



HM TREASURY

BIS

Department for Business
Innovation & Skills

**MANAGING BORROWING AND
DEALING WITH DEBT**

Call for evidence in support
of the Consumer Credit and
Personal Insolvency Review

REVIEW OF CONSUMER CREDIT AND PERSONAL INSOLVENCY

A CALL FOR EVIDENCE

FOREWORD

The Coalition Agreement set out the Government's commitment to the reform of financial services regulation, to curbing unsustainable lending and to the strengthening of consumer protections, particularly for the most vulnerable. This Call for Evidence seeks views on how to implement these commitments in respect of consumer credit and personal insolvency.

There has been extensive recent regulation of the consumer credit market in the UK. Much of this regulation came too late to help consumers or lenders avoid the worst of the credit crisis, but important new protections are now coming into effect driven in large part by European reform and by the OFT's new Irresponsible Lending Guidance.

The Government is considering whether a fundamental weakness in regulation is caused by the split in responsibility for consumer finance between the OFT, which regulates consumer credit, and the FSA, which regulates most consumer financial services activity including, for example, mortgages. The creation of the new consumer protection and markets authority (CPMA) presents an opportunity to consider the manner in which consumer credit is regulated and a consultation will be issued in due course on whether to transfer responsibility for consumer credit from the OFT to the CPMA.

Whilst the scale of recent changes to credit regulation and the radical nature of possible changes to the regulatory architecture could be used as arguments for no change in the regulation of credit, we believe that there are some credit issues that need urgent attention. For example, the extent to which some forms of credit tempt people unnecessarily into debt or make it particularly difficult for individuals to manage their finances.

Since taking office, we have also noted calls from interested parties for a review of the personal insolvency regime. People face a confusing array of debt remedies and no guarantee of consistent treatment. This is particularly troubling given the number of individuals and families who ended the last decade in very real difficulty with their finances. Our review will therefore take an end-to-end view of consumer credit and personal insolvency; from the decision to borrow through to how we support people in difficulty and help them to resolve their debts. We want to make sure that the regime ensures that those who can pay do pay and, where they cannot, they get appropriate debt relief. Both debtors and their creditors should benefit if the system can be made to work better.

The Coalition is a liberal coalition. People need to be free to borrow if that is what they decide is in their best interest. However, well-informed, empowered consumers are central to our vision of a healthier credit market in future. We need a new approach to regulation, one which focuses on encouraging consumers and lenders to take responsible decisions rather than dictating the precise terms of every credit agreement in every circumstance. Empowered consumers can make more informed decisions on whether to borrow and who to borrow from.

We will regulate where necessary, but our strong and shared preference is to promote more responsible corporate and consumer behaviour through greater transparency and competition and by harnessing the insights from behavioural economics. This is the best route, we believe, to ensuring people can get fair deals when they borrow and the right help when they get into difficulty with their debts.

Mark Hoban and Edward Davey

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1. INTRODUCTION

1. Consumer credit markets and the regulation underpinning them should be competitive and function in a way which supports responsible decision-making. The Government's wider ambition is to encourage people to act in ways which are financially healthy, including saving and protecting their families from financial shocks. However, borrowing will remain the appropriate course of action for many people in many circumstances. Empowered consumers and responsible lenders are at the heart of our vision for a healthy credit market, one in which when consumers do borrow they get fair deals on credit cards, loans and other products on the market and when things go wrong they have access to the help they need, including appropriate debt management solutions.

2. We are developing an action plan for credit and personal insolvency with a view to securing the following outcomes:

1. Consumers and lenders making better borrowing and lending decisions:

- **consumers are well informed, financially capable, and are empowered to impose market discipline on lenders and to drive a new culture of responsible borrowing (this is a necessary counterpoint to the diversity of supply for competition to work effectively)**
- **both parties are clear what the consequences will be when things go wrong**
- **lenders understand their customers (based on better data used to limit consumer exposure), and market appropriate services responsibly and at competitive prices**
- **the regulatory regime encourages useful transparency and responsible decisions**

2. Consumers and lenders increasingly managing existing borrowing in the consumer's long term interest:

- **consumers are more proactive in managing their borrowing and are better prepared to deal with life's uncertainties**
- **there are no barriers to switching and consumers are enabled and encouraged to do so where appropriate**
- **lenders are customer focused and freed of unnecessary regulatory burdens**

- *the regulatory regime encourages consumers to manage their level of borrowing over time and limits the scope for people to be unfairly penalised for events beyond their control*

3. People in difficulty should be able to access the most appropriate debt remedy:

- *people are signposted to appropriate debt advice when they need it*
- *creditors have viable court-based remedies for the recovery and enforcement of unpaid debt*
- *the regulatory regime provides information and support which enable individuals to seek an early debt remedy which is right for them and results in a fair outcome for creditors*

3. Achieving these objectives depends upon an appropriate mix of regulation and enforcement on the one hand and positive behaviour by lenders and consumers on the other. We want to review the way consumer credit is currently operating to ensure that regulation, enforcement, lender and consumer behaviour is resulting in the right outcomes. The review will be carried out over the next year and this call for evidence, which forms an important part of it, gives interested parties two months in which to respond. In the light of the evidence we receive we would expect to consult on specific proposals next year.

Purpose and scope of the call for evidence

4. To help us consider how the existing consumer credit and personal insolvency regimes could be improved in line with the aims set out above, we are seeking both qualitative and quantitative evidence to help understand what the key issues facing lenders and consumers are and what the solutions might be. We will need to concentrate on priority issues, so respondents will need to think carefully about priorities and provide evidence accordingly.

5. Different questions arise at different points in the credit and debt cycle, ranging from questions about the information provided to consumers before they enter into credit agreements to questions about the way in which debt problems are handled. It therefore makes sense to look at each stage of the credit cycle separately (while recognizing that they are interconnected) and we have structured this call for evidence around the following three headings:

- **The decision to borrow** -- in effect covering those matters which are relevant to consumers at the point at which they are entering into, or deciding whether to enter into, credit commitments;
- **The life of a loan** -- covering issues which can arise during the life of a loan -- for example the way in which financial statements are provided or how agreements can be modified during their lifetime -- and

- **What happens when things go wrong?** -- focusing on debt remedies and personal insolvency.

6. Evidence may be provided on how existing rules should be modified or new rules introduced; but it could equally support alternative action, such as voluntary action on the part of lenders and other creditors or the removal of existing rules if they impede the efficient functioning of the market or are otherwise ineffective. Because we want to encourage competition and reduce costs leading to better value for consumers able to access a wider range of products, we want to revisit existing consumer credit rules to ensure that they work efficiently and to identify rules which may be redundant or otherwise not fit for purpose. This includes changes brought in by the Consumer Credit Act 2006 and respondents may wish to consider how well those changes are working.

7. The Government set out a number of proposals for action in its coalition agreement. Among other things, this review of credit and personal insolvency provides the opportunity to consider how best these can be followed through and the call for evidence specifically addresses them. We have therefore included questions on the possibility of capping interest rates on credit and store cards, providing a cooling off period for store card agreements, tackling unfair bank charges and providing information about credit card usage in electronic format. We have also included specific questions on the provision of high cost credit as it is the Government's intention to respond to the Office of Fair Trading's report on this sector in the context of its review.

2. YOUR VIEWS

8. We welcome views from all interested parties, including consumers, enforcement bodies, the banking and other financial service industries and organisations that rely on consumer credit. A list of those organisations and individuals to which the call for evidence has been sent direct is at Annex D, but it has also been published on BIS's website¹. Please tell us if you know of other parties who would be interested in receiving this consultation and feel free to forward it to them.

How to respond

9. When responding please state whether you are responding as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were coordinated.

10. Information provided in response to this Call for Evidence, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2004 (FOIA) and the Data Protection Act 1998 (DPA)). If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

11. A list of all the questions can be found at the end of this document in Annexe C. We would like to encourage all responses to be completed using this pro-forma. This will help us analyse the evidence you provide more quickly.

