citizens advice scotland

Payday lenders:
Business as usual

Case evidence and statistics from the Scottish CAB Service

April 2014

Contents

The Citizens Advice Service in Scotland

Citizens Advice Scotland (CAS) and its member bureaux (CAB) form Scotland's largest independent advice network. CAB advice services are delivered using service points throughout Scotland, from the islands to city centres.

The CAB Service aims:

To ensure that individuals do not suffer through lack of knowledge of their rights and responsibilities, or of the services available to them, or through an inability to express their need effectively

and equally

To exercise a responsible influence on the development of social policies and services, both locally and nationally.

The CAB Service is independent and provides free, confidential and impartial advice to everybody regardless of age, disability, gender, race, religion and belief and sexual orientation.

Executive Summary

Payday loans are one of the fastest growing areas of advice both made to local citizens advice bureaux and to the citizens advice consumer helpline service. Our evidence shows that concerns regarding the use of payday loans are focused mainly on young people under the age of 34 and the use of the loans are predominately for essentials such as food, energy and rent.

In 2012, the majority of payday loan companies, working with the government, developed a Good Practice Customer Charter to alleviate some of the concerns that had been voiced by debt and advice charities in the UK. This report examines the detail of what was agreed in the charter and how well, fourteen months on, that lenders have kept to their self-imposed rules.

- **New loan practices:** Our evidence reveals common practice of fees being charged for loans not given, pressure sales marketing and a failure to adhere to the credit 'cooling-off period' for a customer to change their mind and cancel a loan. Transparency is one of the key cornerstones of the payday lending industry and while some lenders are upfront about their interest charges there are still, over a year since the charter came in, practices that are not clear or fair.
- **Rollovers:** Lenders are continuing to actively promote the extension of a loan to customers despite committing to end this practice. Additionally we have found that poor forbearance checking is leading to customers getting into financial difficulty.
- **Affordability:** Despite guarantees that lenders would properly check the capability of borrowers to repay the loan, our evidence shows that three out of ten borrowers reported not having their finances pre-checked. This includes a high number of people on low and unstable incomes.
- **Continuous payment authority:** We welcome the moves by some lenders to introduce the ability to refund money when a client is in financial difficulty. However, many are still leaving clients with nothing to use to pay for essentials. Additionally there appears to be a gap between the rights of those who seek an advocate to help and those who deal with lenders themselves.
- **Borrowers in financial difficulty:** Debt collection practices continue to be poor in this sector and often include information that is not legal in Scotland, in particular the threat of bailiff action. Clients also report extensive harassment by lenders and little support for those in need of help.
- **Data Protection:** Payday loan customers have reported to us that they are often bombarded by communications from other companies, including debt management firms, after taking out a loan. CAS is concerned that personal data is being shared extensively within the sector without the consumer's permission.

Introduction

High-cost short-term credit (popularly known as payday loans) is a type of loan agreement which allow consumers to borrow for a short period of time (typically less than three months) for a small amount of money (between £50 and £2,000). The OFT values the industry in the UK as worth £2.2bn through an estimated 8.8m customers in 2011/2012. This is up from the estimated value of £900m in 2008/2009[1]. This is in contrast with the amount of other types of unsecured consumer credit used, which the Bank of England noted had reduced in value every year between 2009 and 2012[2].

After a campaign by Citizens Advice Scotland and many other debt charities highlighting poor standards in the payday loan industry, the Department of Business, Innovation and Skills (BIS) met with the four main payday lender trade associations to discuss drafting a Good Practice Customer Charter. This charter was drafted and agreed to by the associations and became a self-regulation standard for lenders to keep to in November 2012. This report, 14 months on from then, investigates evidence presented to the Citizens Advice service in Scotland by consumers who have used the products since the charter was implemented in November 2012. CAS has examined a number of the commitments made over a year ago to explore the extent they have been adhered to. This was achieved through analysis of cases from citizens advice bureaux, the Citizens Advice consumer service and responses to a public survey of 190 payday loan customers which ran throughout 2013[3]. In the first two quarters of 2013/2014 CAB have helped with over 2,521 cases involving a payday loan which is an average of 105 a week.

