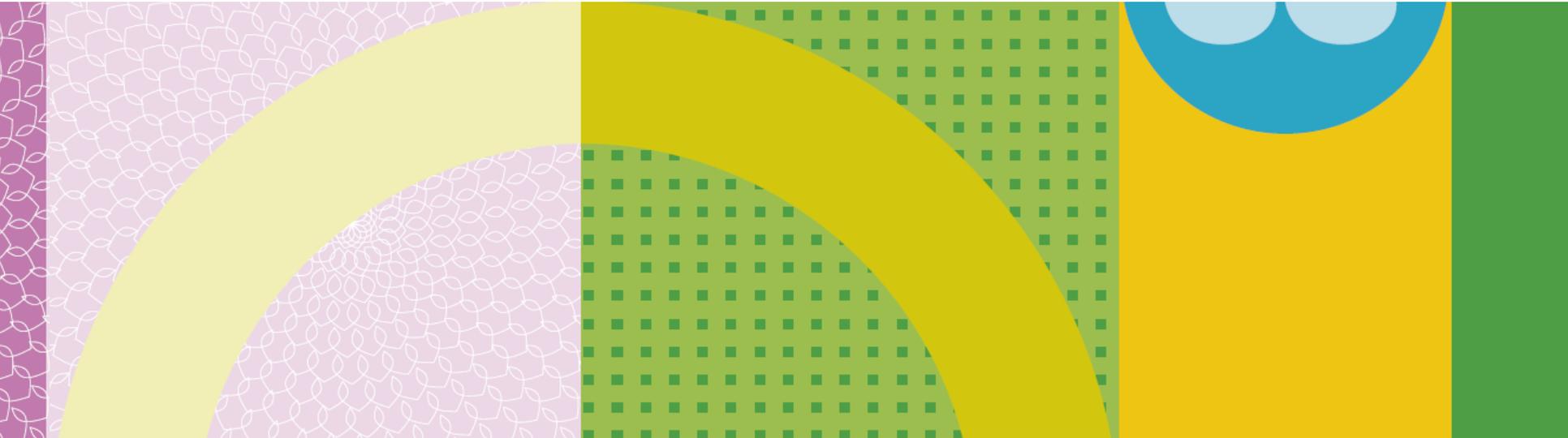




Institute of Money Advisers Virtual Annual Conference 2021



PayPlan®

Headline sponsor



Virtual exhibitors



Credit union child benefit loans

Headline sponsor

PayPlan®

Objectives



By the end of this session you'll be able to:

- Gain practical insight from the findings of the IMA's new survey about credit unions and debt advice
- Describe how credit union child benefit loans work
- Recognise and describe affordable lending rules that apply to credit union loans
- Outline the Financial Ombudsman's response to complaints and how this could impact their approach to advising clients with child benefit credit union loans

Headline sponsor

PayPlan[®]



Survey of IMA members

Headline sponsor

PayPlan[®]

Survey of IMA members



Open 12 to 18 May 2021

Questions looked at:

- Knowledge of credit unions (self-assessed)
- Cross-referral between credit unions and debt advisers
- Experience of various positive and negative activities from credit unions

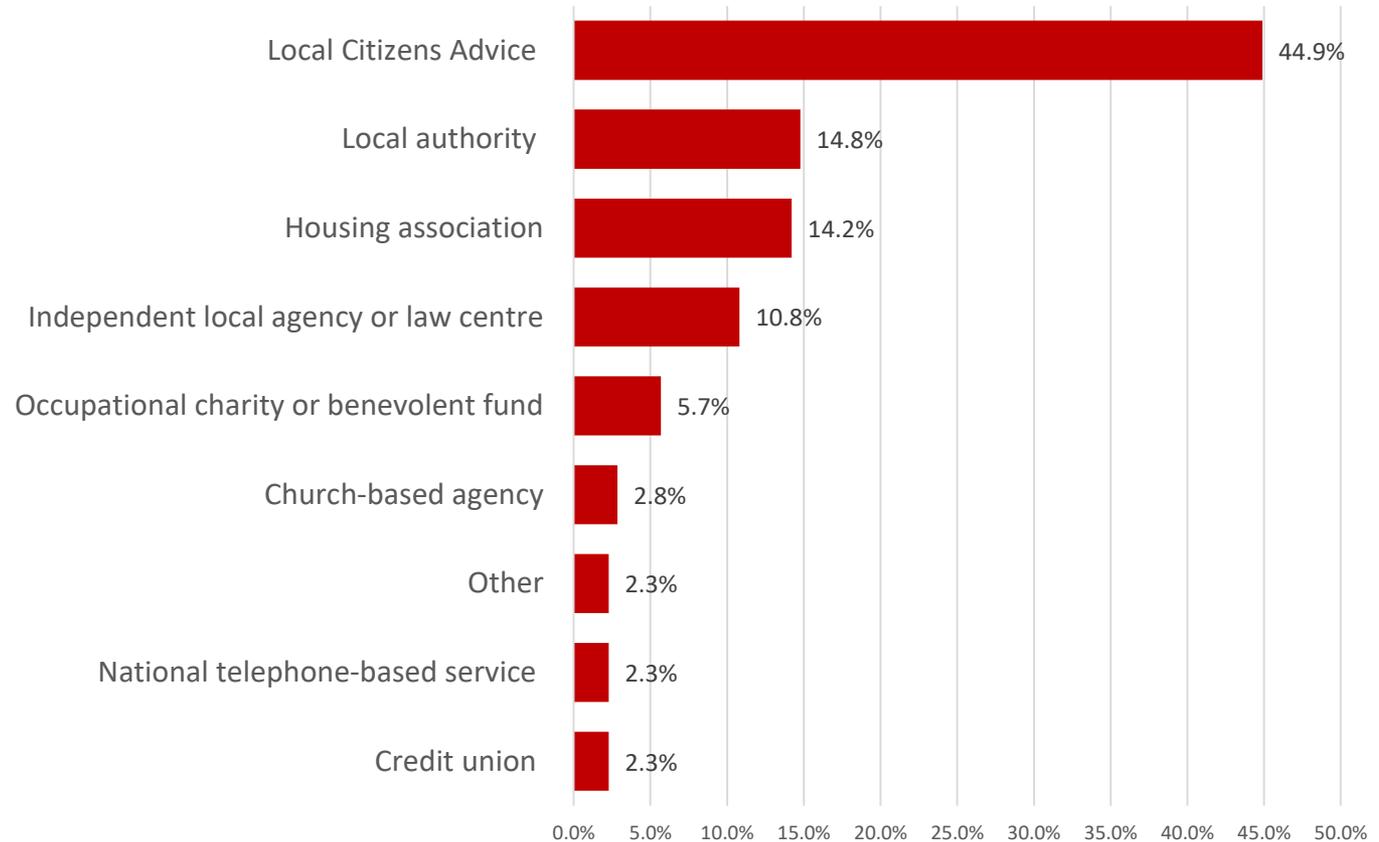
176 responses from IMA members (c.10%)