12. Responses must be submitted by Friday 10 December and can be submitted by letter, fax or email to:

Peter Lovitt
Department for Business, Innovation and Skills
Consumer and Competition Policy
1 Victoria Street
London SW1H 0ET
peter.lovitt@bis.gsi.gov.uk

¹ www.bis.gov.uk/publications

An editable Word version of the response form can be found at www.bis.gov.uk/Consultations/consumer-credit

3. DECISION TO BORROW

13. Over the last ten years, individuals have relied heavily on credit to fund their purchases. Household indebtedness has increased steadily over this period, with the debt-to-income ratio rising from 95% in 2000 to 145% today. Access to credit has also increased – two thirds of households have an active credit commitment (secured or unsecured)², up from just under half in 2002³ – while credit use has become more intensive, with the average household having 4 credit commitments, double the level recorded in 2002.

14. However, at the same time recent levels of saving have been low. By 2008, the household saving ratio had fallen to the lowest level since the 1950s and household debt had risen to 100 per cent of GDP⁴. 27% of households have no savings and low-income households saved even less, with 41% of these households having no savings⁵.

15. Greater saving and more responsible borrowing will both help households smooth their expenditures and ensure a sustainable and balanced economic recovery. The Government is therefore considering ways to help people improve their financial planning. Policies to achieve this will be measured against the coalition Government's three principles of freedom, fairness and responsibility, whilst providing lasting affordability and measurable effectiveness.

16. We want consumers and lenders to make better borrowing and lending decisions. To this end we want to focus on four key objectives:

- ***ensuring that consumers are well informed, financially capable, and are empowered to impose market discipline on lenders and to drive a new culture of responsible borrowing***
- ***ensuring that both parties are clear what the consequences will be when things go wrong***
- ***ensuring that lenders understand their customers (based on better data used to limit consumer exposure), and market appropriate services responsibly and at competitive prices***
- ***ensuring that the regulatory regime encourages useful transparency and responsible decisions***

Financial capability

17. The Government wants to help people take responsibility for their finances and ensure that they have access to free and impartial advice and information on how to manage and plan their finances. A better informed consumer base

² Data for 2006-8 (source: Wealth and Assets Survey, Office of National Statistics)

³ Source: 'Over-indebtedness in Britain', Kempson (2002)

⁴ HM Treasury Budget 2010 - http://www.hm-treasury.gov.uk/d/junebudget_complete.pdf

⁵ DWP Family Resource Survey 2007

more willing to shop around and switch providers will also drive the competitive pressure on providers and lead to a better market for consumers.

18. We have asked the Consumer Financial Education Body (CFEB) to introduce a national financial advice service to be rolled out in spring 2011. This service will include an annual financial health check to help people to review their financial affairs on a regular basis, plan ahead and ensure that they hold appropriate products. It will provide people with a personalised action list or "prescription" to lead them in the direction of healthy financial behaviour.

Transparency

19. In order to empower consumers to make the right decisions on credit and drive competition in the market for credit, it is important that they have good quality, clear information on the products available to them. We believe that the information requirements that will be introduced in UK law following the Consumer Credit Directive from 1 February 2011 will be generally effective. In addition, the Office of Fair Trading has also recently issued guidance on irresponsible lending, which includes the assessment of affordability and the provision of explanations and other information to consumers.⁶

20. However, there are some issues which go beyond the advertising, pre-contractual and contractual information requirements in existing UK law and in the European Directive. We wish to consider the case for action in these areas.

Advertising

21. Current regulations on advertising for credit products focus on information which must be provided in credit advertisements -- particularly about the cost of credit. However these rules do not address other, "softer" issues around the way in which credit is advertised -- for example, the extent to which credit is sometimes portrayed as promoting well-being or in a way which makes light of the commitment taken on by borrowers (although lenders are subject to the 2008 Consumer Protection Regulations, which, among other things, prohibit misleading advertising). This contrasts with the position for other financial services: the Financial Services Authority's (FSA) financial promotions regime proactively looks at the extent to which advertising and other forms of promotion are clear, accurate and balanced. This includes the extent to which images might be misleading or a promotion as a whole may be unbalanced in a way which would be unfair to consumers. The Advertising Standards Authority (ASA) can already take action against advertisements which do not meet its requirements and has done so where it has deemed that an advertisement has treated credit too lightheartedly (for example, the ASA

⁶ <http://www.offt.gov.uk/news-and-updates/press/2010/35-10>, published on 31 March 2010

recently ruled that such an advertisement was misleading both in terms of its implications and the presentation of key information⁷).

Q.1 Should the Government extend regulations on advertising for credit products beyond the cost of credit?

Q.2 Should consumer credit advertising rules be aligned with those which the FSA applies to secured credit?

Impulse buying -- store cards

22. During their investigation of the store card market in 2006, the Competition Commission (CC) found that many consumers signed up for store cards on impulse at the suggestion of the sales assistant, with few planning to do so in advance. In most cases, the store card was not taken out for the purpose of obtaining credit, but because of the retail incentive offered on the day. The CC's qualitative survey found that almost all consumers had taken out the store card without considering what the implications might be and many did not consider the information explaining interest rates. As a result, the CC imposed a series of remedies, such as improved provision of information on statements (including an APR warning).

23. We recognize that many consumers pay off the balance on their store card within the interest-free period. However, those consumers who do not pay off their balances face a higher interest rate than on other, similar products (26% APR average up to nearly as high as 30% on store cards as compared with 18.2% average on credit cards and between 10.7% and 13.1% on unsecured loans.

24. We believe that consumers benefit from having time to consider whether a particular loan is right for them. This lack of time is a particular issue for store cards, which is why the coalition agreement proposes that the Government introduce a cooling off period for this form of credit. This would prohibit consumers from using a store card for the first seven days after they have signed up for the card.

Q.3 What would be the impact of a 7-day cooling off period for store cards on (a) consumer behaviour and (b) store card providers?

High Cost Credit

25. Concern has been expressed that some consumers unable to access mainstream credit have to pay disproportionately high charges to alternative

⁷ http://www.asa.org.uk/Complaints-and-ASA-action/Adjudications/2010/7/Wonga.-d.com-Ltd/TF_ADJ_48744.aspx

credit providers. In their recent review of the high cost credit market⁸ The Office of Fair Trading (OFT) found that users of high-cost credit are in the main difficult to characterise, as they include a variety of different demographic groups which vary by product, and each product has a variety of different types of user. However, they did conclude that high-cost credit customers tend not to be aware of the range of options open to them and do not compare suppliers or products. They tend to value the speed which the funds can be accessed without considering the long term cost of the credit.

26. The OFT's review found that on the whole the market is working reasonably well for consumers with suppliers meeting a demand for their products and filling a gap in the market not served by mainstream lenders. However, the review also identified areas of concern, including issues around competition and credit supply and made a number of specific recommendations on which we are seeking your views as part of this call for evidence.

27. In the context of our wider Review we will be looking to respond fully to the OFT's review on high cost credit.

Q.4 We would in particular welcome your views on the following OFT recommendations:

- that the Government works with lenders to provide information on high-cost credit loans to consumers through price comparison websites.
- that the Government explores whether there is scope under the European Consumer Credit Directive for a requirement that high-cost credit suppliers must include 'wealth warning' statements on advertisements for high-cost credit
- that the Government works with credit reference agencies to explore ways in which payday lenders and rent-to-buy suppliers could provide suitable information to credit reference agencies about the payment performance of their customers, in turn allowing those with good payment records to use mainstream lenders more easily in the future
- that the OFT collects essential information on the high-cost Credit sector, such as the volume, value and pricing of credit, levels of repeat business and defaults among customers as needed. This will help OFT understand the effect of its recommendations and provide better evidence for future policy making
- that the relevant trade associations for home credit suppliers, payday lenders and pawnbrokers establish a code or codes of practice covering best practice policy including on: complaints and advice to customers, policies on rolling over of loans, limits for amounts to lend to consumers, avoiding misleading consumers through advertisements and ensuring that consumers are aware of the ultimate owners of brand names

⁸ <http://www.offt.gov.uk/news-and-updates/press/2009/78-09>

Data sharing

28. Earlier this year, BIS facilitated the setting up of an industry and cross Whitehall working group on credit data sharing. The aim of the group was to understand how existing Government and private sector data is being used to encourage responsible lending and to identify what more could be done through voluntary arrangements.

