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26 February 2013

Dear Gavin,

Thank you for your letter of 11 January to Vince Cable MP on behalf of Medway Council's Leader and Cabinet enclosing a copy of the report on Fair Access to Credit, which has recently been produced by Medway Council. I am responding as these matters fall within my portfolio as Minister for Consumer Affairs.

Firstly, I would like to thank Medway Council for this report and the hard work put into it. I welcome the report recommendations which I and BIS officials have read with interest. The report adds to our knowledge base of debt and high cost credit and it will be carefully considered as a useful addition to the development of policy in this area.

I share your concerns about problems the report has highlighted in the high cost credit sector and would like to assure you that the Government is determined to address these. We want a safe and fair regulatory framework for credit that protects consumers, particularly those at risk of falling into financial difficulty, and which drives rogue companies out of the market.

Your letter welcomes the OFT review into the payday lending sector and refers to recent discussions about the role of the new financial regulator – the Financial Conduct Authority (FCA) and the potential for them to have the power to cap the interest rates charged by lenders. The FCA will have a diverse range of regulatory powers to address problems across all consumer credit markets, including being able to ban products or specific product features, levy fines and determine consumer redress. The Act specifically clarified that the FCA will have the power to impose a cap on both the cost and duration of loans, if it considers that this would advance its objectives, including securing the protection of consumers.

In advance of the planned transfer to the FCA, the OFT will continue as the independent, expert regulatory authority for all companies which hold a consumer credit licence. Following publication of their interim progress report in November 2012 the OFT has therefore opened formal investigations into several payday lenders and is expecting to issue warnings to the majority of the 50 firms inspected that they risk enforcement action if they do not improve. They have also written to all 240 payday lenders and their trade associations highlighting their emerging concerns over poor practices in the sector. We expect that the OFT will be publishing their final report in a few weeks time. We understand that they expect to set out their view of what further improvements may be required by lenders to ensure full compliance.

The Government supports the OFT's ongoing monitoring work across all consumer credit markets to identify and tackle non-compliance with their guidance. Enforcement action they can take includes issuing warnings or requirements to improve – if the latter are breached then the OFT can issue fines of up to £50,000 per requirement. Ultimately, the OFT can also revoke credit licences. Building on this existing power, Government recently legislated through the Financial Services Act 2012 to give the OFT a new power to suspend a business' credit licence with immediate effect or on a date specified by the OFT. This will be used in cases where the OFT considers it is urgently necessary in order to protect the interests of consumers and prevent serious actual or potential consumer detriment. This power comes into effect this month (Feb 2013).

In your letter you urge the Government to introduce limits on the ability of consumers to roll over payday loans. You may be aware that last year following intensive discussions with Government, the four main trade associations representing the payday lending sector committed to deliver enhanced consumer protections and clarity through a new Customer Charter and revised Codes of Practice. Members committed to not allowing customers to roll over a short term loan on more than three occasions, and where a customer requests the option to extend a payday loan, members also committed to carrying out an appropriate and proportionate affordability assessment before an extension is granted.

Compliance with these commitments is being monitored by Citizens Advice and the Trade Associations, including an effectiveness review by the latter in Summer 2013. Full details of the Customer Charter and revised Codes of Practice can be viewed at: http://tinyurl.com/brxwejm and http://tinyurl.com/cautsmg.

In addition, before publishing their final report into their compliance review of the payday lending industry, the OFT in its interim report into the review highlighted that it is undertaking further work in seeking to quantify the proportion of loans rolled over, refinanced or not repaid, to compare with the proportion of other forms of lending that prove unaffordable. In relation to your request that Government should introduce further controls over marketing and curtailing the targeting of specific groups, I should explain that the new Customer Charter and revised Codes of Practice which the four payday lending associations committed to also requires that members should not specifically target their marketing on specific groups of people including targeting individuals by marketing payday loans where the product would be wholly inappropriate.

You also highlighted the need for improved credit referencing. Lenders are now required by law to assess the borrower's creditworthiness before concluding a credit agreement and before significantly increasing the amount of credit provided. Related to this, OFT guidance makes clear that the process of assessing affordability is assisted by lenders registering accurate data with credit reference agencies, in a timely manner. We do have concerns about the adequacy of checks made by lenders on whether loans will be affordable by consumers. This is also an issue that the OFT interim report on their payday compliance review highlights. The Government supports any steps and enforcement action the OFT takes to ensure more rigorous creditworthiness and affordability checks.

Government also believes that as part of the credit check and affordability assessment of a prospective borrower, it is right that lenders should both record consumer transactions with credit reference agencies and routinely use credit reference data. We have been investigating the best way to ensure payday lenders have proper access to credit references and that customers' high cost credit transactions are recorded in their credit files and this work is continuing.

Regarding your call for a refined statutory total charge for credit the Government is currently considering whether additional action, above and beyond that which I have highlighted above, may be needed in the high cost credit sector. In coming to a conclusion, we will be informed by the evidence gathered by researchers at the University of Bristol's Personal Finance Research Centre who have been undertaking an in-depth study into the likely effects of capping the total cost of credit and by the OFT's final report on payday lending compliance which I mentioned earlier. We will be setting out the Government's position shortly. I will ensure that a copy of the Bristol report and our response is sent to you.

Regarding your comments about debt remedies, you may be aware that a statutory option called an individual voluntary arrangement (IVA) is available to debtors in England and Wales experiencing financial hardship. This does offer an individual a breathing space from action by their creditors, including freezing interest and charges on overdue accounts. Specifically in relation to debt management I was very pleased to be able to launch on 7 February the debt management plan protocol under which consumers will not be charged any fees before signing a contract with a Protocol compliant debt management company. Compliant providers have also agreed to spread the recovery of their set up fees, over at least the first six months, making plans more affordable and sustainable. My officials are currently working with the industry to implement the Protocol, which I anticipate will be ready shortly.

I hope that you are reassured that the Government is taking these issues relating to the credit industry very seriously and will continue to work with our expert regulators to stamp out poor practice in this market.

Jo Swinson

JO SWINSON MP