Headline sponsor

PayPlan®



What type of employer do you work for? (n=176)

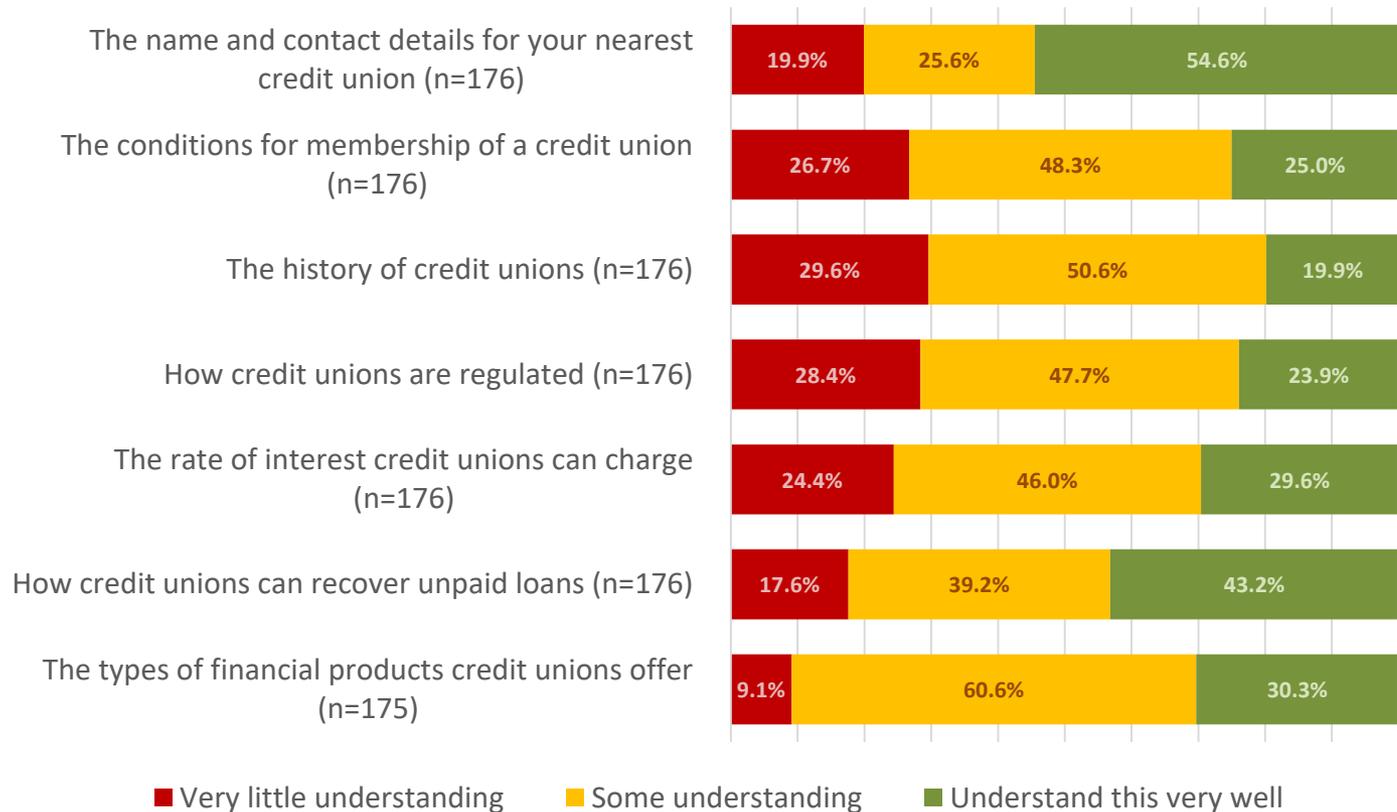


Headline sponsor

PayPlan®



How would you rate your knowledge of the following?