29. The groups identified that there might be benefit in improving data sharing in the following areas: income tax, council tax arrears, student loans, utilities, electoral register and non-consensual data.

Q.5 Is there a need for greater sharing of data between the consumer credit industry and other bodies, including utility companies, local authorities and HMRC?

Q.6 It has also been suggested that there needs to be greater transparency around credit scoring and the impact of credit scores on charges. Do you agree?

Better regulation

30. The Government wants to promote competition across the economy, including in the consumer credit sector, and therefore wants to avoid unnecessary burdens on business.

31. Stakeholders have raised a number of additional issues which they believe should be considered including deregulatory proposals (listed at Annex A) and we would be grateful for your views and evidence on these.

Q.7 Which of these stakeholder proposals do you consider would bring benefits to industry or consumers and what would these be? Please provide evidence in support of your view.

4. LIFE OF THE LOAN

32. There is evidence to suggest that individuals widely differ in the extent to which they keep track of their finances. Recent survey evidence indicates that more than a quarter of credit and store card users do not know the outstanding balance on their card, while almost two thirds (62%) of current account customers who say they have overdrafts do not know by how much they are overdrawn.⁹ Further, a significant minority of people have no idea of their current account balance to within £500; almost half the population maintain no record of withdrawals from their current account and a minority of people completely ignore bank statements¹⁰.

33. There is also considerable inertia in the market for consumer credit – once consumers have taken on a credit line, they tend to stick with it. A recent OFT survey showed that switching levels for credit cards are relatively low, with around 30% of credit card holders switching provider over a 5 year period compared to higher switching levels for car insurance (61%) and mortgages (38%)¹¹.

34. We want to see consumers and lenders increasingly managing existing borrowing in the consumer's long term interest. To this end we want to focus on four key objectives:

- ***encouraging consumers to be more proactive in managing their borrowing and to be better prepared to deal with life's uncertainties***
- ***ensuring that there are no barriers to switching and consumers are enabled and encouraged to do so where appropriate***
- ***ensuring that lenders are customer focused and freed of unnecessary regulatory burdens***
- ***ensuring that the regulatory regime encourages consumers to manage their level of borrowing over time and limits the scope for people to be unfairly penalised for events beyond their control***

35. The extent to which consumers effectively manage their loan agreements is vital in avoiding arrears or financial difficulty. It will also help them to reduce the overall cost of borrowing even where they do not run into financial difficulty. If consumers are subject to significant changes to interest rates or to terms and conditions, it makes it more difficult for them to manage their finances. Similarly, it will be more difficult to manage overall levels of borrowing if the credit to which they have access is particularly costly. The availability to switch to an alternative credit product (perhaps using the ever

⁹ The proportion is slightly less for other products but still significant (e.g. 14% for personal loans); source: YouGov DebtTrack (May 2010)

¹⁰ FSA and University of Bristol, 'Financial Capability in the UK: 'Establishing a Baseline' (2006)

¹¹ http://www.of.gov.uk/shared_of/reports/financial_products/OFT1005.pdf

increasing number of comparison tables) can help consumers better manage the cost of borrowing.

36. In order to address the problems of inertia identified above, the Coalition Agreement has made use of the latest thinking from behavioural economics by committing to oblige credit card companies to provide account information to consumers in a uniform electronic format. This will enable consumers to compare their current credit card against other cards to check which one provides the best value based on their pattern of usage. The Government is already working with lenders— through the UK Cards Association (UKCA) – and the Consumer Finance Education Body (CFEB) to agree the content and format of this annual statement of credit card usage and associated costs. The Government is keen to see this introduced as soon as possible. Lenders have estimated that such statements will be available to consumers by December 2011. If this voluntary approach delivers an acceptable outcome, it will not be necessary to legislate to enable consumers to benefit from an annual statement.

Bank charges

37. The Coalition is concerned that some charges levied by banks -- particularly for unauthorised overdrafts -- may make it difficult for consumers to keep control of their finances. There are several possible reasons for this:

- the charges may not be clear to the consumer at the time of opening their bank account;
- the range of charges applicable may be complicated;
- consumers may incur these charges without meaning to and may not immediately become aware that they have incurred them; and
- unauthorised overdraft charges are often high compared to the cost of other forms of borrowing.

38. The Government welcomes the ongoing work of the OFT¹² and lenders to address concerns about unarranged overdraft charges. However, we remain concerned that voluntary, market-driven solutions alone may not deliver sufficient improvements. We want to see charges that are fair, clear and proportionate for consumers and banks and this is why we committed to including measures to end unfair bank and financial transaction charges in our Coalition Agreement.

39. In considering how to deal with this issue, we need to bear in mind how banks charge for current accounts more generally in the UK. At the moment, current accounts are often free as long as they remain in credit. This system is partly due to the fact that banks are able to make money by imposing other charges, including on unauthorised overdrafts. In considering the best interests of consumers and banks we need to look at the possible impact of any options on the system as a whole to ensure that it delivers the fairest and most sustainable outcome possible for all customers and for lenders.

¹² http://www.of.gov.uk/shared_of/reports/financial_products/OFT1275.pdf

40. The response to this Call for Evidence will help inform our consideration of whether there is a need for immediate Government action in this area above and beyond ongoing voluntary initiatives. It will also help to shape the United Kingdom's negotiation of and response to the Consumer Rights Directive¹³.

Questions

Q.8 Do you believe that the current voluntary, market-driven initiatives to address concerns about unarranged overdraft charges are delivering, or will deliver, sufficient improvements for consumers? If not, what would the wider implications of limiting bank charges be? Please provide evidence in support of your views.

Interest rate cap on credit and store cards

41. Interest rates on credit and store cards have been rising in recent years, despite the record low base rate of interest, as shown in the table below. Since Q3 2008 the base rate has fallen by 4.5%,¹⁴ but the average rate on credit cards has risen by 1% and is now 18.7% APR.¹⁵ There are also increasing numbers of credit cards being marketed with very high interest rates of up to 60%. Store cards are averaging 26% APR, with some being as high as 29.9%,¹⁶ and they come with the added problem that they are often offered with the enticement of an initial discount by retail staff who may have little experience or knowledge of financial products. This can lead consumers to make poor decisions, signing up to agreements without giving full consideration to the potential drawbacks.

Table: Interest Rates for Unsecured Loans

Year	Personal Loan*	Overdraft	Credit Cards	Store Cards	Bank of England Base Rate
2005	7.79	15.76	15.98	24.70	4.65
2006	7.20	16.40	16.31	24.48	4.65
2007	7.47	17.70	15.43	24.12	5.52
2008	8.70	17.79	15.36	23.88	4.63
2009	10.14	18.77	15.89	25.10**	0.63
2010	10.76	18.93	16.55	25.60**	0.5

Source: Bank of England, Datamonitor and Moneyfacts. Interest rates for each year represent the average monthly figures

* Interest rate for £10,000 personal loans

** These represent interest rates at the beginning of the year rather than the monthly average

¹³ <http://www.bis.gov.uk/policies/consumer-issues/eu-consumer-policy/ec-policy-review>

¹⁴ Bank of England, <http://www.bankofengland.co.uk/mfsd/iadb/Repo.asp>

¹⁵ <http://www.bankofengland.co.uk/statistics/bankstats/current/tabg1.4.xls>

¹⁶ Datamonitor, 'Talking Shop: Overview of the UK Retail Finance Market' (April 2010)

42. In addition, consumers are limited in their ability to shop around for the best deals on credit and store cards by the relative complexity of the products, and the difficulty of comparing them in a like-for-like way.

43. A separate problem for some consumers is that the variable interest rates which apply to credit and store cards mean that the cost of existing borrowing can increase suddenly and in a way which the borrower cannot control. Risk-based repricing means that in some cases costs will rise because a consumer is in difficulty and therefore precisely when he can least afford it.