1 Payday Lending Compliance Review, OFT March 2013

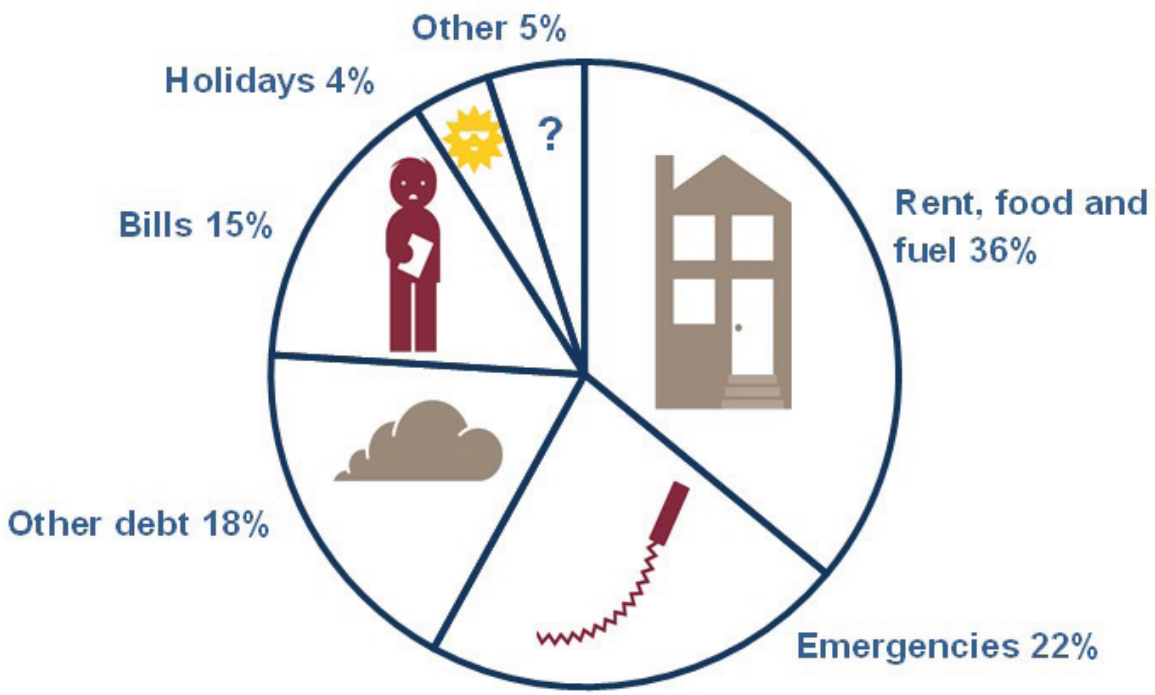
2 Trends in Lending, Bank of England, October 2013

3 A full breakdown of the CAS survey questions and results has been published separately.

What are payday loans used for?

A number of different studies into the uses of payday loans have all shown that the largest use of payday loan is for essentials such as food and fuel. In November 2012, research from the consumer group Which? showed that 38% of loans had been used for this purpose[4]. Christians Against Poverty revealed in September 2013 that 80% of their clients had used the loans to pay for food[5] and the Institute of Public Policy Research (IPPR) found that 41% were using short loans for everyday expenses such as groceries[6].

Citizens Advice Scotland (CAS) carried out a public survey between November 2012 and November 2013. This asked 190 consumers who had used pay day loans their experiences of the product[7]. The results revealed that 36% of respondents had used payday loans for food, fuel or rent. This matches the high proportion of users found by other studies and shows that short-term high interest credit is being used by a substantial number of Scots to pay for everyday necessities and are struggling to make ends meet.



4 Populus, on behalf of Which?, interviewed a random sample of 4031 GB adults aged 18+ online between 10th and 12th August 2012.

5 Christians Against Poverty survey of 1,500 debt counselling clients, September 2013.

6 Opinium, on behalf of IPPR, interviewed a random sample of 2,003 people in September 2013.

7 Payday loan survey, Citizens Advice Scotland, November 2013

Our study also uncovered that 18% of respondents had used a payday loan to repay the interest or balance on other debts. This "robbing Peter to pay Paul" type of borrowing is a major concern. We believe that more needs to be done to encourage borrowers who are in financial difficulty to seek help for their debts rather than increase the overall burden on them. There is a role for the lenders to play in this. However, our survey found that less than half of borrowers were told that they should not use a payday loan if they are in financial difficulty and less than one in ten were signposted to a source of free independent debt advice when in trouble.

The 2013 survey revealed that 15% of borrowers had used the loans for other regular bills including costs such as council tax, telephone and internet services. While we have not classified these bills as 'essential costs', there is an increasing move to digital by default access to government services. Also, council tax is considered a priority debt, and accordingly they are important everyday costs that consumers are worryingly using short term lending to pay for.

Who is using payday loans?

Previous studies have revealed that younger people are more highly represented in the use of payday loans. Research carried out by the payday loan trade association the Consumer Finance Association (CFA) in 2012[8] found that 49% of borrowers were under 34 years old. Similarly, research carried out by Polis found that 75% of payday lenders were under 45 and 23% were under the age of 25[9]. The research by the CFA also revealed that 62% of the borrowers surveyed earned less than the UK average salary of £26,000.

Our 2013 survey revealed that 53% of respondents were under the age of 34, mapping the results found in previous research. It also revealed that 50% were in full time work, 17% part time workers and 9% unemployed. Furthermore, 14% of respondents received welfare benefits as their only source of income raising serious concerns regarding the scale of the use of this type of credit in those with no paid employment income.

