, and refusing to offer refunds, are in urgent need of change. Our key findings include:

- **Credit broker cases are increasing:** In 2013/14, there were 254 credit broker cases from Scotland reported to the Citizens Advice Consumer Helpline: a 42% increase on 2012/13.
- **A core group of brokers are causing the most problems:** 65 different credit brokers were named in the cases, although almost half of reported cases (121) involved just seven specific brokers.
- **Passing on personal details:** 71 credit broker cases involved personal details being passed on to numerous other brokers. In these cases, on average, more than four different brokers took fees costing the consumer an average of £264 with no guarantee of a loan.
- **Refusal to provide refunds:** In 55 cases, a consumer was denied a refund despite asking for one within the 14 days allowed under law.
- **Misleading advertising:** A review of the main credit broker websites by CAS found that 4 out of 10 did not make it sufficiently clear to consumers that they were a broker service who did not offer direct loans.

As a result of these problems, the service has seen consumers who have suffered substantial financial losses and many who have found themselves in hardship as a result of broker practices. We recommend that the Financial Conduct Authority (FCA) uses its powers to eliminate the worst practices in the sector.

Introduction

Around 40% of new online borrowers take out their first payday loan with a lender via a credit broker (or ‘lead generator’). In return for a fee, which averages around £70, the broker will search for a loan based on a consumer’s stated requirements. Brokers also receive a commission from the lender if the consumer accepts a loan.

In March 2011, Citizens Advice England and Wales and Citizens Advice Scotland made a super-complaint to the Office of Fair Trading regarding the practice of brokerage firms. This complaint cited unsolicited real time marketing and up-front fee charging practices and detailed the harm this caused to consumers. Guidance published by the OFT in November 2011 stated that brokers should ensure transparency in relation to the lenders they work with, how much their fees are and should not use misleading advertising.

The Competition and Markets Authority (CMA) reported in June 2014 that companies offering this service do not make it clear that they are not the company providing the loan and that they make money by selling customer applications to the highest bidder. This has led to the Financial Conduct Authority (FCA) classing credit brokerage as a higher risk activity, allowing the regulator to watch firms more closely, with the intention of intervening when brokers break the rules.

Case reports from CAB advisers and detail from the Citizens Advice Consumer Service highlight that broker activity continues to be a significant problem for consumers. In 2013/14, there were 254 credit broker cases from Scotland reported to the Citizens Advice Consumer Helpline – a 42% increase on the previous year. In addition, there were 533 cases at citizens advice bureaux in Scotland involving advisers/brokers/intermediaries. These cases represent only the tip of the iceberg as consumers may either not notice the fees charged or feel that they can’t take any action. This briefing highlights these problems under the following headings:

- Unclear terms and misleading information
- Passing on personal details
- Refunds
- Links with lenders

Unclear terms and misleading information

Analysis of cases shows a clear majority of consumers seeking advice on credit broker issues had been unaware that they were signing up to a credit broker rather than making a direct application for a payday loan. CAS is concerned that some credit brokerage firms are not clear in their advertising and communications that they are not lenders themselves, but are acting as an intermediary. A quick review of ten payday loan broker websites carried out online by CAS found that four did not, in our view, make it sufficiently clear to consumers that they were a broker service who did not offer direct loans. Three made reference to them being a broker service in small print somewhere on the website and one did not make it clear anywhere that they were not offering the loan themselves.

- The Citizens Advice Consumer Service reports of a client who feels that she was misled into signing up to a credit broker. The client was browsing the internet looking for a payday loan when she completed what she thought was an application form for a loan. When she pressed the enter button, the client was transferred to a different website and was shocked to read a message saying that £40 had been taken from her account. The client called the company who insisted that the client had signed up to their terms and conditions.
- The Citizens Advice Consumer Service reports of a client who tried to apply for a payday loan online after getting into financial difficulty. The page appeared to redirect the client after filling out all of her details including debit card information. This redirection happened about five times and the client assumed this was a technical fault. However, the client then found that five different brokers had taken fees ranging from £47 to £67. The client had been on the same website the whole time and was not informed that any of the forms were for other brokers.