44. Earlier this year credit and store card companies signed up to a voluntary agreement to give consumers five new rights:

- **right to repay** (highest interest rate paid off first, minimum payments on new accounts cover at least interest, fees and charges plus 1% of principal)
- **right to control** (choose not to receive credit limit increases and ask for credit limit to be reduced, easier automated repayments)
- **right to reject** (more time to reject interest rate increases and pay off card, easier to reject credit limit increases)
- **right to information** (more information on minimum payments, interest rate increases and credit limit increases)
- **right to compare** (annual electronic statement)

45. The bulk of these new rights will be in place by the end of this year. The annual statement should be in place by the end of 2011.

46. In the coalition agreement, the Government committed itself to giving powers to regulators to define and ban excessive interest rates for credit and store cards. This reflects concern about the fact that interest rates on credit and store cards have risen while base rates have fallen and that very high rates are often targeted at those individuals whose credit rating is impaired.

47. On the other hand, the OFT review of high cost credit identified a number of difficulties with applying interest rate caps to the high cost credit sector -- in particular, it concluded that interest rate caps could reduce competition and make it more difficult for higher risk consumers to access credit at all.

48. Your responses on this issue will help the Coalition Government decide how to take forward its commitment.

Q.9 Should interest rates on credit and store cards be subject to a cap? If so, should this apply to all interest rates or only those which apply to existing borrowing?

Q.10 Are there any alternative measures which would reduce the scope for consumers to be exposed to higher interest rates on credit and store cards?

Home Credit

49. The Competition Commission's 2006 inquiry into the home credit market found that customers were generally satisfied with the service they received. However, they also found that price competition between home credit lenders was weak and that there were significant barriers to large scale entry or expansion in the market. The Commission also found that while the provision of home collected credit involved high costs compared with other forms of credit, the levels of profitability being earned by providers were higher than necessary to cover those costs. As a result, customers were paying higher prices than could be expected in a competitive market

50. As a result of their findings the Competition Commission introduced a number of remedies to improve the market for consumers. These included a requirement for lenders to share data on customers' payment records, lenders to publish prices on a website¹⁷ where customers can compare the prices of loans on offer and a requirement that those customers who repay their loans early receive a fair rebate.

51. The home credit market has been particularly affected by the financial crisis. Many lenders' business models relied heavily on wholesale funding and supply constraints have resulted in the collapse of several major participants in the market.

52. The OFT recently reviewed the home credit market as part of its high cost credit review. The review found that the market was highly concentrated, with one large supplier, and that competition was limited and not very effective.

Q.11 How effective have the Competition Commission's remedies been in improving prices for home credit customers? Is further action needed to ensure that consumers of home credit get a fair deal?

¹⁷ <http://www.lenderscompared.org.uk/>

5. WHAT HAPPENS WHEN THINGS GO WRONG?

53. Some consumers will inevitably find themselves unable to meet their financial commitments. It is important to ensure that when this happens processes are in place to help those individuals. We also need to ensure that creditors have access to effective, proportionate and viable action for recovery and that people in difficulty are able to access the most appropriate debt remedy. To this end we want to:

- ***ensure that people are signposted to appropriate debt advice when they need it***
- ***ensure that creditors have viable court-based remedies for the recovery and enforcement of unpaid debt***
- ***ensure that the regulatory regime provides information and support which enable individuals to seek an early debt remedy which is right for them and which results in a fair outcome for creditors***

Court-based remedies for creditors

54. The civil courts are unable to guarantee recovery of a judgment debt and merely act as a channel to facilitate resolution of a dispute rather than taking an active role in pursuing a case, with payments being made to the creditor rather than the courts. Therefore, once a judgment has been registered with the court, the creditor must decide how they wish to have the judgment enforced. The court can only act on the information supplied by the creditor and will not enforce the judgment unless the creditor asks it to.

55. The civil courts offer several different enforcement methods that a judgment creditor may apply for to recover money or property owed pursuant to a court order or judgment. These processes are individually designed to address different financial circumstances; and collectively they aim to make it as difficult as possible for judgment debtors to avoid their responsibilities. There is, however, no guarantee that a judgment debtor will have the money or goods to pay the amount owed, or that they will cooperate with the court processes.

56. The creditor can apply to the court for any of the following:

- A “warrant of execution” gives court bailiffs the authority to take goods owned by a debtor from their home or business.
- An “attachment of earnings order” is sent to a debtor’s employer and gives the authority for an amount to be deducted from the debtor’s earnings and sent to a court collection office to be paid to the creditor.
- A “third party debt order” freezes a debtor’s assets and is usually made to stop the debtor taking money out of their bank account, building society, stocks and shares etc. Such an order may also be sent to anyone who owes the debtor money.

- A “charging order” prevents the debtor from selling their assets such as property, land or shares without paying what is owed to the creditor.

57. In the event that creditors are uncertain about the most effective means by which the judgment can be enforced they can apply to the court for an order to obtain information. This is not a form of enforcement; it is a way of obtaining information from the debtor. These oral examinations have proven to be effective in establishing details of assets which may be enforced against.

Q.12 What role should the court play in the debt recovery process? Should it be restricted to genuine points of law and disputes between the parties?

Q.13 Are court-based enforcement mechanisms fit for purpose? If not how would you like to see them improved or added to?

Orders for Sale

58. The Ministry of Justice’s recent consultation on “Whether to impose a minimum threshold on orders for sale in Consumer Credit Act 1974 debts; and if so at what level it should be set”¹⁸ ended on 30 April 2010. The Coalition remains concerned that the threat of an order for sale may be used other than as a last resort to recover unpaid debts and proposes introducing a threshold of £25,000. The response to this Call for Evidence will help inform our consideration of whether there is a need for legislation in this area above and beyond the recent regulatory initiatives introduced by OFT in its Irresponsible Lending Guidance¹⁹.

Q.14 What impact would a £25,000 threshold have on your ability to enforce unpaid debts by means of 1) charging orders and 2) orders for sale? What alternative action might you take?

Debt advice and collective solutions for the debtor

59. When consumers do run into financial difficulty, debt advice will play an important role in helping them manage their debt. The Government has reviewed the support it provides to debt advice agencies to inform the forthcoming spending review. There are separate questions about the nature and quality of debt advice. These are integral to debt management and are therefore covered below.

60. It is also important that individuals facing financial difficulty should seek advice early rather than wait until a problem is compounded.

¹⁸ <http://www.justice.gov.uk/consultations/docs/orders-for-sale.pdf>

¹⁹ http://www.ofc.gov.uk/shared_ofc/business_leaflets/general/ofc1107.pdf

Q.15 How can debtors be encouraged to seek early support to help manage their debt problems?

61. It is clear from responses to recent consultations that there is an appetite for some change in our insolvency framework. While this part of the review will be looking at the over-arching debt management framework and whether it remains fit for purpose, work to take forward proposals from previous consultations will continue.

62. Responses to the consultation on the revised county court administration order scheme²⁰ demonstrated a desire to support debtors in financial difficulty with appropriate advice and options.

63. With regard to the consultation on debt management schemes²¹ a summary of responses has been published alongside this review. The response acknowledges that while there are issues with the current system it is not appropriate to look at DMPs in isolation, but rather that there should be a more holistic approach looking at the regime as a whole.

64. It was clear from the responses to the consultation on debtor petition reform and early discharge²² that interested parties see benefits in removing the court from the bankruptcy process in circumstances where it is unnecessary for a court to make a decision. The Insolvency Service will be exploring with the Ministry of Justice and HM Courts Service how best to realise those benefits to produce a bankruptcy system that is suitably accessible and affordable, as well as providing an efficient service for all those who need to use it. Proposals will be published in due course.

65. In March 2010 the Insolvency Service issued a consultation paper to invite views on whether and, if so how, the DRO eligibility criteria should be changed to address the issue of those who would otherwise be suitable for a DRO but for the fact that they have a future pension right²³. Ministers will be announcing decisions on this issue shortly.