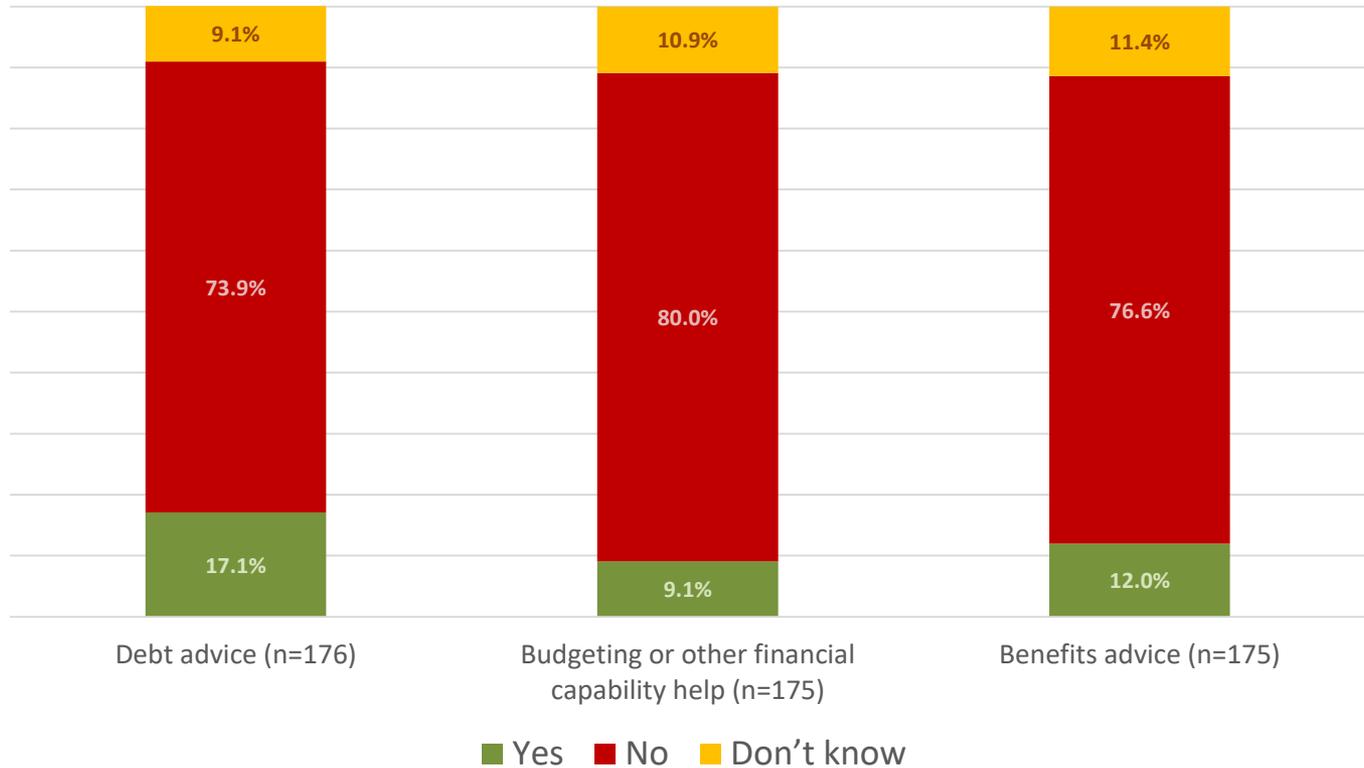


Headline sponsor

PayPlan®



Does your organisation get clients referred or signposted from a credit union for any of the following reasons?