Credit brokers can also be misleading about the services that they provide on the telephone, with some cases suggesting that they describe themselves as a lender. There also appears to be a practice followed by some brokers of persuading consumers to give their account details by saying this was only to verify that they had a UK bank account. The consumer would then be charged the broker fee.

- The Citizens Advice Consumer Service reports of a client who was cold called by a credit broker offering a loan. The client asked them if they were a direct lender as she had previously been charged by brokers and didn't want to use this service. The caller stated that they were a direct lender. The client gave her bank details as she thought she was going to receive a loan. At the end of the call, the broker stated that there would be a £40 fee, at which point the client stated that she did not want to proceed. However, the broker took the fee regardless.
- The Citizens Advice Consumer Service reports of a client who was misled by a credit broker into entering an agreement. The client tried to apply for a £1,000 loan online and immediately received a call from the broker. They asked for the client's card details in order to verify that the client had a UK bank account and stated that they would take 50 pence from the account. The broker immediately took £79 from the account. The client did not receive a loan and had been told that he cannot get a refund.

Passing on personal details

A significant number of cases involved more than one credit broker taking a fee from the consumer's account, despite the consumer only making an application to one broker. An analysis of the terms and conditions of the main brokers identified from calls shows that the majority reserve the right to pass on consumer details to other brokers, although this is not made clear to the consumer when the application is made. Guidance from the OFT and now the FCA stipulates that the broker must seek the customer's consent before passing personal data to a third party.

An analysis of 280 credit broker cases from the Citizens Advice Consumer Service database identified at least 71 cases in which the consumer had paid fees to multiple brokers despite only completing one application. Based on these cases, the average number of extra brokers taking fees was 4.4 (on top of the original broker), whilst the average fees taken in these cases was £264 (ranging from £40 to £600). The extra brokers involved did not seem to offer any additional service to the consumer. This type of opaque practice can put consumers into significant hardship at a time when they are likely to already be experiencing financial difficulties.

- A West of Scotland CAB reports of a client who applied for a loan online through a credit broker. Part of the agreement was that they could pass his details to other companies. The client has now had cash amounts from 23 loan firms taken from his account totaling almost £900. The client has contacted these loan firms, most of which have not been responded to his request for a refund.
- The Citizens Advice Consumer Service reports of a client who has discovered that a credit broker has passed on her details to other brokers. Two brokers, whom the client has not heard of, have taken payments totalling £145 from her account. The client complained to the credit broker who directed the client to their terms and conditions which state they pass details on to other brokers who all take fees for trying to find a loan.
- A North of Scotland CAB reports of a client who has incurred fees from 15 different brokers, with a total cost to date of over £800. The client believes this came about when he recently repaid a loan early. At that point the loan company offered the client an additional loan of £15k, to which the client initially agreed, but later cancelled. It appears the loan company/broker has passed on the client's details to other loan companies, which has resulted in these fees. The client is in receipt of sickness and disability benefits and all of his benefit payments have been taken up by these fees. The client has had his phone cut off as he couldn't afford the bill and is struggling to afford utilities.

Refunds

Based on an analysis of 280 credit broker cases, around 55 cases involved a consumer who had been unable to obtain a refund on the fee that they had paid (a higher number were seeking advice on how to go about requesting a refund). In the majority of these cases, the consumer had applied for a refund within the 14 day cooling off period that is required by law, but still had not been refunded. Consumers reported a number of issues including not being able to find the address or contact details of the broker, being falsely told that a refund would be paid within a certain number of days, and brokers hanging up on them and being rude and aggressive.

- The Citizens Advice Consumer Service reports of a client who is struggling to get a refund from a credit broker. The client had almost £70 taken from his account and was told that this would be refunded within 7 days after he complained. The client waited and nothing came back. He was then told that he would be refunded within 30 days, but again nothing was forthcoming. The client feels that he is now just being given random timescales.