In addition to the public survey which we carried out in 2013 further analysis of 600 CAB clients who visited seeking advice on a payday loan between September and December 2013 revealed the following:

- Almost half (46%) were under the age of 34
- A third of clients were responsible for the care of children
- 37% lived in property rented from a social landlord, 17% in private rented

8 Harris Interactive, on behalf of CFA, interviewed 1,105 payday loan customers between July and November 2012.

9 Polis and the Friends Provident Foundation research, survey of 1,500 consumers, 2010.

accommodation and 14% were living with family or friends

- Women were slightly more likely to seek advice on payday loans, however this is a common trend across all areas of advice in the service

How are consumers protected?

All consumer credit, which includes payday loans, credit cards and personal loans, requires the loan company to carry a licence from the Office of Fair Trading (OFT). According to OFT figures there are around 72,000 firms who carry consumer credit licences in the UK amounting to a sector value of around £176bn a year. As part of the licence conditions, the OFT set out a number of codes and guidance that it expects firms to follow when loaning money. They also investigate any wrongdoing and in November of last year the OFT carried out a wide ranging investigation of fifty leading payday lenders. At the conclusion of this investigation into the firms' standards, nineteen have stopped offering this type of product, twenty-one were set for further investigation, three had their licences revoked and four surrendered their licences[10].

Despite this action the Public Accounts Committee stated in a report that the OFT had been 'ineffective' in both its regulation of the industry and in stopping some of the worst practices of short-term lenders[11]. As part of a wide reaching transfer of regulatory powers, consumer credit will be regulated by the Financial Conduct Authority (FCA) from April 2014. In October of 2013 the FCA set out its plans for tighter regulation of consumer credit which included a number of payday loan specific rules[12]:

- Making an affordability check on each and every loan
- Limit loan extensions (roll-overs) to two times per loan
- Limit the number of times a continuous payment authority can be used
- Information on how to access free debt advice must be given to every borrower who extends their loan
- Clear risk warnings on all advertisements

These specific rules will combine with the FCA's dedicated supervision and enforcement teams to ensure that the new rules are adhered to by the industry and to investigate reports of breaches from consumer groups such as Citizens Advice Scotland. CAS will work very closely with the FCA and other consumer groups to ensure the evidence we collect from consumers is used to enforce the new rules and allow the FCA to take action against any rogue lenders.

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10 Payday Lending compliance Review, OFT, November 2013

11 Regulating Consumer Credit, Public Accounts Committee – Eighth Report, 20 May 2013

12 Consumer Credit Regulation Regime, FCA, October 2013

Lending to New or Existing Customers

In the Charter lenders committed to:

- Act fairly, reasonably and responsibly in all their dealings with the customer
- Comply with all relevant legal requirements and have regard for relevant guidance produced by the Office of Fair Trading, including for example their guidance on irresponsible lending
- Make sure all advertising and promotional material is clear, fair, not misleading and complies with relevant advertising regulation
- Tell customers the full name and contact details of the company providing the loan
- Not pressurise the customer into taking a short-term loan

In 2012, payday lenders committed to dealing with their customers in a fair and transparent manner as well as being open in their advertising and promotions. This is extremely important to get right as the consumer must know what they are expected to pay upfront before they sign any agreement. This is especially true of online transactions where there is no-one available to discuss questions or queries in person. The charter also commits lenders to never pressure sell a customer either a first or subsequent loan.

1 in 5 payday loan borrowers were not clear about how much they were to pay back on their loan

Since the Charter was adopted, however, Citizens Advice Scotland has seen numerous cases where clients felt mislead, not given the full information or heavily pressured into agreeing to a loan. Our own research from 2013 showed that 1 in 5 payday borrowers did not feel their lender made it clear how much they were to repay or how they were expected to repay the loan[13]. Consumers have often been left not understanding what they are signing up to and in some cases paying for a service they haven't even received.

13 Citizens Advice Scotland – Payday Mayday, November 2013

Brokers and credit intermediaries also play an extensive role in the credit market in the UK with the Office of Fair Trading estimating that 270,000 consumers used a credit broker service in the 12 months prior to June 2011[14]. Guidance published by the Office of Fair Trading in November 2011 stated that brokers should ensure transparency with which loan creditors they work with, how much their fees are and should not use misleading advertising[15].

Despite this guidance, case reports from Citizens Advice Bureaux advisers and detail from the Citizens Advice consumer service helpline has highlighted broker activity continuing to be a problem for clients who are experiencing hidden charges, unclear terms and uncooperative brokers. Many cases provide details of multiple brokerage fees or clients simply not being aware they are dealing with a broker rather than a lender directly.

The Citizens Advice consumer service reports of a client who was looking for a payday loan online and applied through what he thought from the website was a lender not a broker. The trader then took £60 from the client's bank account which he found out later was a broker fee, even though he didn't get a loan.

The Citizens Advice consumer service reports of a client who was telephoned by a broker and told he had been approved for a loan from the payday lender despite not applying for one. When the client attempted to explain he had never applied for a loan he was repeatedly asked if he could manage on the income he had and pressured to take out a loan.

