

StepChange Debt Charity is the UK's largest specialist provider of free, independent debt advice. The Charity offers support and solutions to over 500,000 heavily indebted consumers every year. In 2013 we helped clients repay £339 million in unsecured debt at no cost to either them or Government.

## **Briefing: Payday loan firms bombarding financially vulnerable with unsolicited market calls**

### **Key points**

- New research has found a third (32.4 percent) of StepChange Debt Charity clients (individuals in severe financial difficulty) have received an unsolicited marketing call (also known as an 'unsolicited real-time promotion') offering them a payday loan. Those receiving calls received an average of 10 calls per week.
- Almost 15 percent of clients offered a loan (five percent of all those surveyed) had taken out high cost credit as a result of one of these unsolicited telephone calls. The additional high-cost credit taken out by these clients averaged £980, further exacerbating their financial difficulties.
- This is the result of an oversight in regulatory rules that ban the promotion of products via 'unsolicited real-time promotion'. The rules ban the unsolicited real-time promotion of mortgages but allow it for high-cost credit products.
- StepChange Debt Charity is asking the Financial Conduct Authority (FCA) to address this oversight by considering a ban on the "unsolicited real time promotion" of high-risk credit products.
- Additionally, regulatory thresholds should be lowered so that firms can be issued with enforcement notices or fined for data protection breaches without authorities having to demonstrate 'damage or distress' or 'substantial damage or substantial distress'.

### **The problem**

In October 2013, StepChange Debt Charity [launched a campaign](#) drawing attention to the harm caused by nuisance calls. In particular the Charity highlighted the dangers inherent in the sale of high-cost financial products, such as payday loans, via unsolicited marketing calls. These are called 'unsolicited real-time promotions' by the Financial Conduct Authority.

Our report, [Got their number](#), found 1.2 million (three percent) of British adults said they had been tempted to take out high-interest credit, such as payday loans, as a result of an unsolicited marketing call or text<sup>1</sup>. However, interviews with our clients indicated that people in financial difficulty are receiving more unsolicited marketing calls about high-cost credit than most and are under more pressure to take out credit as a result.

*“When you’re as desperate as I was, it’s strangely comforting to know that there was money available no questions asked. The reality of course is that you’re digging yourself deeper and deeper into a hole, and these companies know that”.*

**StepChange Debt Charity client**

*“It started off slowly at maybe three or four calls a day but by the end of the week we’re talking 40, 50 calls a day...even text messages, it was constant...I say ‘I don’t want any more debt’ and they’ll still try and they’ll ring up and offer me all sorts. No matter how many times I say ‘no I’m not interested’ they’ll just keep on ringing.”*

**StepChange Debt Charity client**

To investigate this issue we carried out further research with our clients, surveying 1,000 individuals who contacted our helpline between April and June 2014. In general those surveyed are already in serious financial difficulty. The average unsecured debt of a StepChange Debt Charity client is £16,000. Almost one in four already has a payday loan, with an average debt on these of £1,647.

The results showed that those in financial difficulty are often being bombarded with calls by payday loan companies. A third (32.4 percent) of those surveyed said they had received an unsolicited marketing call offering them a payday loan. Those receiving calls were receiving an average of 10 calls per week. However, many clients are receiving dozens of calls a week.

Almost 15 percent of clients offered a loan (five percent of all those surveyed) had taken out high cost credit as a result of one of these unsolicited telephone calls. The additional high-cost credit taken out by these clients (on one or more payday loans) averaged £980. As our interviews showed, often these new loans are taken out because individuals under huge financial pressure feel as if they have little alternative. But by doing so they are actually exacerbating existing problems and making it less likely they will recover financially.

We are also concerned that, by adding to debts, such calls can also prove harmful to mental and physical health. A separate [survey of 1,104 StepChange Debt Charity](#)

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<sup>1</sup> YouGov Plc. Total sample size was 2,017 adults. Fieldwork was undertaken between 20th - 23rd September 2013. The survey was carried out online. The figures have been weighted and are representative of all GB adults (aged 18+)

[clients in January 2014](#), found three-quarters of respondents experienced sleeping problems due to their debt, and 64 percent experienced mood swings. Over 50 percent found their work performance suffered as a result of problem debt<sup>2</sup>.

## **What can be done?**

### *Payday lending*

On 1 July 2014, a number of new FCA rules on payday lending came into force. StepChange Debt Charity has highlighted that, in various ways, the rules are tough enough.

Our *Got their number* report identified a further gap in regulatory rules on unsolicited marketing of high-cost credit products. The FCA bans the promotion of mortgage products via ‘unsolicited real-time promotion’ under the Mortgage Conduct of Business rules<sup>3</sup>. Yet, the promotion of high-cost credit such as payday loans via unsolicited marketing calls is still permitted.

StepChange Debt Charity believes that with the FCA having assumed control of consumer credit regulation in April 2014, there is now an opportunity to look again at the problem of unsolicited real time promotion of high-cost credit.

StepChange Debt Charity will continue to ask the Financial Conduct Authority (FCA) to consider a ban on the “unsolicited real time promotion” of high-risk credit products.

### *Enforcement*

These problems are exacerbated by a weak enforcement regime on other rules governing marketing via the telephone.

At the moment the Information Commissioner’s Office (ICO) can issue enforcement notices against firms breaching the Data Protection Act<sup>4</sup> but only if ‘damage or distress’ can be demonstrated. It can also issue monetary penalties for firms misusing consumer data or breaking rules on electronic communication under Section 55.1(b) of the Act, but only if, “substantial damage or substantial distress” to the consumer is demonstrated.

We believe that these thresholds should be lowered so that firms can be issued with enforcement notices or fined for breaching the DPA without the ICO having to demonstrate ‘damage or distress’ or ‘substantial damage or substantial distress’.

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<sup>2</sup> *StepChange Debt Charity Statistics Yearbook 2013* (April 2014)

<sup>3</sup> MCOB 3.7.3R

<sup>4</sup> Section 40

The current thresholds for enforcement have resulted in a situation where it is next to impossible for the ICO to enforce against firms breaching rules on unsolicited calls and text messaging.

### **Further action**

If any organisation or individual would like to lend us their support in this, or would like further information please feel free to contact Joseph Surtees at [joseph.surtees@stepchange.org](mailto:joseph.surtees@stepchange.org) or on 0207 391 4582.

For anybody suffering financial detriment StepChange Debt Charity offers free, independent advice via telephone on 0800 138 1111 or online at [www.stepchange.org](http://www.stepchange.org).

### **Research notes**

The data in this briefing comes from a survey carried out with 1,000 individuals contacting the StepChange Debt Charity telephone helpline between April and June 2014. The following questions were asked:

1. How many unsolicited telephone calls offering you high cost credit (eg. Payday Loans) do you receive per week?
2. Have you ever taken out high cost credit as a result of one of these phone calls?
3. If so, approximately how much?

Additional data comes from a YouGov Plc survey commissioned by StepChange Debt Charity. Total sample size was 2,017 adults. Fieldwork was undertaken between 20th - 23rd September 2013. The survey was carried out online. The figures have been weighted and are representative of all GB adults (aged 18+).