

Citizens Advice Scotland

Scottish Association of Citizens Advice Bureaux
www.cas.org.uk



A response to the OFT Annual consultation 2012/13

Matt Lancashire, Social Policy Officer
February 2012

- 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.
- Citizens advice bureaux in Scotland helped clients with over 560,000 new issues in 2010/11 – more than 1,500 new issues for every day of the year. Over 230,000 clients brought new issues to a bureau over the year.
- In 2010/11, Scottish bureaux achieved a financial gain of almost £126million for clients based on funding of £16.3million (including £7.6million in core funding). This means that CAB clients were better off by £8 for each £1 of funding given to bureaux.

Summary

Citizens advice bureaux in Scotland dealt with around 120,000 new issues in 2010/11 that relate to the markets that the OFT has responsibility for ensuring work responsibly and effectively for consumers. That's around 320 new issues for every day of the year. This includes:

- 81,657 new consumer debt issues
- 17,514 new financial products and services issues
- 13,975 new consumer goods and services issues
- 5,935 new travel and transport issues

The key priority areas for citizens advice bureau clients relate mainly to the work of the OFT in the consumer credit and financial products markets. This includes:

- Overdraft charges
- Debt management companies
- Credit brokers
- High cost credit
- Payday loans
- Debt collection
- Access to banking facilities

Question 1: Do you agree with the priority themes we have identified in chapters 5 – 8?

The key priority areas for citizens advice bureau clients relate mainly to the work of the OFT in the consumer credit and financial products markets. These are areas of work which we would like to see the OFT continue as priorities:

- **Protecting vulnerable consumers and consumers challenged by the adverse economic climate**
- **Pricing used as a barrier to fair choice**

These are broad headings under which the OFT carries out work on a number of different markets and issues for consumers.

The following are areas of concern for bureau clients that are currently part of the OFT work programme which we would like to see continued:

- Overdraft charges
- Debt management companies
- Credit brokers
- High cost credit
- Payday loans
- Debt collection
- Access to banking facilities

Overdraft charges

Following the Supreme Court ruling that the OFT could not rule on the fairness of overdraft charges levied by high street banks under the Unfair Terms in Consumer Contracts Regulations 1999 (UTCCRs), the OFT has made some progress in persuading banks to reduce their unarranged overdraft charges. This progress is welcome, but more work is needed to ensure that these charges are fair.

The effects of the recession have pushed many bureau clients into their overdraft facility. These are not consumers whose spending behaviour has led them into their overdraft; rather, they are people struggling with redundancy, with wage cuts, and increasing bills. For these consumers, multiple overdraft charges make a difficult situation even worse. Despite voluntary changes to banking practices, overdraft charges continue to adversely affect millions of people across the UK¹.

The OFT have responsibility for making the personal current account work for consumers. However, continuing high overdraft charges mean that the personal current account isn't working for many different consumers². There is very little incentive for the UK banks to make any significant changes to an overdraft system that is so profitable to them. The OFT has a responsibility to work with Government to ensure that unfair bank charges end and the personal current account market works for all consumers and not exclude certain groups of consumers.

Debt management companies

The OFT has been active in the last year in taking action against debt management companies who fail to meet the terms of their licence, including a crack down on 129 debt management companies in 2010. This is welcome and an approach we would like to see continued in the next financial year.

The economic downturn has led to an increase in the number of people with debt problems, some of whom initially turn to debt management companies for assistance. While many of these companies provide professional support, others are taking advantage of people who are at their most vulnerable. In these cases, the person ends up worse off financially for having been advised by the debt management company. It is essential that the OFT continues to monitor this market to ensure that vulnerable customers are treated fairly. Poor practice from debt management companies that clients have experienced include:

- Companies who use names and logos that imply that they are a government agency or charity
- Misleading information about the fees that are charged for their services, including false claims of free advice
- Exaggerated claims about the services that the company can provide for a client, including misleading claims about debts and charges that can be written off

¹ OFT; 2008, A study on the UK Personal Bank Account

² CAS; 2009. Fully Charged - Evidence on Overdraft Charges from Scottish Citizens Advice Bureaux

- Failure to give information on the full range of debt remedy solutions available to the client
- Failure to offer the debt solution that is in the best interests of the client and instead proposing that which is most profitable to them. This can leave a client in a worse financial position than they were in prior to receiving advice

Citizens advice bureaux have seen an increase in companies who masquerade as a debt management or claims handling company in order to profit from people at their most vulnerable. This practice includes cold calling potential customers with promises that they can write off their debt or help them reclaim 'illegal' charges. After paying for the service, the customer will then find that the contact details that they were given are false, and they have little chance of recovering their money.

