

Review of prior permission conditions for consumer credit services operating on premium rate

StepChange Debt Charity consultation response to PhonepayPlus

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Introduction

StepChange Debt Charity welcomes the opportunity to respond to this consultation from PhonepayPlus, *Review of prior permission conditions for consumer credit services operating on premium rate.*

StepChange Debt Charity is the UK's largest specialist free-to-client debt advice provider. In 2012 over 400,000 people contacted our free telephone helpline and on-line Debt Remedy tool for advice about problem debt. Last year the charity helped over 129,000 people to pay £327 million off their debts.

StepChange Debt Charity strongly supports the work of PhonepayPlus and welcomes all the proposals contained in the consultation document. We see significant consumer detriment arise through mis-sold consumer credit, poor behaviour by credit brokerage firms and unscrupulous actions by fee-charging debt management companies (DMCs). All these products can be offered via a premium rate service. Evidence from the charity's social policy network, contained in this policy response, illustrates some of the problems consumers can experience in this area.

Mark recently contacted StepChange Debt Charity about a Debt Management Plan (DMP) he had entered with a fee-charging DMC. The DMC was attempting to prevent Mark switching his DMP to a free provider by claiming he owed it a debt, which they planned to enforce through legal action. Mark reported that the firm was being very aggressive when contacting him, with at one point the owner of the firm telephoning and acting in a threatening manner.

Subsequently it emerged Mark owed no debt to the DMC. However, despite this, the firm refused to release £1,800 in PPI repayment owed to Mark it was paid in error after insisting it made his claim through its service.

Although StepChange Debt Charity supports PhonepayPlus' proposals, we would like to take this opportunity to suggest some further additions to the prior permission conditions.

Further strengthening of the code:

- In addition to APR and repayment cost per £100, firms offering consumer credit products should have to inform customers of potential additional costs for missed payments, such as default charges StepChange Debt Charity has seen numerous cases where the addition of fees and charges has increased consumer credit debts significantly, increasing the pressure on an individual and exacerbating their financial difficulty.

- When informing customers about the likelihood of procuring consumer credit, loan brokerage firms must use their firm specific acceptance rate rather than national average
- Following an initial (PRS) telephone conversation, all PRS firms should have to use a (non-PRS) system to keep customers updated as to the progress of their enquiry (whether it concerns consumer credit or debt management services)

StepChange Debt Charity is also concerned an initial PRS contact could lead to a consumer's details being passed to providers of linked services such as debt management or claims management firms. Where the PRS provider's business model makes referral to such linked services a likely outcome of the original call PhonepayPlus may want to require providers notify consumers this will happen and how much these ancillary services may cost.

Q1. Do you have any views on the PRS consumer credit model, the potential benefits and risks to consumers and the interaction between OFT, BIS and PhonepayPlus regulations?

We agree with PhonepayPlus that because users of PRS-based services pay prior to receiving their product, it is necessary to have strict guidelines in place to protect them. The proportion of customers of PRS firms receiving a refund identified by PhonepayPlus also raises concerns about the potential exploitation of customers. Therefore, we strongly welcome the new conditions contained in the consultation. The changes, integrating existing PhonepayPlus regulations with OFT and BIS guidance should help prevent consumer detriment.

Key to ensuring the success of the code will be rigorous monitoring, and ensuring a wide range of evidence is available to PhonepayPlus about potential consumer detriment. The regulator should work closely with consumer protection and debt advice agencies to gather evidence.

Q2. Do you have any views on the new conditions we are proposing for transparency around rates of interest charged and their impact on either consumers or providers? Please provide any evidence to support your views.

StepChange Debt Charity believes the new conditions are sensible and necessary, and will offer increased consumer protection. We would suggest that in cases where consumer credit is being sought, customers should be informed not just about interest rates but also likelihood of additional costs such as default charges. This may be particularly important when a 'payday' loan is being sought, as the cost of this form of credit can increase quickly if people miss payments.

StepChange Debt Charity advised a client early in 2013 who had fallen into a debt trap due to mis-sold multiple payday loans taken out a year previously. Her monthly income was £850 while her monthly debt repayments had risen to £900.

Due to her debts the client has lost her home and is now living in a single room shared with her 13 year old son.

One question raised by the consultation is about how fee-charging Debt Management Companies (DMCs) communicate adequately the additional costs of their services in comparison to free providers. PhonepayPlus may want to mandate that within the first minute of a call on a PRS line offering debt management services, the firm must say the total potential cost of its service relative to a free service. This would be commensurate to the information on APR transparency currently required.

Q3. Do you agree with our assessment that publishing the average acceptance rates of lenders will help consumers to make an informed decision? Please provide any evidence to support your views.

We agree that publishing the average acceptance rate will help consumers make a more informed purchasing decision. However, it was unclear from the consultation whether the acceptance rate a firm must use is specific to its own record, or a national average. Using a firm-specific number would appear more transparent, as it gives the customer a better understanding of their individual situation.

We would appreciate clarification on this issue.

Q4. Do you have any views on the impact this may have on PRS-based providers? Please provide any evidence to support your views.

Q5. Do you have any views on the new condition we are proposing for the price transparency of calls and its impact on consumers or providers? Please provide any supporting evidence.

Q6. Do you have any views on the new conditions we are proposing around the total number of calls and their impact on consumers or providers? Please provide any supporting evidence.

We agree with the new conditions proposed by PhonepayPlus surrounding call cost, length and transparency.

We would appreciate some clarification on prior permission conditions regarding when, how and in what time-period PRS firms offering brokerage services must contact customers to inform them on the success or otherwise of their loan application.

PhonepayPlus may want to consider further conditions on communication between the firm and the consumer subsequent to an initial telephone call. More could be done to ensure customers are kept up-to-date with the progress of their enquiry without having to contact the firm constantly.

Q7. Should PhonepayPlus consider introducing new measures to improve refund rates for eligible consumers?

Again we would suggest more rigorous rules surrounding the necessity of regular contact between firm and customer are needed (see answer to question six).

PhonepayPlus could consider a requirement on firms to notify customers with a result of their loan application within a particular time-frame, with a reminder of the opportunity for a refund.

The issue with this will be exactly how firms discuss issues with their customers. It may be necessary for the regulator to specify exactly what form of words a brokerage firm must use in these circumstances, as the way in which firms interact with their customers can often be a significant source of stress and anxiety.

In February the charity advised a client who was acting as guarantor for a relative with a consumer credit debt. The client had been sent three separate emails within a two month period threatening her with an attachment of earnings and a charging order unless she paid her relative's debt. As no County Court Judgment has been applied for by the company, neither of these legal enforcement is possible, therefore the emails constitute intimidatory practices.

The final email received in addition indicated that if the client changed employment the firm, a significant guarantor loan provider, would contact their new employer regarding the attachment of earnings.

Q8. Do you have any views on what steps could be taken to improve the current refund rates?

Please see our response to Question seven above. If greater transparency on refunds is not effective in increasing refund rates we would urge PhonepayPlus to take forward the proposal outlined in this consultation to require firms to provide automatic refunds.

Q9. Do you agree with our impact assessment? If not, why not?