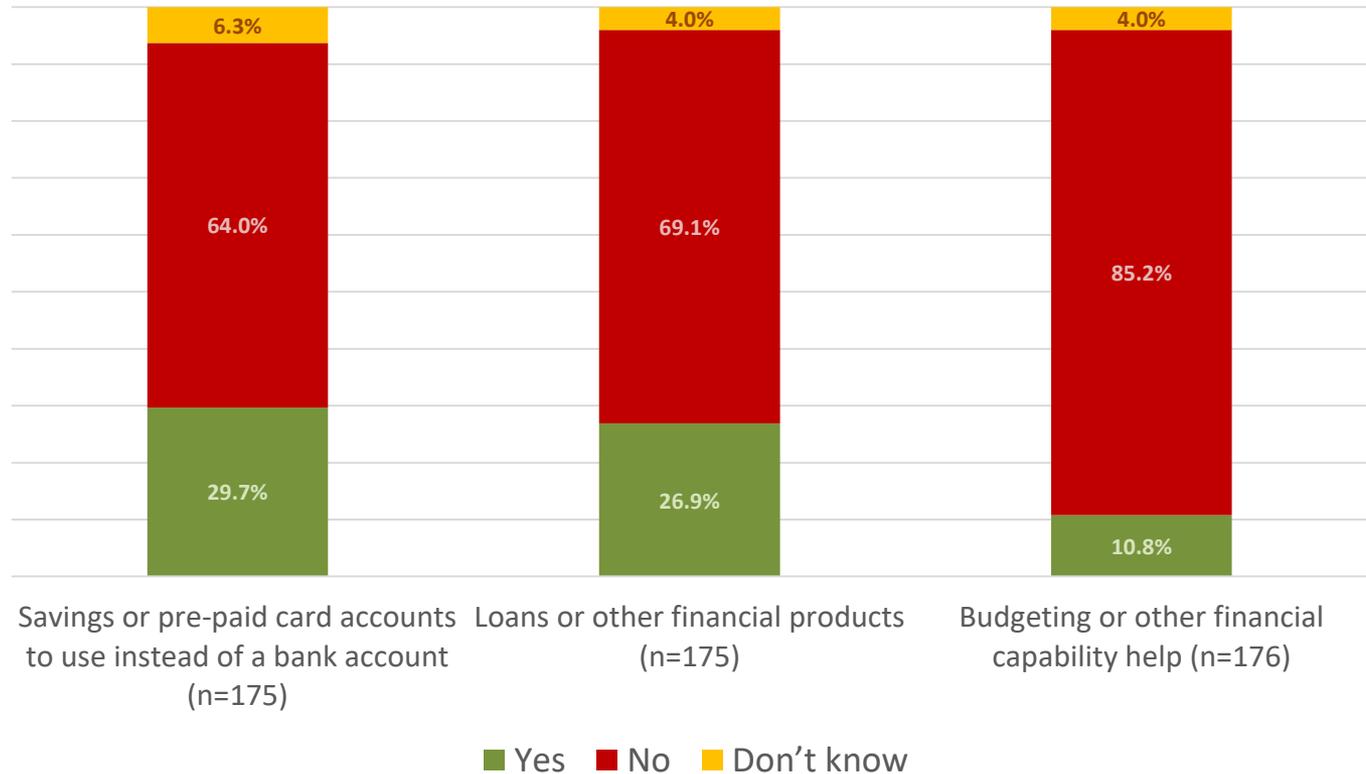


Headline sponsor





Does your organisation signpost or refer clients to a credit union for the following reasons?