A West of Scotland CAB reports of a client who has mental health problems who took out a payday loan when in a state of deep depression. When the client realised later what had happened shortly after, he tried to cancel the loan by paying back the loan amount. However the lender would not allow the loan to be cancelled despite it being in the standard cooling off period.

14 OFT - 1st June 2011 – www.oft.gov.uk

15 OFT – November 2011 - Credit brokers and intermediaries

VERDICT IMPROVEMENT NEEDED

Clients often report that they are being charged fees for a loan they didn't even get, pressurised by telephone to take out loans with companies they have never heard of and thereafter will not negotiate when they change their mind during the 'cooling-off period'. Transparency is one of the key cornerstones of the payday lending industry and while some lenders are upfront about their interest charges there is still, over a year since the charter, practices that are not clear or fair.

Recommendation

Payday lenders agree to work with CAS and other debt charities to learn exactly what problems their customers are reporting to us. This may include reviewing the broker partners they work with, collection practices, staff training or the information they give to new borrowers.

Extending the term of the loan

Under the Charter, lenders said they would:

- Not pressurise customers to extend the amount owed for another term
- Only consider extending ('rolling over') the term of the loan if the customer asks and after the lender has reminded the customer of the risks of extending a short term loan
- Carry out a sound and appropriate affordability assessment before the term of the loan is extended
- Clearly explain any additional costs of extending the term of the loan and require the customer to repay any fees, charges and interest before the term of loan is extended
- Tell the customer if there is a limit on the number of times a loan might be extended

Extending the life of a short-term loan (also known as a 'roll-over) is where the Office of Fair Trading found that payday lenders make 50% of their revenue[16]. The OFT also found that 28% of loans are rolled over and that 5% are rolled over four or more times. When a customer asks for a loan to be extended it can be a sign of financial stress or difficulty and extending the terms of the loan is often not in the best interests of the debtor. In some cases of course a consumer can manage to pay the amount at the end of the agreed extension and this is an acceptable practice.

To assess which category a consumer falls in there are a number of steps a payday lender should be taking to ensure they are not 'rolling over' a debt of someone in financial difficulty. The Charter does set out the commitment that lenders will do a proper check of the affordability of the extension before allowing it and in some cases limit how often this can be allowed to occur.

Despite these self-imposed rules the Citizens Advice Scotland survey found that of those who had rolled over a payday loan 70% felt they were pressurised to do so and 86% felt the risks had not been properly explained to them before rolling over. CAB has seen case evidence that a number of clients are seeking help with their loan because they have re-financed it too often and for too long. Others have reported aggressive marketing prompting roll overs sometimes hours after taking out the original loan. Our sister organisation, Citizens Advice England and Wales, found that seven out of ten payday loan customers they surveyed were put under pressure to rollover their loans[17].

16 OFT – March 2013 – Payday Lending Compliance Review

17 Citizens Advice, Payday Loan Survey, November 2013

An East of Scotland CAB reports of a client who despite working full time could not afford the £600 to pay back a payday loan from a high street lender. The client rolled over this loan a total of four times before seeking help from the CAB with the debt having now climbed to over £2,300.

A West of Scotland CAB reports of a client whose only income is disability related benefits. Despite this he took out a payday loan for £150 and while he managed to pay it back he was asked if he could manage and felt pressurised into taking another. After rolling this one over he now owes more than he can afford.

A North of Scotland CAB reports of a client who amongst other debt also carries seven payday loans many of which have been extended from their original term. The debt has now climbed to £9,000 and despite being employed full time has been seeking advice on bankruptcy.

A North of Scotland CAB reports of a client who took out a payday loan to make a move into a new area, but is now struggling to pay this back. This is also affecting her ability to pay her rent on time. She has a payday loan for £700. She has had to take a new one out each time to cover the previous one, and each time it is costing an additional £200 on top of the loan. The client contacted the company who were extremely unhelpful.

VERDICT

Despite the commitment from lenders in 2012 not to promote extending the life of a loan to consumers, we are seeing cases at bureaux that directly show that this is not happening with customers of even the larger lenders. We are aware that some lenders have taken the responsible step and limited the number of rollovers available which is to be welcomed. We are also concerned about the lack of checking of the affordability of such an extension. Customers who request such a roll over could be in substantial financial difficulty, and rolling over a loan could lead to further hardship for that customer. In some cases the customer may be better served by an interest frozen repayment plan and a referral to debt advice support, than another loan.

Recommendation

We recommend that the FCA limit the number of times a payday lender can roll over a loan to once per loan. The FCA has already set out that they plan to limit this to two. We accept there may be a need to refinance a loan once with good and affordable reasons for doing so however we believe that the need to extend a loan twice shows signs of clear financial stress. In their investigation the OFT found that by the time a loan has been rolled over twice the average debt is double the amount borrowed.