66. There are a variety of formal and informal collective procedures that a debtor may consider when in debt difficulty. Detail on each of these solutions is available at Annexe B to this document. The choice between debt solutions is a potentially important factor in determining the level of debt write-off, with levels ranging from a DRO with 100% write off to some debt management plans (DMPs) which provide for payment in full of capital amounts owing. In

²⁰ Administration and enforcement restriction orders consultation:
<http://www.justice.gov.uk/docs/cp0108.pdf>

²¹ Debt management schemes: consultation:
<http://www.justice.gov.uk/consultations/docs/debt-management-schemes.pdf>

²² Reforming debtor petition and early discharge from bankruptcy:
http://www.insolvency.gov.uk/insolvencyprofessionandlegislation/con_doc_register/Debtor%20Petition%20Reform%20Final%20Nov%2009.pdf

²³ Debt relief orders and pensions:
<http://www.parliament.uk/deposits/depositedpapers/2010/DEP2010-0831.pdf>

practice it tends to be the debtor, with some input from his/her creditors who decides which option to take.

Main issues

67. We want a debt management system that ensures those who can pay, do pay; which allows those who cannot pay, access to debt relief and which is sufficiently flexible where circumstances change. We would like to see empowered debtors accessing good quality advice and support to ensure that the most appropriate solution is found for their difficulties. To this end, we believe that there are three broad issues that should be addressed by this review and on which we are therefore seeking input and evidence from stakeholders.

68. The first of these is whether the current range of collective debt solutions is fit for purpose and whether a debtor is likely to feel enabled to choose the 'right' solutions. Secondly, if it is felt the regime is not fit for purpose, what improvements are required to the way in which people access and progress through these solutions to make it so? Finally, views are sought on whether there is a consistent approach across the various solutions, such that both debtor and creditor feel they have been fairly treated at the conclusion of the process.

69. These three issues have been brought to our attention by interested parties, who have identified a number of areas of concern. We are told that despite the range of solutions on offer, there remains a group of people for whom there is no effective debt solution. Our intention would be to ensure that there are options available for all those in financial difficulty, encouraging debtors to take early action when their debts start to mount. Creditors should feel that debtors entering into a debt solution will be subject to a fair assessment of their ability to repay.

70. The current range of solutions has developed over the years in response to changing economic factors, and we are interested to know whether this has caused problems for those working with the system.

71. We appreciate that debtors circumstances change, and that as they do, the most appropriate solution for their needs may also change. Circumstances may improve, for example an unemployed debtor may find paid employment which increases the prospect of significant payments being made towards their debts. Alternatively, a debtor may lose their job or over-time opportunities. We would like to know whether the current regime allows sufficient flexibility for debtors changing circumstances, and if not how such flexibility can be incorporated.

72. The choice of debt solution has a major impact on individual debtors and creditors and, given current large levels of debt write-off, on the credit market as a whole. Differing solutions may offer different rates of return for creditors, and different implications for debtors – for example the impact on a debtor's credit file. We have been told that debtors may enter the wrong procedure for

a variety of reasons including, for example, their own preferences, poor quality advice, difficulty in assessing the 'best' solution and creditor attitudes. We need to understand how widespread these concerns are, what evidence there is to support the concerns and what ideas there are for ensuring that the debtor is guided to the most appropriate solution for their circumstances.

73. We are aware that there is some inconsistency of treatment of debtors between the different insolvency solutions. This is true of the initial assessment of the debtors financial circumstances and how his/her surplus income is calculated; the way in which the debtor's financial affairs and conduct are examined; whether any enforcement action is taken; and the credit status of the debtor once they exit their chosen solution. We are interested in views on whether we should be striving for greater consistency in these areas or whether the differences are justified.

74. Stakeholders from all sides of the industry have been calling recently for a review of the personal insolvency regime, for a combination of the reasons set out above. What we need to know is just what impact the current system may have on the debtor, creditors and the wider economy, and to gather evidence on such impact so that we can form a view on the action required. It is important to remember that a properly operating insolvency regime carries great benefit for both debtors and creditors. Such a regime must be funded by those who benefit from its operation, and must not form a burden on the public purse.

Range of debt solutions

75. Under this issue we are looking for information and evidence to establish whether the solutions available strike the right balance between the need of the debtor for debt relief and the needs of his/her creditors for repayment and whether a debtor is able – either on his/her own or with independent debt advice – to opt for the right procedure.

Q.16 Do the current debt relief options strike the right balance between the needs of the debtor and the rights of creditors?

Q.17 What problems are encountered with the current range of debt solutions and how could they be improved to ensure all debtors have an option and that the choices are clear?

Q.18 Is there sufficient flexibility within the current range of debt solutions to allow for debtors changing circumstances?

Q.19 Do the current options allow and encourage those who are in a position to repay their debts to do so? If not, why not, and how might any incentives be improved?

76. We are told that people experiencing financial difficulty fall into two main camps – those who are experiencing some form of ‘temporary’ income shock (for example a losing a job) and those who are experiencing more ‘structural’, long term financial problems. We are also told that debtors will often move from one insolvency procedure to another, in part as a reaction to changing circumstances but also possibly due to the poor quality of advice that they initially received.

Q.20 Do the current options allow a person to deal effectively with a temporary income ‘shock’ and if not, what is needed?

Q.21 Is some form of moratorium on creditor action required to a) allow a short time period for a debtor to seek and act on advice from a qualified adviser and b) allow a more extended period for a debtor suffering from a temporary difficulty to recover and start making repayments once more. If so, how might such an arrangement work?

Access and progress through debt solutions

77. Currently, there are in excess of a million consumers each year seeking advice on how best to deal with the financial difficulties they face. They find they have a range of possible solutions on offer and a number of different agencies prepared to offer advice. Despite the wide range of options available, or perhaps because of it, we are told that debtors and those advising them can find it difficult to decide on the best route to follow in dealing with their debts. We need to understand how debtors currently access the range of solutions on offer and the problems they encounter in doing so. In addition, the recently published OFT report on compliance with its debt management guidance²⁴, highlighted “widespread non-compliance” by debt advice and debt management licensees, and noted in particular that “front-line advisors working for debt management companies generally lack sufficient competence and are providing consumers with poor advice based on inadequate information.”

Q.22 How does a person find out where to go for debt advice and assistance? What are the advantages and disadvantages of each method?

Q.23 How does a person know that he/she has been given the ‘right’ advice?

Q.24 What evidence do you have to suggest that debtors end up in the ‘wrong’ solution and what is the scale and impact –for the debtor, the creditors, the economy?

²⁴ http://www.ofc.gov.uk/shared_ofc/business_leaflets/credit_licences/OFT1274.pdf

Q.25

Is it clear in all circumstances what the 'right' solution should be?

Q.26

How often do debtors move from one remedy to another and could the costs be reduced in any way?

Consistency of approach

78. We are looking for information, evidence and views on whether there is (and if not, whether there ought to be) a consistent approach to the way in which debtors access a debt remedy; to what happens to them while they are going through that process; and finally to their treatment and rehabilitation back into the economic world.

79. Debtors enter into collective procedures through a variety of routes, each of which has its own procedure for gathering financial information, assessing the options and recommending a course of action. Access to a DRO for example is via an approved intermediary, to bankruptcy is via the courts, to IVAs is via an insolvency practitioner and to a DMP is via a number of different routes.

Q.27 Should there be more consistency on how a debtor's income, assets and expenditure are calculated and treated in different procedures?

80. A debtor choosing (or being put into) bankruptcy will have their financial affairs and conduct investigated and any misconduct or recklessness may result in a bankruptcy restrictions order against him/her. Such a level of investigation does not occur in any other procedure.

Q.28 Should any changes be made to improve the consistency of investigation and enforcement action in relation to debtors entering insolvency procedures?

Q.29

What outcomes should such investigations be looking to achieve – for example, should they just relate to restrictions on future conduct or should they also impact on discharge from liabilities?

81. During the procedure and as the debtor exits from it there will be further impact on them, depending on which route they have chosen. For example, bankruptcy and DROs carry with them automatic restrictions for the period

that they are in force whereas other procedures do not. The amount of publicity attached to different procedures will vary, and the attitude of financial institutions may also vary depending on which route is chosen.

Q.30 Are the practical effects of entering the different debt remedies satisfactory e.g. future access to financial services? Should this be influenced by the outcome of any investigation/enforcement?

