

Corporate Policy & Strategy Committee

10am, Tuesday, 11 June 2013

Crackdown on Legal Loan Sharks – Referral from the Petitions Committee

Item number	7.5(a)
Report number	
Wards	ALL

Links

Coalition pledges	See attached report
Council outcomes	See attached report
Single Outcome Agreement	See attached report

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Terms of Referral

Crackdown on Legal Loan Sharks

Terms of referral

On 3 June 2013 the Petitions Committee considered a report by the Director of Services for Communities outlining the feasibility of five actions identified within the petition 'Crackdown on Legal Loan Sharks'.

The Petitions Committee agreed:

1. To refer the report to the Corporate Policy and Strategy Committee for consideration; and
2. To ask the Director of Services for Communities to provide further information to the Corporate Policy and Strategy Committee on:
 - i) the historic input the Council had in setting up credit unions.
 - ii) details of previous literacy campaigns.
 - iii) the UK wide license system and what further work was being undertaken to regulate this area.

For decision/action

The Petitions Committee has referred the attached report to the Corporate Policy and Strategy Committee for consideration.

Background reading / external references

Petitions Committee 18 April 2013

Petitions Committee 3 June 2013

Links

Coalition pledges	See attached report
Council outcomes	See attached report
Single Outcome Agreement	See attached report
Appendices	Report by the Director of Services for Communities

The Petitions Committee

10am, Monday, 3 June 2013

Crackdown on Legal Loan Sharks – Feasibility Study

Item number	5.3
Report number	
Wards	Citywide

Links

Coalition pledges	n/a
Council outcomes	CO10 & CO15
Single Outcome Agreement	n/a

Mark Turley

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Executive summary

Crackdown on Legal Loan Sharks – Feasibility Study

Summary

This report provides further information on the issues raised in the Crackdown on Legal Loan Sharks Petition considered on 18 April 2013.

Recommendations

1. It is recommended that the petitions committee refers this report to the Corporate Policy and Strategy Committee for consideration.

Measures of success

Less use of payday loans is made by vulnerable residents.

Financial impact

Costs of a Financial Literacy Campaign will require to be developed and reported to Corporate Policy and Strategy Committee.

Equalities impact

The Council's proposed targeted financial literacy campaign and continued support of the OFT's enforcement exercise evidences the Council's due regard to minimising disadvantage as a result of economic deprivation. Additionally, those actions enhance the rights to standard of living and legal security respectively.

Sustainability impact

There is no environmental impact arising from the contents of this report.

Consultation and engagement

Not applicable.

Background reading / external references

[Office of Fair Trading Payday Lending Compliance Review Final Report
Petition received 24 December 2012, Crackdown on Legal Loan Sharks](#)

Crackdown on Legal Loan Sharks – Feasibility Study

1. Background

- 1.1 On 24 December 2012 a petition titled, Crackdown on Legal Loan Sharks was received by the Petitions Committee. This petition identified the actions of Payday Loan companies and claims a detrimental impact upon thousands of people. The petitioners state that the payday loan companies provide short term loans at rates that may exceed 4,000% Annual Percentage Rate (APR) and go on to suggest these companies may target low income families who are already struggling to make ends meet.
- 1.2 At the Petitions Committee of 18 April 2013 an initial report was requested outlining the feasibility of five actions identified within the petition as possible Council contributions to protect people from the actions of the Payday Loan companies.
- 1.3 The Payday lending sector has grown rapidly in recent years, in 2011/12 total lending was estimated by The Office of Fair Trading (OFT) to be around £2.2 billion, which corresponds to between 7.4 and 8.2 million new loans; this is up from about £900 million in 2008/09. There are around 190 payday lenders currently operating, the largest 50 lenders account for about 90% of total lending. Two of these largest 50 companies are based in Edinburgh. The Council's Debt Advice Service has seen a sharp increase in the number of people seeking advice in relation to Payday lenders. In the year 2012/13, £84,000 of payday loan debt was handled by the team in comparison to just £5,560 in 2011/12. Assuming that the average value of a payday loan is around £300, this represents about 280 individual loans. Some clients who approached the service had up to eight payday loans each.
- 1.4 The OFT has recently undertaken a review of Payday lenders. The top 50 payday lenders were individually inspected. In their 'Payday Lending Compliance Review Final Report', key findings included:
- 38 of the 50 lenders inspected failed to comply with at least one of the complaint handling rules of the Financial Ombudsman Service.
 - 30 of the 50 websites looked at emphasised speed and simplicity over cost – in some cases making claims that, if true, would amount to irresponsible lending.

- 28% of loans are rolled over or refinanced at least once, providing 50 per cent of lenders' revenues.
- Debt advisers reported that that borrowers seeking help with payday lending debts had on average rolled over at least four times and had six separate payday loans.

1.5 As a result of the review the OFT has written to all the major businesses requiring changes to their operating practices. The businesses have been given 12 weeks to comply or risk losing their credit license. This is a significant development and is relatively unusual in terms of enforcement action on this scale by the OFT.

2. Main Report

2.1 The Petition Statement indicates that “there is plenty the Council can do to protect people from the predatory practices of the Payday Loan Companies”. The petitioners call on the Council to establish a Task Force to tackle poor practice by these companies including investigating the feasibility of the five actions;

1. Running a Citywide financial literacy campaign – warning against dangers of payday loans, promoting Council money advice services and ensuring maximum benefit take up.
2. Promoting and supporting Credit Unions across all Council staff and related agencies.
3. Rejecting all planning applications for payday loan shops which include a “change of use”.
4. Blocking access to payday loan company websites in all council buildings and libraries across Edinburgh.
5. Encouraging a crack-down on rogue payday loan lenders who flout Trading Standards rules with more Council mystery shoppers.