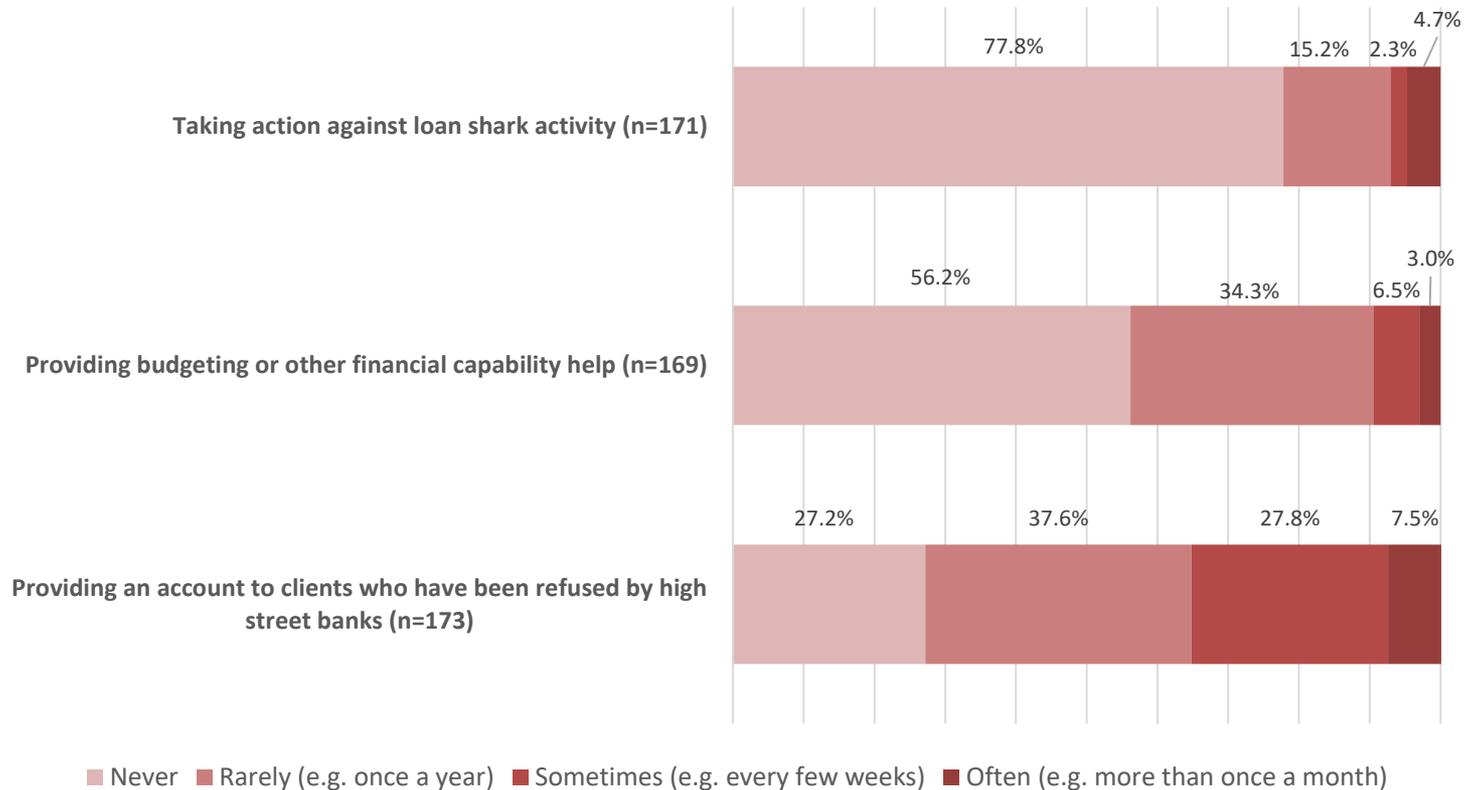


Headline sponsor

PayPlan[®]



How often do you encounter the following actions from credit unions? (Other services)

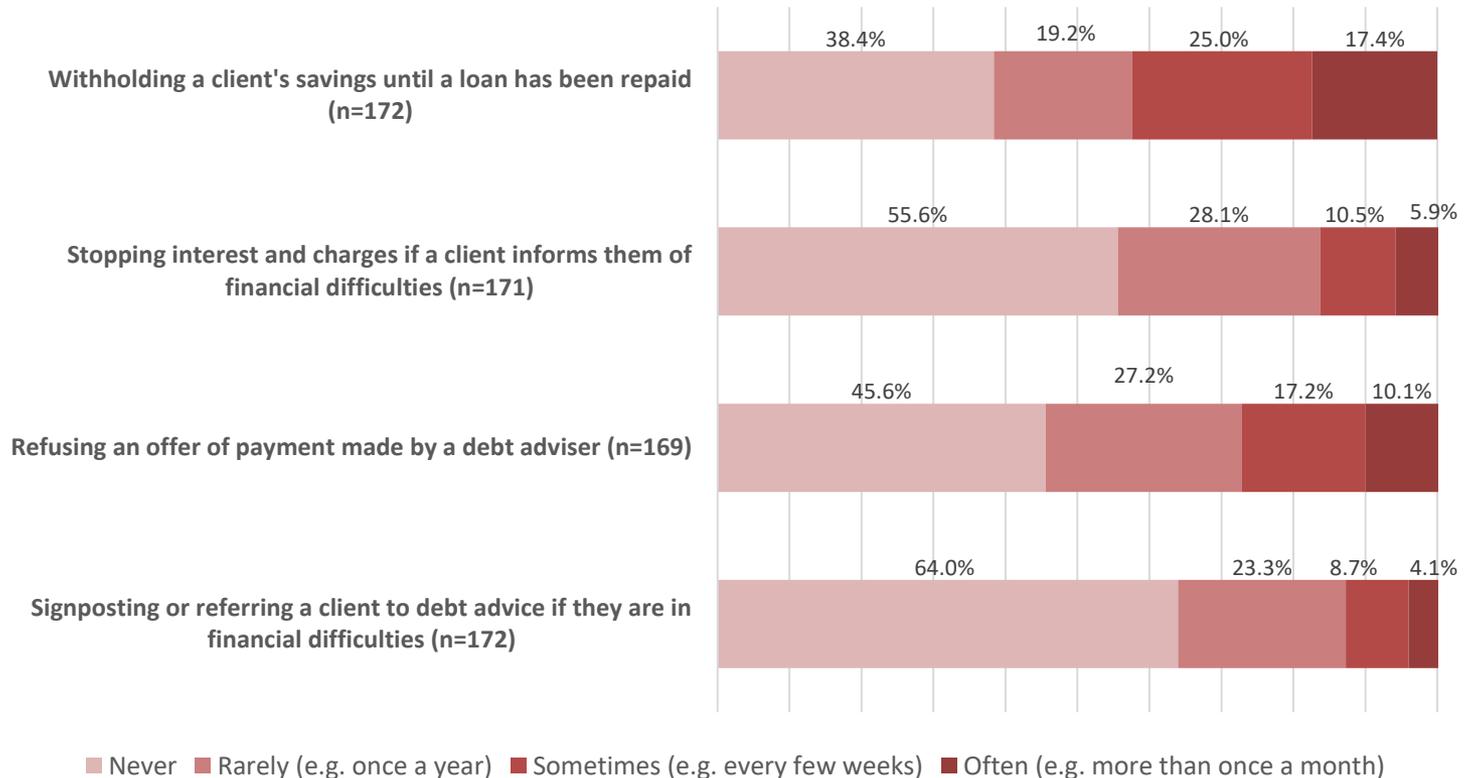


Headline sponsor

PayPlan®



How often do you encounter the following actions from credit unions? (Financial difficulties)