In November 2013 the Chancellor announced that he has asked the FCA to introduce a cap on the interest rate that can be charged on loans. We would like to see an independent total cost of credit investigation gathering economic experts to consider how much is too much, paying particular regard to how much is charged per £1 borrowed. We think that any cap must keep in mind extra charges that can be added on in addition to interest and that any cap needs to be reviewed every two to three years to ensure its effectiveness.

Credit Assessments and Affordability

Under the Charter, lenders made a commitment to:

- Tell customers that a payday or short-term loan should be used for short-term financial needs and is not appropriate for long-term borrowing or if the customer is in financial difficulties
- Check whether the loan is suitable for the customer, taking account of their circumstances
- Make sure that all loan applications go through a sound, proper and appropriate affordability assessment and credit vetting which includes the customer's ability to repay the loan in a sustainable manner.

Loans of any length and type need to take account of a customer's personal financial situation to ensure that they are not overstretched by the commitment they are making. The Financial Conduct Authority has strong guidance regarding the offer of loans and their affordability for customers in the mortgage industry[18] and have made proposals that all consumer credit must show a level of mandatory affordability check on borrowers.

Despite this need for forbearance on lending many payday loan companies advertise the speed and ease at which a loan can be accessed. Two prominent payday lenders Citizens Advice Scotland visited online advertise approval for a loan within 30 minutes and others guarantee payment being made into a borrower's bank account within 5 minutes of approval[19].

Loans being available within such a quick period of application sets payday companies at a competitive advantage to other types of credit such as bank loans, credit cards and credit unions who often have a lengthier application process involving credit history checks and affordability assessments. This speed of access can further fuel the present bias of some consumers who see this quick loan as an answer to their short term debt problems or to help them meet a very immediate need such as household bills or rent. Often borrowers seen at bureaux have no way of paying off these debts at the due payment date and can then find themselves taking more credit to cover the original loan.

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18 FSA – May 2011 – Forbearance and Impairment Provisions - Mortgages

19 30 minute approval: Pounds to Pocket, poundstopocket.co.uk, Accessed: 20th August 2013 & 5 minute payment: Wonga, wonga.com, Accessed: 20th August 2013

Our evidence suggests that despite the commitment from lenders that they would ensure that clients are not given credit where they cannot afford repayments; many clients on low incomes are able to take out loans despite having little ability to repay them. In our 2013 survey just 31% of clients said their personal finances were checked to ensure they could afford to pay back the loan, and only 18% had any documentation checked prior to the loan being agreed. We are aware, having Citizens Advice Scotland are concerned that loans are still easy to get for many consumers who rely on low incomes or sometimes benefit payments only.

Only 3 out of 10 payday loan borrowers reported having their finances checked before getting their loan

A West of Scotland CAB reports of a client on long term sick leave from work. His only source of income is basic rate Employment Support Allowance (ESA) and he believes the reason for his debt is his reduced income. He has five payday loans with five different companies amounting to over £4000. The CAB advised that one of the payday lenders' websites advertised the process of getting a loan as fast and free and highlights how soon you can get money into your account.

A North of Scotland CAB reports of a client who came in for advice on how to deal with his loan escalation. It started off with one loan but he then took out another one to help pay the first one as they were very easy to get. This has all escalated until he now has six loans totalling over £2500. This does not include any interest which may have been incurred on each loan. The client wishes to pay these but does not have the finances to do so as he is on a low income.

A West of Scotland CAB reports of a client who is a full time law student at a local university. He has a number of debts including payday loans. The client has taken out four payday loans using them to pay off his previous debt when he was desperate for money. The client says it was an easy option on-line. As the client is taking Law at university he does not wish to consider bankruptcy as this would have an effect on his course of study and future career.

VERDICT

Payday loans can work in the desired effect for those with a steady guaranteed income that means they can fulfil the repayment date agreed. All too often however loans are being given out in short timescales without proper due diligence on the checking of affordability. As the Office of Fair Trading found in its Payday Loan market investigation:

'…the vast majority of those we inspected were not able to provide us with satisfactory proof that they had applied such assessments to their customers in practice. We also have serious concerns about whether lenders are gathering enough information to make a reliable assessment of affordability, or properly checking the information they do get.'

Citizens Advice Bureaux across Scotland are still seeing clients on low and unsecure incomes being given loans with no ability to pay them back over a year after a commitment from lenders not to,

Recommendation

Payday lenders should introduce a real-time credit recording or data sharing system to ensure multiple loans cannot be taken out before credit reports are updated. This would allow the lender to have full information regarding a borrower's financial position and make a reasonable determination on their ability to repay the loan. We are aware that there is a recent development in this by some lenders and we will be monitoring to see how it works. We are concerned that some smaller lenders will not be part of the larger information sharing group which may undermine its effectiveness.