2.2 Initial evaluation of the feasibility of each of these steps has been carried out.

Running a Citywide Financial Literacy Campaign

2.3 There are ongoing initiatives around promoting Council Dept Advice and Welfare Benefits take up particularly at this time of substantial welfare change. However this petition calls for a specific campaign with a warning against using payday loans at its core.

2.4 A campaign could target residents and communities that are most likely to be users of payday loans. Demographic profiling, using data from the Census, Edinburgh People’s Survey and other sources of intelligence, could be used to segment audiences and target the campaign appropriately. For example, target areas of the City where low income families and state beneficiaries are resident.

- 2.5 A campaign could include a mix of ‘paid for’ elements, such as advertising and direct mail, as well as unpaid activity such as social media, media, editorial in community newspapers and partner publications, and Council, Neighbourhood Partnership and other partner website. Council officers regularly run awareness events around debt and welfare benefits issues and these could be targeted. Examples include ‘ Money Weeks’, ‘Dosh Days’ and drop in surgeries; again these can be targeted and used to highlight issues around the use of payday loans.

Promoting and supporting Credit Unions

- 2.6 The Council can promote and support Credit Unions. Indeed much work has been done over the years to publicise and encourage participation, primarily with the Capital Credit Union. As the Committee may be aware the Capital Credit Union (CCU) was formerly the Credit Union started by the former Lothian Regional Council for employees. The CCU has been approached informally and has expressed enthusiasm to work closely with the Council to expand and develop this work in order to contribute to protecting consumers from the effects of payday loans.
- 2.7 The CCU has been developing loan products specifically designed to provide an alternative to the payday loan offerings. One of the points CCU stresses is that Credit Unions are not just for “poor people”. The wider the spread of participation and the deeper the funds available, the greater the potential for socially responsible lending at rates modest when compared with the excesses of the payday loan operators.

Rejecting all planning applications for payday loan shops which include a change of use

- 2.8 Planning decisions and conditions are required to be reasonable and the system cannot be used to regulate matters controlled by other means with case law on this matter. As noted elsewhere in this report the Consumer Credit Act 1974 licensing regime exists to control and regulate credit businesses.
- 2.9 It is not considered feasible to attempt to restrict payday loan shops by use of planning conditions or refusing applications for change of use.

Blocking access to payday loan company websites in all Council buildings and libraries across Edinburgh

- 2.10 It is a relatively easy to take technical steps to selectively block access to such websites for all Council staff and also to prevent access through libraries. At least four other Scottish Local Authorities currently have in place similar restrictions. Dundee, East Renfrewshire, Mid Lothian and Stirling have taken this approach. It is understood that the payday lenders have made representations to those Councils denying access but their objections have been rejected with no known formal legal challenges resulting.

- 2.11 Should Council decide to block access, as suggested by the petitioners, the details of targeted websites are readily available; this action could be taken quickly and at negligible cost. The list would need to be kept under regular review.
- 2.12 Within any ban of certain websites it would be prudent to allow continued access for identified groups. Trading Standards enforcement staff would need continued access to permit monitoring and enforcement as part of their statutory duties. Advice Services staff and elected members may also need continued access to allow them to investigate constituents' complaints. Limited access to designated groups such as those identified can be provided for within the general prohibition.

Encouraging a crack-down on rogue payday loan lenders who flout trading standards rules with more Council mystery shoppers.

- 2.13 In common with all commercial credit businesses, payday loan companies are regulated by the Consumer Credit Act 1974 and require a licence to operate. The Office of Fair Trading (OFT) is the licensing body and is required to consider the fitness of any money lending operation when determining to grant a credit licence. The activities of payday loan lenders have recently attracted much publicity and attention at national level including from the OFT who have undertaken a compliance review of the whole payday loan sector.
- 2.14 In its report on the compliance review the OFT announced that it has written to the leading 50 payday lenders, each of which was inspected, giving them 12 weeks to address the specific issues identified with each of their businesses. They must demonstrate that they are fully compliant or risk losing their licence. Failure to cooperate will trigger enforcement action. It is also intended to refer the payday lending market to the Competition Commission.
- 2.15 Since the publication of their report the OFT have revoked three licences and a further two businesses have surrendered their licences. A further three formal investigations are ongoing with the expectation of more to follow as businesses respond, or not, to the specific issues raised with them.
- 2.16 The action being taken by the OFT goes beyond enforcement options available to any individual Local Authority Trading Standards Service and represents a major crack-down on these companies. Any credit company will effectively be put out of business if their credit licence is removed. In common with Trading Standards Services nationally, Edinburgh's Trading Standards Service is working with the OFT on this enforcement exercise and will continue to assist until all enforcement action has been completed. This coordinated action is considered a more effective and appropriate method than isolated local action and further activity is planned.
- 2.17 The petition suggests that mystery shopping exercises be undertaken. Whilst test purchasing is a power available its use in this context is limited. In order to be realistic Trading Standards staff would need to provide personal details

which would not be appropriate in terms of the Council's duty of care to its employees. Without personal information which can be verified it is highly unlikely that any meaningful check could be carried out. Trading Standards do use information from complaints received as a means of illustrating current trading practice.

3. Recommendations

- 3.1 It is recommended that the petitions committee refers this report to the Corporate Policy and Strategy Committee for consideration.

Mark Turley

Director for Services for Communities

Links

Coalition pledges	n/a
Council outcomes	CO10 - Improved Health and reduced inequalities CO15 - The public is protected
Single Outcome Agreement	n/a
Appendices	n/a