

MONEY
ADVICE TRUST

BUSINESS
DEBTLINE

NATIONAL
DEBTLINE

WISER
ADVISER

Consultation response: HM Treasury RSLs and affordable credit

Response by the Money Advice Trust

Date: March 2019

Contents

- ✓ Page 2 Contents
- ✓ Page 3 Introduction / About the Money Advice Trust
- ✓ Page 4 Introductory comment
- ✓ Page 5 Responses to individual questions
- ✓ Page 7 Contact details

Introduction

About the Money Advice Trust

The Money Advice Trust is a charity founded in 1991 to help people across the UK tackle their debts and manage their money with confidence.

The Trust's main activities are giving advice, supporting advisers and improving the UK's money and debt environment.

In 2018, our National Debtline and Business Debtline advisers provided help to more than 204,000 people by phone and webchat, with 1.7 million visits to our advice websites.

In addition to these frontline services, our Wiseradviser service provides training to free-to-client advice organisations across the UK and in 2018 we delivered this free training to over 820 organisations. Furthermore, Money Advice Trust Training and Consultancy services have worked with over 224 commercial organisations to identify and support their customers in vulnerable circumstances.

We use the intelligence and insight gained from these activities to improve the UK's money and debt environment by contributing to policy developments and public debate around these issues.

Public disclosure

Please note that we consent to public disclosure of this response.

Introductory comment

We very much support the policy approach set out in the paper. We would like to see it made as easy as possible for registered social landlords (RSLs) to refer their tenants to alternatives to high-cost credit. We would like to see RSLs be able to form partnerships with particular social credit providers to assist their tenants as it is vital for the sustainability of a tenancy that households are able to furnish their homes. However, credit is not a substitute for grant support packages for new tenants or nil interest loan schemes. Measures need to be put in place to provide as much support as possible to new tenants as possible to ensure their tenancies are a success.

We therefore support the proposal to allow RSLs to refer to credit unions and community development finance institutions without the need for FCA authorisation.

We would not generally support extending this exclusion to referrals to consumer hire or hire purchase providers even with “a social purpose” for the reasons we have set out in our response to question two below.

We would tentatively support the concept of widening the exemption for RSLs to allow anybody or organisation to refer to credit unions and community development finance institutions. However, we would need to see further detail as to how this would work in order comment further, and would urge the government to further engage with stakeholders on a more detailed proposal for this before committing to it.

Responses to individual questions

Question 1: Do you agree with the policy approach outlined above?

We very much support the policy approach outlined in the paper.

Question 2: Some stakeholders have suggested that referrals to consumer hire/hire purchase providers with a social purpose should benefit from this exclusion. Do you agree? What do you see as the risks and benefits of having this exclusion apply to hire/hire purchase providers with a social purpose?

We are not aware of community development finance institutions (CDFIs) that offer hire or hire purchase agreements to consumers. We have researched members of Responsible Finance, the trade body for social lenders, and could not find any company that offered this type of credit agreement.¹ However, we may not be aware of developments in this area. Hire agreements would bring different considerations to hire purchase agreements.

Consumers under hire agreements will never own the goods despite paying the contractual instalments plus interest over what could be a substantial time period. Therefore any use of hire agreements would need to be strictly controlled to ensure that consumers were not paying many times over for an obsolete product.

We would not be in favour of allowing hire purchase providers to benefit from this exclusion. We believe that there are risks in this type of credit which outweigh the potential benefits for consumers.

Given there is always the threat that non-payment would result in the loss of the goods, which is of course not possible with unsecured personal finance, a hire purchase agreement means that the consumer is already at a disadvantage compared with ordinary unsecured credit. From our experience of giving advice at National Debtline, we regularly come across issues for clients, such as being misled by the lender regarding the meaning of hire purchase rules and with regard to the lender's responsibilities and the consumer's right to terminate.

- ✓ Consumers under hire purchase agreements may face essential goods being repossessed if they do not maintain their payments.
- ✓ Repossession could be an option (subject to Consumer Credit Act 1974 rules) right up to the time that the final payment is made under a hire purchase agreement. This means again, that the consumer does not end up owning the goods despite paying the contractual instalments plus interest over what could be a substantial time period.
- ✓ This is in contrast to an unsecured credit agreement, where any goods purchased with the loan, belong to the consumer from the time they take out the credit. The lender does not have the right to take the goods back and can only ask for repayment of the outstanding balance owed under the agreement.

¹ <http://responsiblefinance.org.uk/responsible-finance-providers/who-provides-responsible-finance/>

- ✓ The fact that the goods are not owned by the consumer until the final payments means that their position is always less secure than with a personal loan. Hire purchase companies do not make it easy to negotiate reduced payments and hold the threat of repossession of the goods to ensure their agreements are treated with greater priority than the person's other creditors.
- ✓ We would also point out that these types of agreement place additional stress on potentially vulnerable borrowers. This is because hire purchase agreements involve uncertainty for borrowers as to whether they can retain the goods under such agreements. This adds to the strain of dealing with the resulting debt and potential detriment for that borrower given the robust powers the lender has to repossess under such agreements.
- ✓ The rules under the Consumer Credit Act 1974 in relation to hire purchase agreements are complex. This is particularly the case in relation to the rules on early termination of the agreement. In addition, the rules relating to lender powers to repossess with or without a court order depending upon how much has been paid under the agreement are also complicated.
- ✓ In our experience at National Debtline, these issues become even more complicated by lenders arguing that customers also owe damages for failing to take reasonable care of the goods or being charged for collection and return of the goods.
- ✓ Rent-to-own agreements are a form of hire purchase agreement. We are all familiar with the FCA proposals in relation to such agreements, due to the consumer detriment that has been demonstrated in relation to the inflated price of the goods, and the cost of credit and related insurance cover.
- ✓ One particular issue to consider with hire purchase goods for the home, is that the creditor must get a court order if they want to repossess goods from 'any premises' unless they have the client's permission even when a client has paid less than a third of the total price. The definition of "any premises" is not clear, and there is confusion as to what consumer rights are in this area. It is unlikely that consumers will be aware of such rules or be informed by the lender.

Question 3: Some stakeholders have suggested that this exclusion should apply more broadly, not just to RSLs, so that any individual could effect a fee free referral to CUs/CDFIs. What do you see as the risks and benefits of widening the scope of the exclusion in this way?

We would tentatively support this proposal, but do not feel we have enough information as to how this exclusion would operate, or who it would encompass, in order to make an informed decision.

On the face of it such an exemption would allow free debt advice charities to make referrals to specific credit unions for savings and CDFIs for essential household credit without being concerned that we would need to be FCA authorised to give financial advice. It may allow debt advice providers to go into partnership with specific social lenders if beneficial for clients to do so.

We urge the Government to issue more details about the scope of such a policy, including a fuller outline of how the exclusion would work in practice. We need to examine the pros and cons of this policy, together with other stakeholders, before coming to any conclusion. It is difficult, at this point, to evaluate any potential unforeseen consequences of such an approach.

Question 4: Having considered a number of options for the definition of a CDFI, we propose that a CDFI be defined according to the definition of a Community Finance Organisation set out in the FCA handbook, on the condition that the firm is also FCA authorised. This definition provides objective criteria for CDFIs, allowing them to be easily identifiable to individuals effecting introductions. Do you agree with this proposed definition?

This approach seems to be extremely sensible, and we would support adopting such a definition. In addition, it is vital that the firm must be FCA authorised.

For more information on our response, please contact:

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