In order to encourage both prudent saving and to increase knowledge of cheaper alternatives to payday loans we recommend that the Scottish Government should roll out a Credit Union in Schools initiative. This would see all high-school first year pupils receiving a starting deposit in a local Credit Union account. This would not only build in knowledge for students for their future but also to increase the knowledge of parents. Credit Unions typically charge 200 times less than a payday lender for small amounts of credit and encourage prudent money management.

Continuous Payment Authority

Under the Charter, lenders assured they would:

- Explain clearly how continuous payment authority works and how payments will be deducted from the customer's bank account
- Make clear to the customer their rights to cancel a continuous payment authority before they take out a loan
- Always notify the customer by email, text or phone at least 3 days before attempting to recover payment using continuous payment authority on the due date
- Send the customer further regular reminders when a continuous payment authority is being used and where they have not made repayment on the due date
- Repay any amounts the lender has taken via the continuous payment authority where this has caused the customer to get into financial difficulty, and they have told the lender about this

Continuous payment authority is a regular payment method that is set up within a customer bank account that allows for a company to recover an amount of money. This method is favoured by many payday lenders who get customers to agree to the use of a continuous payment authority when they take out a loan. This means that come the repayment date, the customer does not need to physically send payment to the company as the money is automatically taken from their account.

While this method can make it easier to repay for consumers who have the money readily available to repay, there have been concerns regarding those who are struggling to make ends meet. This led to payday lenders introducing the above rules as part of their charter to ensure that those in financial difficulty don't fall foul of being left with no money to live on due to a continuous payment authority collection.

Evidence from a variety of sources is showing that continuous payment authorities are still being used unfairly. Citizens Advice England and Wales found that nine out of ten complaints regarding CPAs could have grounds for a formal investigation by the Financial Ombudsman Service[20]. Many complaints seen by Scottish bureaux cite the customer was unaware of the power of a CPA over their bank account nor did they receive warning about the taking of a payment.

While some payday lenders have stated that they will refund collected money to the consumer if they are in difficulty many reports to bureaux show that lenders are often unwilling to help clients in difficulty. Indeed the Office of Fair Trading's investigation found companies who provided staff with call scripts which stated, 'your problem is not our problem'.

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20 Citizens Advice consumer service figures, Citizens Advice, September 2013.

An East of Scotland CAB reports of a client with a payday loan. The lender recovers the balance in full each month from his bank account via a Continuous Payment Authority which leaves him short of money to live on so he then borrows the same amount again until the next month and this rolling credit has been continuing for months increasing his debt each time due to the interest charged. At no time has the lender checked his income or tried to determine why he borrows the same amount each month. He tried to cancel the CPA at his bank and they told him it was not possible.

A West of Scotland CAB reports of a client who had multiple payday loan debts that had spiralled out of control due to CPA taking all her money each month. After seeking advice the client cancelled the CPA with her bank and attempted to set up a repayment plan. The client then received a letter stating that she had committed fraud and that they had managed to recover money from her account regardless of the cancelled CPA.

An East of Scotland CAB reports of a client who had no bank account and therefore had her maternity grant paid to her partner's account. As soon as the £500 grant was paid, a payday lender that her partner owed money to removed over £400 of the grant. Despite the client contacting the lender to explain and ask to be refunded she was told that they could not help as their system was down at the time. The response was the same on three subsequent calls.

An East of Scotland CAB reports of a client who had no money for food for herself or her child as a payday CPA had taken all of her support payment from her account. This had left the client with the prospect of no money to buy food for the next two weeks. When the CAB attempted to cancel the CPA with the clients bank to ensure future deductions weren't taken they were told this was not possible.

VERDICT IMPROVEMENT NEEDED

Clients across Scotland are still being left with little or no money to live on after a CPA has been collected from their account. While we welcome moves that some lenders have made to refund these payments in the case of financial difficulty there is still a substantial gap in this being provided. Often clients do not have any success in getting such a refund until they seek the help of their local bureau and Citizens Advice Scotland are concerned that it appears that unless presented with an advocate some lenders will not keep to their promises.

Recommendation

The FCA should introduce their proposed rules regarding limiting the number of attempts that can be made on a bank account using a CPA. If introduced this would mean a substantial decrease in the number of cases seen at CAB where clients are left with no money to live on. In addition to this we would recommend that the FCA automatically fine lenders, with compensation for the borrower, for each and every breach of this rule to act as an immediate deterrent to misusing CPAs.

In addition there has been feedback from CAB that some frontline bank staff are not allowing customers to cancel an active CPA despite their right to do so. Therefore we call on all banks to ensure that their staff are aware of a customer's right to cancel and provide training on how they can help their customers do so.