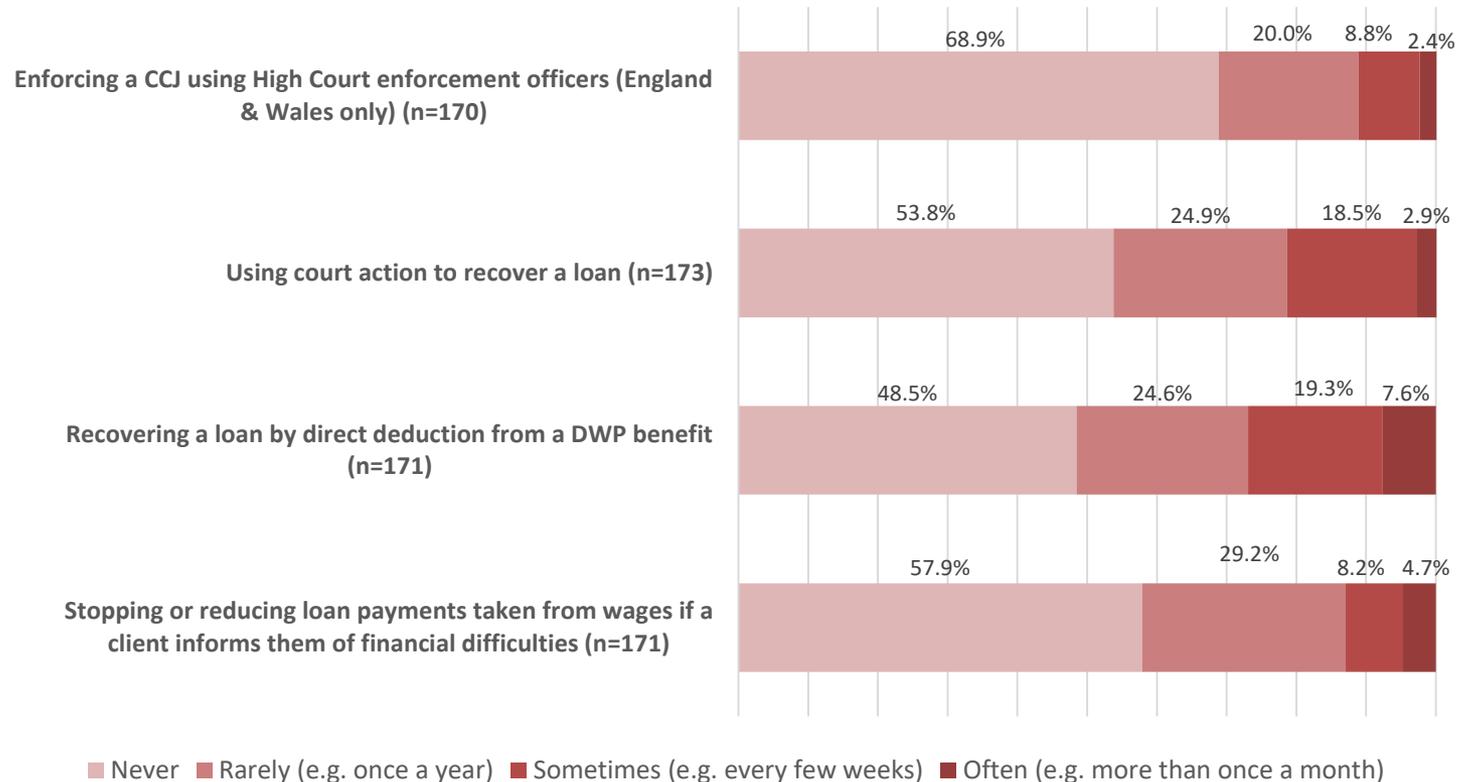


Headline sponsor

PayPlan®



How often do you encounter the following actions from credit unions? (Recovery)