- The Citizens Advice Consumer Service reports of a client who enquired about a loan online and has had money taken out of his account by a number of brokers. The client wants a refund but cannot get through to the broker on the phone. Each time he gets through, the operators claim to be busy then disconnect the call.

Links with lenders

Evidence from the Competition and Markets Authority (CMA) suggests that brokerage companies may be directly linked to only a certain section of the market and therefore would not find a deal which would represent the best value for the customer. The CMA found that the value for money represented by different lenders' loan offerings is not taken into account in the auction process operated by credit brokers, who instead sell customer applications to the highest bidder. Furthermore, there is often a lack of transparency in how the service that lead generators provide is described in their websites – particularly the basis on which applications are matched with lenders – and many customers do not understand the nature of the service offered by lead generators.

In the CAS review of ten leading payday loan brokers, none provided details of any specific links they had with lenders or which lenders they could access on behalf of the client or indeed if they searched the entire market. Our evidence and that of the CMA suggests that brokers are contravening FCA guidance that they must not "give preference to the credit products of a particular *lender* where the object of doing so is for, or can reasonably be concluded as having been for, the personal gain of the *firm*."

Impact

All of the above issues can combine to cause significant detriment and sometimes hardship for the consumer. People applying for payday loans are often in a difficult financial situation anyway, so a £70 fee from one company or hundreds of pounds of fees from several companies can put consumers into a much worse position. As the following cases show, the actions of credit brokers can result in a consumer's entire income being lost resulting in a food bank referral.

- A South of Scotland CAB reports of a client with two children, who has been charged £636 by 11 different loan companies to organise a loan of £500. The client applied for a £500 loan from two different loan companies who shared the client's details with a number of other companies. The client only realized that money had been taken from her account when she was told that she only had £7 left in her account even though her Income Support payment of £320 had just been paid in. The client was then due to be paid Child Tax Credit but was told by her bank that she couldn't withdraw any money as there were pending transactions from more loan companies. The client has no money for food or heating, and no loan has been offered.
- A West of Scotland CAB reports of a single parent who gave her details on a website thinking that she was applying for a payday loan, when in fact it was a credit broker. The client has now found the company has taken £68.50 in administration charges from her account, from her benefit payments of £172. The client is a single parent to two sons and is struggling to feed the whole family. The client has been referred to the foodbank before and has already had three crisis grants from the Scottish Welfare Fund. The client was very emotional and upset.

- A West of Scotland CAB reports of a client and her partner who are in severe financial hardship after mistakenly signing up with a loan broker. The client's partner was originally looking for a small loan to buy a living room carpet worth around £100. In looking for a loan, the client's partner appears to have taken out a 'membership' of three different credit brokers and signed up to a continuous payment authority for each. The companies appear to be taking around £70 each from the client's bank account on a regular basis. This has taken the client's child benefit, child tax credits, and left them needing to contact a food bank.

Recommendations

This briefing has shown that consumers can experience significant detriment and hardship caused by the (often unintentional) use of a credit broker. While brokers can offer a legitimate service, many of the industry practices, including providing misleading information, sharing personal details with other brokers, offering customer applications for the highest commission, and refusing to offer refunds, are in urgent need of change.

- The CMA's recommendation of the creation of a comprehensive and independent price comparison website to allow customers to make comparisons on the cost of a loan should be implemented
- The FCA review whether the auction process used by credit brokers meets the needs of consumers or is breaking rules and take action if this is the case
- All advertising and web content of a credit broker should explicitly state that they are a broker rather than a lender, the fee that they charge, the refund policy of the company, the address and contact details of the company, and their policies on sharing personal details
- The practice of sharing personal details between credit brokers without explicit and informed customer consent should be prohibited, with action taken against brokers by the FCA who do so
- Credit brokers should be required to offer refunds within 14 days of the agreement if requested by the consumer, with action taken against brokers who fail to do so.
- Lenders should review the relationships they have with lead generators and refuse to take leads from brokers which they find to act in a manner below their own standards of customer service

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