82. A number of stakeholders have suggested the introduction of a 'gatekeeper' to carry out an initial assessment of a debtor's financial situation and to direct him/her into the appropriate solution.

Q.31 Is there a role for a "gatekeeper" to provide a common entry point to all formal insolvency procedures? If so, what would be the benefits and costs, who would perform such a function and how would the system operate?

6. ANNEXES

Annex A: stakeholders' suggestions for improvements to consumer credit and insolvency regimes

Decision to borrow

- replace any remaining areas of automatic unenforceability of credit agreements with unenforceability without a court order or another appropriate penalty
- rationalise the requirements around signing of agreements so that more agreements can be concluded on line
- rationalise/repeal section 18 of the Consumer Credit Act (CCA) setting out the requirements which apply to multiple agreements
- align all provisions concerning the cancellation of agreements with those which apply to the new right of withdrawal introduced by the Consumer Credit Directive
- repeal or rationalise the CCA provisions which apply to modifying agreements
- rationalise the requirement to provide statements for people who have moved house or entered into an IVA
- require consumers to show genuine disadvantage before a breach of the CCA can make an agreement unenforceable
- review the need for sections 99 and 100 of the CCA concerning Voluntary Terminations
- review the provisions of section 185 CCA 1974 concerning information to be provided to joint account holders

What happens when things go wrong

- requirement for banks to identify and act quickly on snowballing penalty charges/unmanageable debt
- provision of emergency borrowing facilities with limited duration and capped interest rates
- greater public monitoring and review of credit licence holders
- enhanced power to suspend a consumer credit licence
- establish a "warning order" for credit licensing along the lines of estate agents
- enhanced access to criminal records
- accelerated appeals process
- provide for restorative justice
- limit ability of creditors to add excessive interest and charges to bad debt
- ban on orders for sale except in exceptional circumstances and for all unsecured debts below £25,000
- minimum debt thresholds for charging orders (at least £25,000)
- regulate private bailiffs effectively
- ban repossession of goods secured by sale
- rationalise role of Financial Ombudsman Service (FOS)

- tighten credit licensing requirements to set a higher standard for debt management providers

Annex B: options for dealing with creditors

If a person has debt problems there are various options to help him/her make arrangements involving creditors. Set out below are the various options, with a brief explanation of what is involved.

Negotiated Agreement with Creditors

The debtor will contact his/her creditors and negotiate an agreement to repay all or some of the debts owed. Such an agreement may involve either or both payments from income or payment of lumps sums. Creditors may be prepared to agree to write off part of what is owed, but they are under no obligation to do this, or indeed to stop charging interest on the debt owed.

Debt reorganisation or consolidation loan

A debtor applies to a lender for a loan to reorganise or clear his/her debts. Such loans will often be advertised as 'consolidation loans' and will, essentially, swap some or all of a person's creditors for just one creditor. A consolidation loan will only help if it is used to pay some or all of a debtor's existing debts and the repayments on it are no more than those that are already being made.

Debt management plan

A DMP is an arrangement between a debtor and his/her creditors that is managed by a debt management company. The debts are repaid at a rate that the debtor can afford and the stress is taken out of the situation for the debtor because the company deal directly with the creditors. The individual and company should both be licensed and regulated under consumer credit law. Some may charge the debtor a fee and some may charge the creditors. A DMP is likely to last for at least 5 years, depending on how much a debtor owes and what level of repayments they are able to make. It is likely that the plan will be reviewed each year to check whether the debtor's circumstances have changed. A DMP is reliant on the voluntary participation of creditors.

The consultation paper *'Debt Management Schemes – delivering effective and balanced solutions for debtors and creditors'* was published on 18 September 2009. It invited comments on the way that debtors deal with their indebtedness and on whether there was a need for further government intervention (above the licensing and supervisory role undertaken by Office of Fair Trading) in the operation of debt management plans, or whether the taking of other steps to make sure that debtors are protected and creditors' interests are safeguarded would be more appropriate. The key finding of the consultation was that it is not possible to look at debt management in isolation. There are a number of possible remedies available to those who are currently struggling to deal with their debt, both statutory and voluntary, with significant overlap between each of these. In view of this, a number of those responding to the consultation called for simplification of the regulatory regime underpinned by robust empirical research to fully understand the needs of

debtors and creditors, as well as the impacts and consequences of proposed actions/measures.

County Court Administration Order

A debtor can ask the court to make an administration order if he/she owes no more than £5,000 to at least 2 creditors and a county court judgment has been entered against him/her by one of these creditors that cannot be satisfied in full. Under the order, the debtor will then make payments from their income to the court, which shares them amongst the creditors, in proportion to the amounts owed to them. If a debtor fails to keep up with the payments, the court may make an attachment of earnings order against him/her.

A consultation paper entitled *Administration and Enforcement Restriction Orders: setting the parameters* was published on 16 January 2008 that set out the areas where secondary legislation would be used to establish the constraints and limits required for the effective operation of both the revised AO scheme and the ERO (see later in annex). The key proposed changes included a new statutory limit of, initially, £15,000; removal of the need for there to be a judgment debt; a minimum level of surplus income to be available to make repayments; a maximum time limit for an order of 5 years.

Individual Voluntary Arrangements

A debtor will go to an insolvency practitioner who will prepare, negotiate and administer an arrangement for him/her to voluntarily repay his/her creditors. This may be done using surplus income, a lump sum or other assets that the debtor owns. A proposal for a voluntary arrangement will only be approved where enough creditors vote in favour, but once agreed all those who were eligible to vote are bound by the proposal. If your circumstances change and the insolvency practitioner cannot get creditors to accept amended terms, then your IVA is likely to fail, which may result in your bankruptcy.

In various consultations and working group papers from 2005 through to 2007 the Insolvency Service consulted on the adoption of a Simplified Individual Voluntary Arrangement process, which was broadly accepted by stakeholders. The intention was to allow insolvency practitioners to use a fast track process for getting approval for IVA proposals put forward by debtors. The simplified procedures included doing away with the necessity of holding creditor meetings. Creditors would no longer be able to ask for modifications to the proposals put forward by the debtor, but would have to accept or reject them by a majority vote. The simplified IVA procedure would have been available for individuals with debts of up to £75k. The plan was to introduce this proposal via a Legislative Reform Order. However, for various reasons, it was not possible to do this but instead the Insolvency Service worked with industry stakeholders to draw up the IVA Protocol, the successful operation of which has resulted in many of the desired improvements in the IVA marketplace being implemented without the need for legislative change.

Bankruptcy

Bankruptcy is a formal court procedure which can be started by the debtor or one of his/her creditors owed at least £750. The debtor's assets (with certain exceptions, for example personal possessions, tools of trade) are sold to help pay creditors and if the debtor has surplus income then payments will be made into an income payments agreement (or order, if court involvement in necessary) for 3 years. Bankruptcy usually lasts for 1 year and once a person has been freed (discharged) from his/her bankruptcy, he/she is released from his/her debts (with certain exceptions).

Debt Relief Orders

The Tribunals, Courts and Enforcement Act 2007 introduced a new form of debt relief called the debt relief order. It is intended to give debt relief to people in England and Wales who owe relatively little money, have little or no disposable income and no assets to repay what they owe, and cannot afford to make themselves bankrupt. Unlike other forms of debt relief, DROs involve a partnership between The Insolvency Service and the professional debt advice sector. Advisers from the debt advice sector act as 'approved intermediaries' and will help a debtor apply to the Service for a DRO. DROs do not suit everyone. A debtor is only eligible for a DRO if:

- His/her debts do not exceed £15,000
- His/her assets do not exceed £300; and
- His/her surplus income is not more than £50 per month after paying essential personal and household spending.

**Annex C: CONSUMER CREDIT AND PERSONAL INSOLVENCY REVIEW
– Call For Evidence Response Form.**

Responses to the call for evidence should be received by Friday 10 December 2010.

Due to the tight timetable involved, **responses received after this date may not be considered as part of the review process.**

Completed copies of the response form should be returned:

Via email to: peter.lovitt@bis.gsi.gov.uk

Via post to:

Peter Lovitt
Department for Business, Innovation and Skills
Consumer and Competition Policy
1 Victoria Street
London SW1H 0ET

An electronic version of this form can be requested from Peter Lovitt at the above email address

It may be possible to make other versions of this document available on request in Braille, other languages, large fonts and other format.