Credit brokers

The OFT have very recently warned credit brokers to improve the way they deal with customers' upfront fees or risk losing their licences. Poor practice from credit brokers is an issue that is perceived to be on the increase, with evidence from bureaux suggesting that credit brokerage firms are targeting people unable to get mainstream credit. Problems with these companies include:

- Firms are cold calling consumers by telephone or text and offering to help them find an unsecured loan
- Firms are taking up front fees for a credit broking service, often by persuading consumers to give them their banking details. Consumers are then offered little or no service in return and are unable to get their money back

Citizens Advice (England and Wales) and Citizens Advice Scotland published a joint evidence report on credit brokers that we hope will feed into the OFT's work on this sector³.

High cost credit

Citizens Advice Scotland (CAS) welcomed the OFT's High Cost Credit Review that was published last year. The Review outlines the high cost that low income consumers must pay for access to often essential credit. The Review also shows that access to this form of credit should not be closed off to consumers, but rather that improvements must be made to the market to ensure that access, affordability, and consumer understanding are all improved.

However, we consider the Review's scope to be too narrow. While many creditors on the fringes of the consumer credit market offer credit at extremely high APRs, it must also be noted that interest and charges levied by more mainstream lenders can make their credit just as expensive. In many cases, the latter situation can be worse for a client. For example, a client that takes out high cost credit with a high APR will know the cost that this entails. However, it is unlikely that a client will fully understand the implications of going into arrears on what initially appeared to be relatively low cost credit. High cost credit therefore potentially includes all lenders.

³ Citizen Advice and Citizen Advice Scotland; 2011. Cashing In

Payday Loans

Citizens Advice Scotland remain concerned about levels of debt and an increase in those turning to payday lenders. In 2010/11 debt cases rose in bureaux across Scotland by 6% and now make up 26% of all issues.

Products supplied in the payday loan market are typically used by people on low incomes who cannot access mainstream credit and who borrow small sums for short periods. The OFT estimates that the annual size of the high cost credit sector is up to £35 billion.

The OFT has stated in their review into high-cost credit that 10.4% of payday customers have incomes of less than £11,100 per annum, and 49.1% of all customers have incomes of less than £19,200 per year. This review also found that many consumers are unaware of the options open to them and advice is limited; consumers tend to focus on how quickly and easily they can access credit and the affordability of the repayments rather than the total cost compared to other products, and there have been few significant entrants to these markets recently, competition on price is mostly absent in some high-cost credit markets, and some of the incumbent suppliers appear to be earning high profits. We would encourage the OFT to continue the review the practices of payday lenders.

Debt collection

We welcome the OFT's continued work on debt collection guidance and compliance. Whilst debt collection standards have improved in recent years, citizens advice bureaux still see cases of harassment and poor practice, particular in relation to companies failing to recognise the Scottish context, so it is essential that the OFT continues to monitor compliance with the debt collection guidance.

Question 2: Are there any other areas that you think we should look at over 2012-13?

There are a number of areas on which the OFT has worked in the past, yet they are still key areas of concern for bureau clients. These areas particularly concern bank accounts, including overdraft charges and access to bank accounts.

Access to banking facilities

The OFT has undertaken thorough analysis of how the personal current account market is performing for consumers. However, a significant minority of consumers are unable to access this market. Despite the relative success of basic bank accounts, some consumers remain outside of the financial mainstream. Research undertaken by CAS⁴ showed that two thirds of those without a bank account had tried and failed to open an account. The reasons for this failure include poor or no credit history, failure to provide sufficient ID, previous debt with the bank, and undischarged bankruptcy. The OFT could consider monitoring the performance of the bank account market in financially including those furthest from the mainstream.

⁴ CAS; 2010. Banking on the Basics

Consumer Credit Directive

The Consumer Credit Directive came into force in February 2011. The Directive strengthens many consumer rights, and includes:

- A duty on the lender to provide standardised explanations about the credit on offer to the consumer.
- An obligation on the lender to check creditworthiness before offering or increasing credit.
- Further requirements concerning information from credit reference databases if they form part of a lender's refusal for credit.
- A right for consumers to withdraw from a credit agreement within 14 days without giving any reason.
- Requirements to inform consumers when debts under a consumer credit agreement are sold on.
- Requirements on credit intermediaries to disclose fees and links to creditors.
- A right to make partial early repayments of loans.

The OFT should play a role in ensuring that consumers are aware of and understand the new rights they have been afforded as a result of the Directive. The OFT should also play a role in monitoring whether the Directive is being adhered to by lenders in the consumer credit market.

Question 3: Are there any activities or functions which you consider we should deprioritise or cease, to ensure the best return on our resources?

We do not have a view on which activities or functions of the OFT should cease, however it is imperative that the OFT continues to make protecting vulnerable consumers a priority. In a recession, the number of vulnerable consumers increases while the high risk activities that target these consumers appear also to increase. It is therefore essential that protecting vulnerable consumers remains a priority.