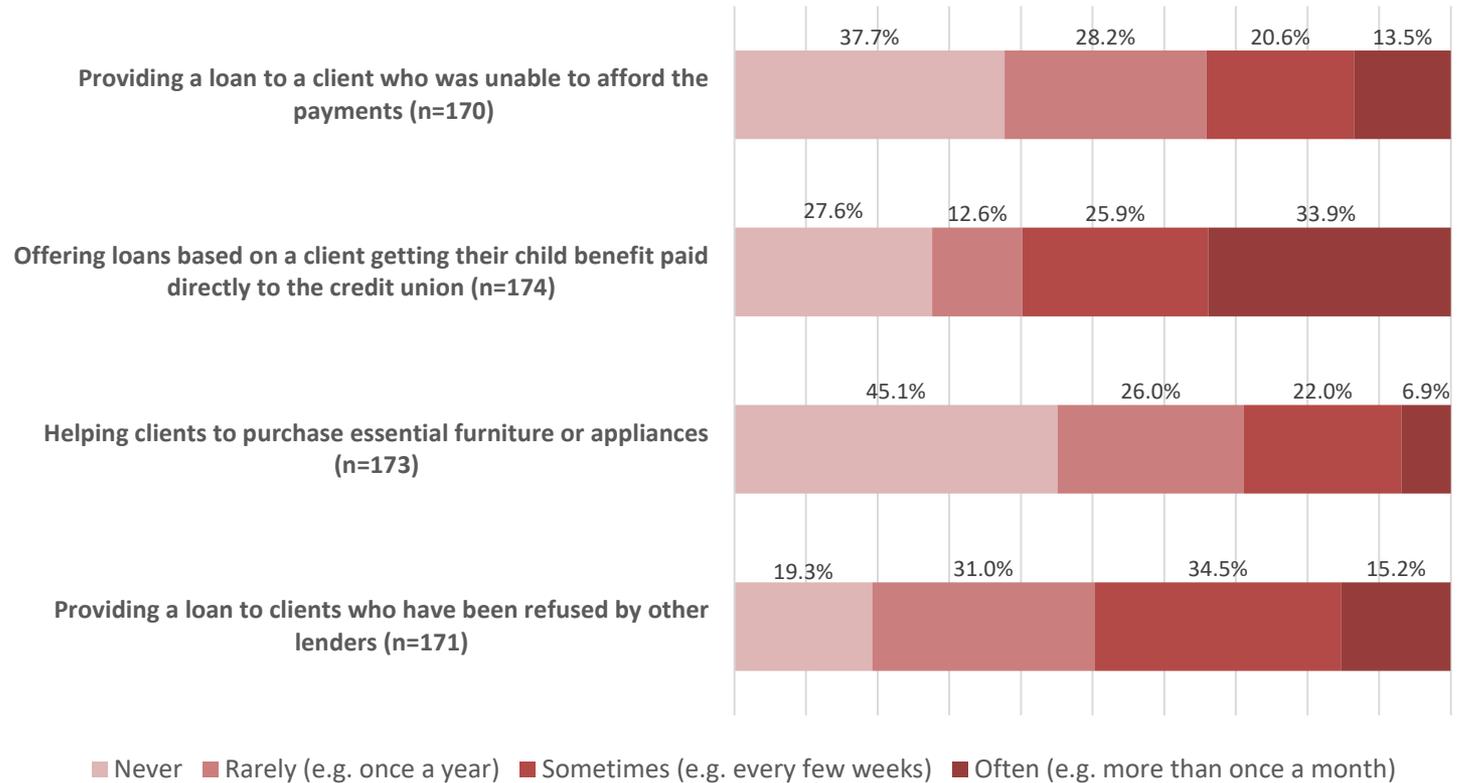


Headline sponsor

PayPlan®



How often do you encounter the following actions from credit unions? (Lending)



Headline sponsor

PayPlan®



Opinions stated about credit unions (n=80)



Over a fifth of the comments mention child benefit loans.

None of these refer to child benefit loans positively.

Headline sponsor





“I personally dislike the child benefit loan repayment method and for this reason I would be cautious to refer anyone for a loan”

“Personally I feel that these child benefit loans are immoral and do not understand how a creditor can get away with asking someone to pay there child benefit to them”

“Credit Unions breed a dependence on credit, as this is often linked to Child Benefit payments this results in exceptional levels of repayments compared to other high street lenders”

“I don't think it is acceptable that credit unions set up plans for child benefit to be paid directly to credit union for a loan”

“Child Benefit loans are a scandal - they take away the client's right to choose and elevate what should be a non-priority debt to a priority and a preference”

“Taking all of a clients child benefit to pay a loan sometimes leaves them in hardship”

“They do not communicate with us and do not stop the child benefit from being paid directly to them even if the client requests this”

Headline sponsor

PayPlan®



How do credit union child benefit loans work?

Headline sponsor

PayPlan[®]

How does it work?



- Client opens a credit union account and applies for loan
- Client arranges for CB to be paid into the account
- Loan will not be released until first CB payment received by credit union
- Credit union takes loan payment from CB, and often an additional amount for savings
- Remainder of CB payment will be available to save or withdraw
- Client may be able to 'top up' the loan balance after a period

Headline sponsor

PayPlan®

The arguments in favour



- Often pitched at non-members, so an entry point to dealing with credit union (but need to join credit union when applying)
- By the time the loan is repaid, the client should have a lump sum of savings and should be used to the habit of saving – *‘the promotion of thrift’* and *‘training and education of the members in the wise use of money’*
- Much lower chance of missed payments compared with cash, DD or standing order
- Retreat of high cost credit (especially Provident) leaves a gap, and child benefit loans allow credit unions to expand into this gap with lower risk compared to loans paid by other means

Headline sponsor

PayPlan®

Debt adviser concerns



- Visceral reaction to using CB – some advisers compared it to historic cases of illegal lenders keeping a client's CB payment book
- Double standards – *“If any other creditor was to do that there would be uproar!”*
- Concerns about lack of affordability checks
- Difficult to stop payments, and credit unions perceived as unwilling to reduce payments
- Repayments can be high compared to overall income
- APR better than payday/doorstep loans but *“not much cheaper than Amigo”*
- Promotes dependence on credit for budgeting
- In some households, CB is the only money paid to a woman

... are these concerns fair?