Name:

Organisation (if applicable):

Address:

Email:

Please tick the box from the following list of options that best describes you:

<input type="checkbox"/>	Business
<input type="checkbox"/>	Representative Organisation
<input type="checkbox"/>	Trade Union
<input type="checkbox"/>	Interest Group
<input type="checkbox"/>	Local Government
<input type="checkbox"/>	Central Government
<input type="checkbox"/>	Other (e.g. consultant or private individual)

Q1. Should the Government extend regulations on advertising for credit products beyond the cost of credit?

Comment

Evidence

Q2. Should consumer credit advertising rules be aligned with those which the FSA applies to secured credit?

Comment

Evidence

Q3. What would be the impact of a 7-day cooling off period for store cards on (a) consumer behaviour and (b) lenders?

Comment

a) consumer behaviour

Evidence

Comment

(b) lenders

Evidence

Q4. We would welcome your in views on the following OFT recommendations from the review of high cost credit:

- a. *that the Government works with lenders to provide information on high-cost credit loans to consumers through price comparison websites.*

Comment

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Evidence

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- b. *that the Government explores whether there is scope under the European Consumer Credit Directive for a requirement that high-cost credit suppliers must include 'wealth warning' statements on advertisements for high-cost credit*

Comment

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Evidence

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- c. *that the Government works with credit reference agencies to explore ways in which payday lenders and rent-to-buy suppliers could provide suitable information to credit reference agencies about the payment performance of their customers, in turn allowing those with good payment records to use mainstream lenders more easily in the future*

Comment

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Evidence

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- d. *that the OFT collects essential information on the high-cost Credit sector, such as the volume, value and pricing of credit, levels of repeat business and defaults among customers as needed. This will help OFT understand the effect of its recommendations and provide better evidence for future policy making*

Comment

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Evidence

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- e. *that the relevant trade associations for home credit suppliers, payday lenders and pawnbrokers establish a code or codes of practice covering best practice policy including on: complaints and advice to customers, policies on rolling over of loans, limits for amounts to lend to consumers, avoiding misleading consumers through advertisements and ensuring that consumers are aware of the ultimate owners of brand names*

Comment

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Evidence

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Q5. Is there a need for greater sharing of data between the consumer credit industry and other bodies, including utility companies, local authorities and HMRC?

Comment

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Evidence

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Q6. It has also been suggested that there needs to be greater transparency around credit scoring and the impact of credit scores on charges. Do you agree?

Comment

Evidence

Q7. Which of the stakeholder proposals at Annex A do you consider would bring benefits to industry or consumers and what would these be? Please provide evidence in support of your view.

Comment

Evidence

Q8. Do you believe that the current voluntary, market-driven initiatives to address concerns about unarranged overdraft charges are delivering, or will deliver, sufficient improvements for consumers? If not, what would the wider implications of limiting bank charges be? Please provide evidence in support of your views.

Comment

Evidence

Q9. Should interest rates on credit and store cards be subject to a cap? If so, should this apply to all interest rates or only those which apply to existing borrowing?

Comment

Evidence

Q10. Are there any alternative measures which would reduce the scope for consumers to be exposed to higher interest rates on credit and store cards?

Comment

Evidence

Q11. How effective have the Competition Commission's remedies been at improving prices for home credit customers? Is further action needed to ensure that consumers of home credit get a fair deal?

Comment

Evidence

Q12. What role should the court play in the debt recovery process? Should it be restricted to genuine points of law and disputes between the parties?

Comment

Evidence

Q13. Are court-based enforcement mechanisms fit for purpose? If not how would you like to see them improved or added to?

Comment

Evidence

Q14. What impact would a £25,000 threshold have on your ability to enforce unpaid debts by means of 1) charging orders and 2) orders for sale? What alternative action might you take?

Comment

1) Charging orders

Evidence

Comment

2) Orders for sale

Evidence

Q15. How can debtors be encouraged to seek early support to help manage their debt problems?

Comment

Evidence

Q16. Do the current debt relief options strike the right balance between the needs of the debtor and the rights of creditors?

Comment

Evidence

Q17. What problems are encountered with the current range of debt solutions and how could they be improved to ensure all debtors have an option and that the choices are clear?

Comment

Evidence

Q18. Is there sufficient flexibility within the current range of debt solutions to allow for debtors changing circumstances?

Comment

Evidence

Q19. Do the current options allow and encourage those who are in a position to repay their debts to do so? If not, why not, and how might any incentives be improved?

Comment

Evidence

Q20. Do the current options allow a person to deal effectively with a temporary income 'shock' and if not, what is needed?

Comment

Evidence

Q21. Is some form of moratorium on creditor action required to a) allow a short time period for a debtor to seek and act on advice from a qualified adviser and b) allow a more extended period for a debtor suffering from a temporary difficulty to recover and start making repayments once more. If so, how might such an arrangement work, and what safeguards are required to ensure that creditor rights are protected?

Comment

Evidence

Q22. How does a person find out where to go for debt advice and assistance? What are the advantages and disadvantages of each method?

Comment

Evidence

Q23. How does a person know that he/she has been given the 'right' advice?

Comment

Evidence

Q24. What evidence do you have to suggest that debtors end up in the 'wrong' solution and what is the scale and impact –for the debtor, the creditors, and the economy?

Comment

Evidence

Q25. Is it clear in all circumstances what the 'right' solution should be?

Comment

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Evidence

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Q26. How often do debtors move from one remedy to another and could the costs be reduced in any way?

Comment

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Evidence

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Q27. Should there be more consistency on how a debtor's income, assets and expenditure are calculated and treated in different procedures?

Comment

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Evidence

--

Q28. Should any changes be made to investigation and enforcement action in relation to debtors entering insolvency procedures?

Comment

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Evidence

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Q29. What outcomes should such investigations be looking to achieve – for example, should they just relate to restrictions on future conduct or should they also impact on a debtor’s discharge from his/her liabilities?

Comment

Evidence

Q30. Are the practical effects of entering the different debt remedies satisfactory e.g. future access to financial services? Should this be influenced by the outcome of any investigation/enforcement?

Comment

Evidence

Q31. Is there a role for a “gatekeeper” to provide a common entry point to all formal insolvency procedures? If so, what would be the benefits and costs, who would perform such a function and how would the system operate?

Comment

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Evidence

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Annex D – Organisations/individuals to which the call for evidence has been sent direct

3/4 South Square (Chambers)
Abbey
Aberdeen University
ACCA Global
Access Europe
Accountant in Bankruptcy (Scotland's insolvency service)
Accuma
ACF Car Finance
Action Today Group Limited
Advertising Association
Advertising Standards Authority
Advice UK
Affinity Limited
Age Concern
AIC Corp
All Clear Finance/ One Advice (IP)
Allen and Overy
Alliance and Leicester
Alvarex & Marsal
American Express
APACS
Arab Bank plc
Asset Based Finance Association (ABFA)
Association of British Credit Unions Ltd (ABCUL)
Association of British Insurers (ABI)
Association of Business Recovery Professionals (R3)
Association of Certified Chartered Accountants - ACCA
Association of District Judges
Association of Finance Brokers (AFB)
Association of Independent Financial Advisers (AIFA)
Auriemma Consulting Group
Baines and Ernst
Banco Santander
Bangor University, University of Wales
Bank of England
Bank of Ireland
Bank of Scotland
Banking Code Standards Board
Bankruptcy Advisor - The Royal Courts of Justice
Bankruptcy Advisory Service
Bar Council
Barclaycard
Barclays
Barclays Capital Steven Hearn