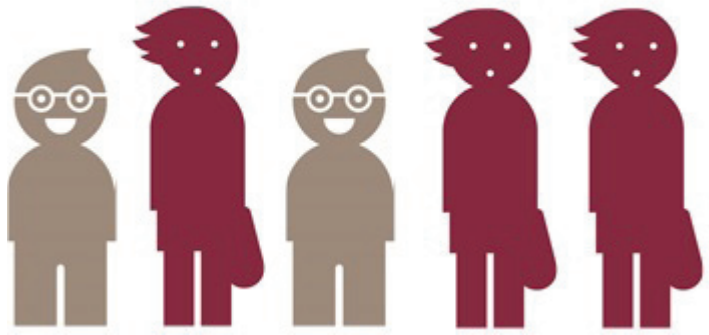
Support for borrowers in financial difficulty

Under the Charter, lenders said they would:

- Deal with the customer sympathetically and positively and do what they can to help the customer manage what they owe.
- Freeze interest and charges if the customer makes repayments under a reasonable repayment plan or after a maximum of 60 days or non-payment
- Not contact the customer or take any action to recover the money owed for 30 days, if the customer is making a genuine effort to agree a repayment plan using either a debt-counselling organisation or a 'self-approach'
- Tell the customer about free and independent debt-counselling organisations
- Not allow the customer to borrow further from the lender until all outstanding loans with the lender have been repaid
- Deal with people whom the customer has asked to act on their behalf, with the customer's authority, unless those people behave unreasonably

One of the biggest concerns in 2012 when the charter was adopted was the apparent unwillingness on the part of lenders to help customers who have fallen into financial difficulties. The commitments made above were some of the strongest in the charter and showed a real willingness on the part of the companies to stamp out aggressive behaviour towards clients in dire financial circumstances.

Despite these assurances a year ago, many clients seen by bureaux are still not being dealt with in a sympathetic manner when attempting to negotiate new terms or a repayment plan with a lender. Citizens Advice Scotland's survey of payday loan customers in 2013I found that 59% of customers felt they had not been dealt with sympathetically. Offering further credit instead of financial help and overly aggressive harassment in debt collection practices are common complaints from clients. Anecdotal evidence from bureaux also highlights that clients can self-disconnect from mobile phones to escape the call and text based harassment often making it difficult for the bureau to contact them when necessary.



3 out of 5 customers surveyed felt they were not dealt with sympathetically by their payday lender

Bureaux have also provided evidence of where aggressive debt collection has threatened the use of bailiffs to recover debts from borrowers, despite not being a legal method in Scotland. Indeed the Office of Fair Trading did acknowledge in their investigation that the majority of complaints they had received about payday loan activity regarded the use of aggressive debt collection practicesiii.

An East of Scotland CAB reports of a client who after failing to meet his payday loan repayment commitment had been facing harassment from the lender. This escalated to the stage where they had contacted his work and spoke to colleagues about his outstanding debt with the company. Despite asking to set up a repayment schedule that was affordable the collection agent was demanding full payment.

A West of Scotland CAB reports of a client who despite support from an adviser to negotiate a repayment plan for an outstanding payday loan was refused this option by the lender. This client had other substantial priority debts such as housing and energy but the lender would not negotiate.

An East of Scotland CAB reports of a client who worked for a high street payday lender who was concerned about the instructions they had been given by their employer. Previously they had been told to point out all of the charges and terms contained within the agreement. The company would appear to have now changed its policy and has asked staff to purposely not point out to the customer the conditions of contract. .

A West of Scotland CAB reports of a client who even after attempting to pay an outstanding payday loan debt of £200 was threatened with bailiffs to recover items worth £1400. Despite agreeing to make payment her bank advised against sending payment as the company account no longer held a licence.

VERDICT FAIL

Evidence from clients seeking help continues to show that despite making the headline commitment to end harassment and support those customers in financial difficulty some are not following through with this commitment. Debt collection that does not keep to the standards that are expected by the Office of Fair Trading is a primary concern especially those practices that threaten the use of bailiffs despite this being inapplicable in Scotland.

Recommendations

We support the moves already made in this area by the FCA including compulsory information that needs to be supplied to customers about free debt advice and warnings on all adverts.

Data protection and marketing

Under the Charter, lenders agreed that they would:

- Follow all relevant privacy and data protection law
- Not reveal information they hold about the customer (unless they have the customer's permission to do so, they have to by law, they have a public duty to do so, or there is good reason for the lender to do so)
- Not specifically target their marketing on groups of people known to be financially vulnerable or credit-impaired

This agreement was made due to concerns from consumers that their data, unknown to them, was being shared amongst a number of payday lenders resulting in them being targeted by third parties. Not only did this happen in the realm of marketing but there are also cases where it would appear that financial details have been shared amongst lending companies and brokers.

A year after the commitment and calls to the Citizens Advice consumer service still show a number of complaints regarding sharing of bank or card details which results in charges for services not used by consumers. Clients often report frequent harassment from sales staff of payday lenders, not only from those they have borrowed from before but third parties showing personal detail sharing may be rife in parts of the industry.

The Citizens Advice consumer service reports of a client who applied for a loan online and after receiving it had five companies remove money from their account. These varied in size but totalled £270.