Becket Lee
Begbies Traynor
Berwin Leighton Paisner LLP
Birmingham City Council
Birmingham Midshires
Black and Ethnic Minorities Financial Services (BEMFS)
Blair Endersby
Bradford Council
Brian Havercroft
Britannia Building Society
British Bankers Association (BBA)
British Chambers of Commerce
British Cheque Cashier Association (BCCA)
British Gas
British Retail Consortium (BRC)
British Vehicle Rental and Leasing Association
British Venture Capital Association
Budsworth and Co
Bullock, District Judge
C Hoare & Co
Cafamily
Call Credit
Cambridge University
Cap Quest
Capital Insolvency Services
Capital One
Cash Converters
CASS Business School, City University
Cattles plc
CBA
Central Trust
CFS
Charis
Chartered Institute of Management Accountants (CIMA)
Chelsea Building Society
Cheshire Building Society
Cheshire City Council
Chief Bankruptcy Registrar RCJ
Chiltern UK
Christians Against Poverty
Church Action on Poverty
Churchwood Financial
Citigroup
Citizens Advice
Citizens Advice Scotland
City & Financial
City of Bradford

City of Bristol
City of London Law Society
City University
Civil Court Users Association
Clare Drake
Cleardebt
Clearstart
Clifford Chance
Columbia Law School
Communities and Local Government
Community Development Finance Association (CDFA)
Competition Commission
Compliance on Call
Confederation of British Industry (CBI)
Consumer Council for Northern Ireland
Consumer Credit Association (CCA)
Consumer Credit Counselling Service (CCCS)
Consumer Credit Trade Association (CCTA)
Consumer Finance Association (CFA)
Consumer Financial Education Body (CFEB)
Consumer Focus
Consumer Focus Scotland
Consumer Focus Wales
Co-operative Bank
Council of Mortgage Lenders (CML)
Coventry Building Society
Credit Action
Credit Counselling
Credit Services Association (CSA)
Credit Suisse
CSA - Policy Development
Dawson White
Debt Free Direct Group plc
Debt Management Standards Association (DEMSA)
Debt Matters
Debt on our Doorstep
Debt Resolution Forum
Debt Wizard
Deloitte & Touche LLP
Department for Food, Environment and Rural Affairs
Department for Work and Pensions
Department of Enterprise, Trade and Investment Northern Ireland
Detini
Dickinson Dees
Direct Debt line
Direct Debt Management
Disability Alliance

DJ Robert Jordan
DLA Piper UK LLP
Edf Energy
Edwards Angell Palmer & Dodge UK LLP
Egg plc
Elavon
Energy Retail Association
Ensors – R3 Smaller Practices Group
Equality and Human Rights Commission
Equifax
Ernst & Young LLP
European Commission
European Credit Research Institute (ECRI)
European High Yield Association (EHYA)
Eversheds LLP
Experian
Federation of Small Business (FSB)
Field Fisher Waterhouse LLP
Finance and Leasing Association (FLA)
Financial Law Committee (CLLS)
Financial Markets Law Committee
Financial Ombudsman Service (FOS)
Financial Services Authority (FSA)
Financial Services Consumer Panel
Forum of Private Businesses
Frampton, G R
Free From Debt
Freeman Jones
Freshfields
FSA
Geldards LLP
Gemstone Financial Management Ltd
Geoffrey Bourne and Parker
Grant Thornton UK
Gregory Pennington
Halifax Building Society
Halliwells
Harvard Law School
HBOS
Help the Aged
HFC
High Court Enforcement Officers Association
His Honour Judge Behrens
HM Courts Service
HM Treasury
HMCS
HMRC

Hodgsons
Holland & Co
Home Office
Housing Manager, Mosscafe
HSBC
HWCA
ICA in Ireland
ICAEW
Ideal Credit Solutions
Information Commissioner's Office (ICO)
INSOL International
Insolvency Law Committee (CLLS)
Insolvency Lawyers' Association
Insolvency Practitioners Association (IPA)
Insolvency Practitioners Council (IPC)
Insolvency Service
Insolvency Technical Committee Institute of Chartered Accountants in Ireland
Institute for Turnaround (IFT)
Institute of Chartered Accountants in Ireland – CARB (ICAI)
Institute of Chartered Accountants in Scotland - ICAS
Institute of Consumer Affairs
Institute of Credit Management (ICM)
Institute of Directors (IOD)
Institute of Money Advisors
Institute of Revenues Rating and Valuation
Investment Managers Association (IMA)
Islamic Bank of Britain
Joseph Rowntree Foundation
Kingston, University of
Kirkland & Ellis International LLP
Kluwer Law
Knowsley Housing Trust
Koark. Anne
KPMG
Lancaster University
Laser UK
Law Commission
Law Society
Law Society of Scotland
Legal Services Commission
Leicester City Council
Leonard Cheshire Disability
Lines Henry
Lloyds Banking Group
Loan Market Association (LMA)
Loans4Logbooks

Local Authorities Coordinators of Regulatory Services (LACORS)
Local Better Regulation Office (LBRO)
Local Government Association
Logbook Loans
London Business School
Lovells
LTS Basset
Manchester City Council
Max Recovery
MBNA
Medway County Court
Mind
Ministry of Justice
MJ Bushell and Co
Mobile Money
Money Advice Coordinator, Devon & Cornwall
Money Advice Liaison Group
Money Advice Scotland
Money Advice Trust
Money Plus Group
Moneysavingexpert.com
Moneysupermarket.com
Moon Beever
Moorcroft Group
Mosscafe
Mr. Registrar Jaques
National Association of Pension Funds (NAPF)
National Australia Group Europe Ltd
National Consumer Council
National Debtline
National Pawnbrokers Association
Nationwide Building Society
NCUG
Newcastle City Council
Non-Administrative Receivers Association (NARA)
North West Debt Forum
Northern Bank
Northern Ireland Assembly Government
Northern Ireland Court Circuit
Northern Ireland Insolvency Service
Northern Ireland Office
Northern Rock
Northumbrian Water
Northern Ireland Insolvency Service (DETINI)
Nottingham Trent University
Numerica
Office of Fair Trading

Official Receivers Office/ OROS
OFWAT
One Advice
Oxford Combined Court Centre
Oxford University
Payplan
Pension Protection Fund (PPF)
Pentagon (UK) Limited
PKF
Preston City Council
PricewaterhouseCoopers LLP
Provident Financial plc
Rethink
Richard J Smith & Co
Richards, Mr Justice David
Romford County Court
Royal Association of Disability Rights (RADAR)
Royal Bank of Scotland
Royal Courts of Justice
Royds Community Association
SAGA
Salford City Council
Salford City Council Debt Advice
Scotland Office
Scottish Executive
Secured Transactions Law Reform Project
Securities Industry and Financial Markets Association (SIFMA)
Severn Trent Water Ltd
Sheffield Homes Ltd
Sheriffs Office, Salford
Shop Direct
Silver Point Europe LLP
Society of Turnaround Practitioners
Solicitors Regulation Authority - SRA (Law Society)
Southend Citizens Advice Bureau
Standard Chartered
Stoke on Trent City Council
Student Loans Company Limited
Tait Walker
Tameside Council
TDX Group Ltd
Tenon Group
Tesco Personal Finance
Thames Water Utilities Ltd
The Association of Corporate Treasurers (ACT)
The Bankruptcy Advisory Service
The Chartered Institute of Public Finance and Accountancy (CIPFA)

The Commission Racial Equality
The Co-operative Bank
The Debt Advisor
The Debt People
The Forum for Private Business
The Institute of Chartered Accountants in England and Wales (ICAEW)
The Law Commission
The Mail Order Traders' Association
The Muslim Council of Britain
The Royal Bank of Scotland/ Green & Co
The Social Enterprise Coalition
Think Money
Tower Hamlets London Borough Council
Trades Union Congress (TUC)
Trading Standards Institute (TSI)
Trower, W S P
TUC
Turnaround Management Association UK
UCLA Law School
UK 200 Group
UK Card Services Ltd
UK Cards Association
United Utilities PLC
University College London
University of Bristol Personal Finance Research Centre
University of Kingston
University of Leeds
University of Nottingham
University of York
Vanquis Bank Ltd
Vantis Numerica
Varden Nuttall
W3 Debt Solutions
Wales Office
Water UK
Welsh Assembly Government
Welsh Consumer Council
Wessex Water
Which?
White Horse Mortgage Services Ltd (WHMS Ltd)
Wilson Phillips
Yorkshire Housing
Yorkshire Water

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