The Citizens Advice consumer service reports of a client who received 18 text messages in one evening from a multitude of payday lending companies. The client had attempted to contact the company and informed them he was not interested in taking out any finance with them but still continued to receive messages.

The Citizens Advice consumer service reports of a client who despite writing multiple times to a lender informing them that he no longer wished to receive any contact from them was nevertheless receiving daily calls offering loans. The client admitted this was causing him stress because he struggled to pay back the loan he had with them previously.

The Citizens Advice consumer service reports of a client who had taken out a loan with a major online lender. After a couple of weeks the client started to receive phone calls from a number of different lending companies of which he had no previous relationship. The client reported he was getting called eight times a day including weekends.

One client reported receiving 18 text messages in one evening from payday lending companies

VERDICT IMPROVEMENT NEEDED

Consumers are reporting to the Citizens Advice consumer service that their details are often passed between different brokerage firms and lenders. There does not appear to be a pattern in our evidence of which companies customers are worst affected by personal data sharing and it appears to be widespread across the industry. The most concerning cases involve financial details being shared with deductions being made to a customer's bank account for services they have not even agreed to.

Recommendations

Given the strong impact of payday lending marketing, especially on vulnerable consumers, we have called for a public commitment that this year's Commonwealth Games in Glasgow will not feature payday loan sponsorship or advertising. Advertising encourages the use of these products and an event that is being billed as of major significance and national pride would be an inappropriate place for high cost lending marketing. Lenders have already used football as a way to engage new customers and this is successful due to peoples' close relationship with their football club. We would not like to see the same replicated in this national event and we welcome that the Scottish Government have made it public that they too would not support a high interest lender sponsoring the games.

Conclusion

Citizens Advice Scotland realise the need for consumers to access short-term low amounts of credit. However, the current leaders in this market, payday lenders, are causing consumers to experience financial difficulties as a result of poor practices and policies. Payday loans are a substantial amount of workload for the bureaux network in Scotland. Indeed, Scottish CAB currently help with 105 cases every week regarding payday loans. The key issues that are raised in this report include:

- **Rollovers** – clients are building up substantial amounts of debt over an extremely short period of time. This has presented a new dimension to debt management where before, personal loans and credit cards would take time to build high debt levels, payday loans are booming in months.
- **Affordability** – many lenders are still not carrying out proper due diligence and affordability checks before they lend to consumers or roll over a debt. Our survey found that only three out of ten borrowers felt their finances had been checked properly before being given a loan.
- **Continuous payment authority** – despite a commitment in 2012 to cut out the worst practices, clients are still reporting that their bank accounts are being emptied and leaving them with no money to pay for essentials such as food and energy. Action is needed to stop people being left with nothing to live on due to the use of a CPA on their account.
- **Data protection** – payday loan customers have reported to us that they are often bombarded by communications from other companies, including debt management firms, after taking out a loan. CAS is concerned that personal data is being shared extensively within the sector without the consumer's permission.

The 2012 Good Practice Customer Charter has failed to address key concerns presented by Citizens Advice Scotland in our last report Payday loans: Your Rights, Their Responsibilities. We will continue to share our evidence with the relevant regulators and government to enact change for consumers that are being unfairly treated by the industry.

Recommendation Summary

In addition to our research finding we have made a number of recommendations which are summarised below:

- Scottish Government to support our recommendation that all high-school first years receive a starting deposit in a Credit Union account to encourage prudent saving and membership of their local Credit Union.
- Ban access to payday loan websites on council computers in libraries and community centres.
- An independent total cost of credit investigation gathering economic experts to consider how much is too much with regard to how much is charged per £1 borrowed and with the ability to make recommendations to the UK Government based on powers in the Financial Services Act.
- Payday lenders introduce a real-time credit recording or data sharing system to ensure multiple loans cannot be taken out from lenders before credit reports are updated.
- Payday lenders continue to engage with CAS after attending our round-table in January 2014.
- High street banks provide training for all staff on the rights of consumers to cancel a CPA on their account.
- The FCA to automatically fine Payday Lenders, with compensation for the borrower, for each and every breach of FCA consumer credit rules on Continuous Payment Authorities.
- The FCA to limit the number of attempts a payday lender can use a CPA on a customer's bank account to two attempts per loan.
- The FCA to limit the number of times a payday loan can be 'rolled over' to once.
- A public commitment to no payday loan advertising at the Commonwealth Games.

Citizens Advice Scotland and its member bureaux form Scotland's largest independent advice network. CAB advice services are delivered using service points throughout Scotland, from the islands to city centres.

The CAB Service aims:

to ensure that individuals do not suffer through lack of knowledge of their rights and responsibilities, or of the services available to them, or through an inability to express their need effectively

and equally

to exercise a responsible influence on the development of social policies and services, both locally and nationally.

The CAB Service is independent and provides free, confidential and impartial advice to everybody regardless of age, disability, gender, race, religion and belief and sexual orientation.

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