Headline sponsor

PayPlan®

Credit reference checks



Most websites specified they will check affordability but did not show how this is done

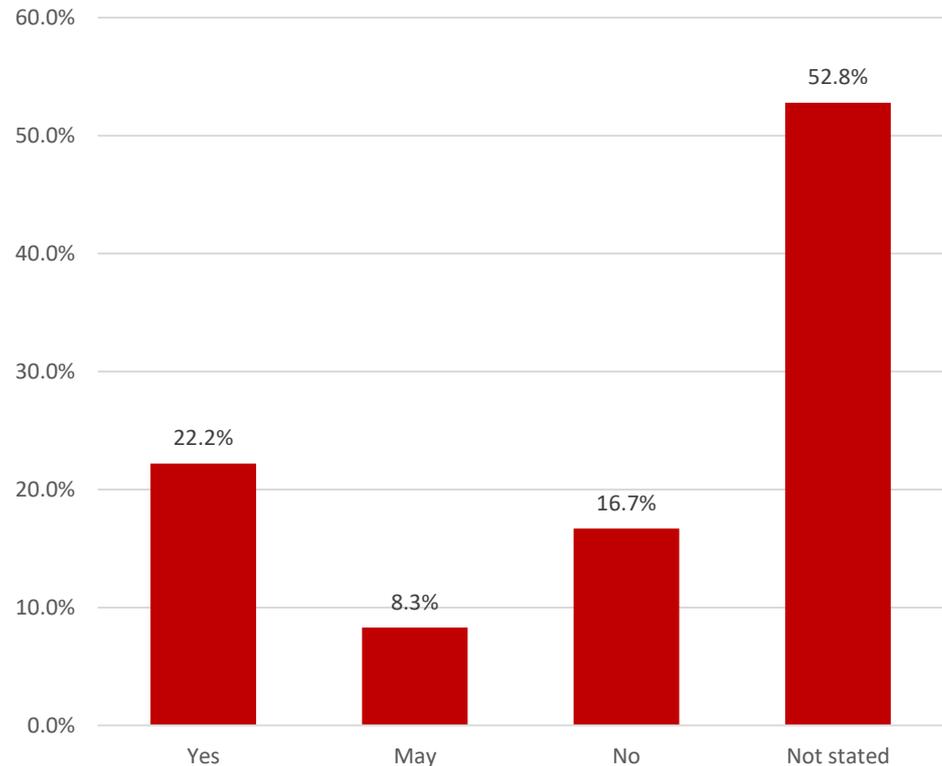
Common to ask for bank statements, payslips, benefit letters etc – and published FOS decisions show this is happening

Most say they will not lend to those recently or currently insolvent

Why state that no credit check will be done?

Credit checks are not obligatory, even for lenders covered by CONC

Will the credit union do a credit reference agency check? (n=36)



Headline sponsor

PayPlan®

Interest on the loan

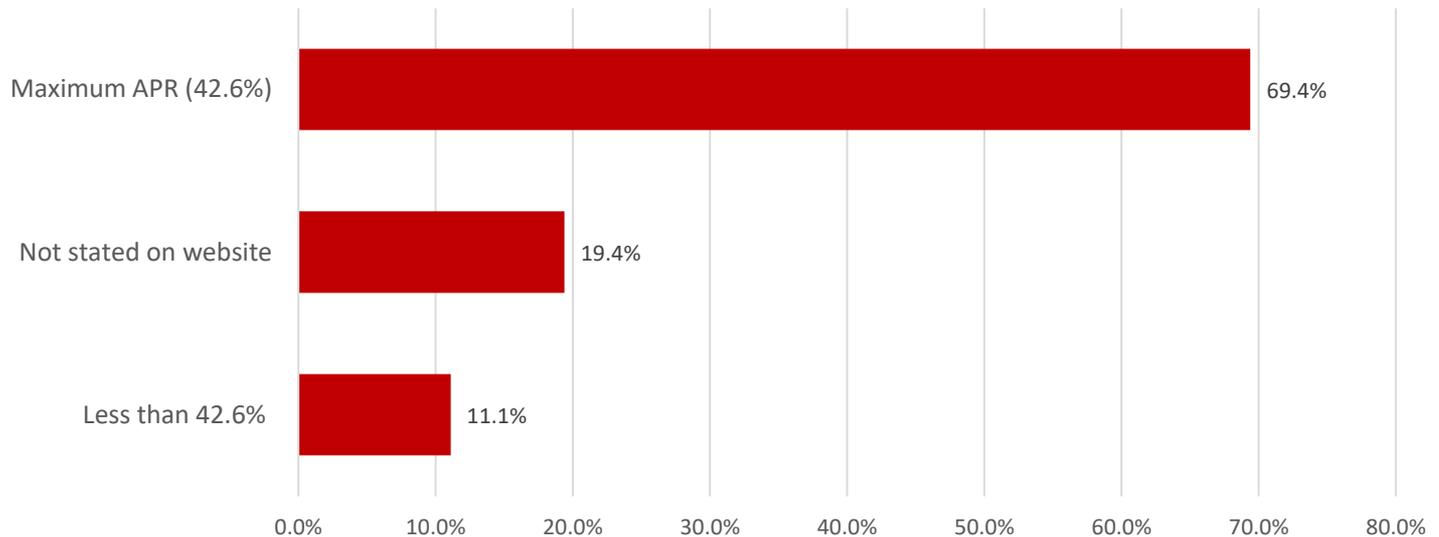


Maximum interest from 1 April 2014 is **3% per month (42.6% APR)** in England & Wales

From 1 June 2006 to 31 March 2014 it was 2% per month (26.8% APR) in England & Wales

It remains 1% per month (12.7% APR) in Northern Ireland

What is the APR? (n=36)



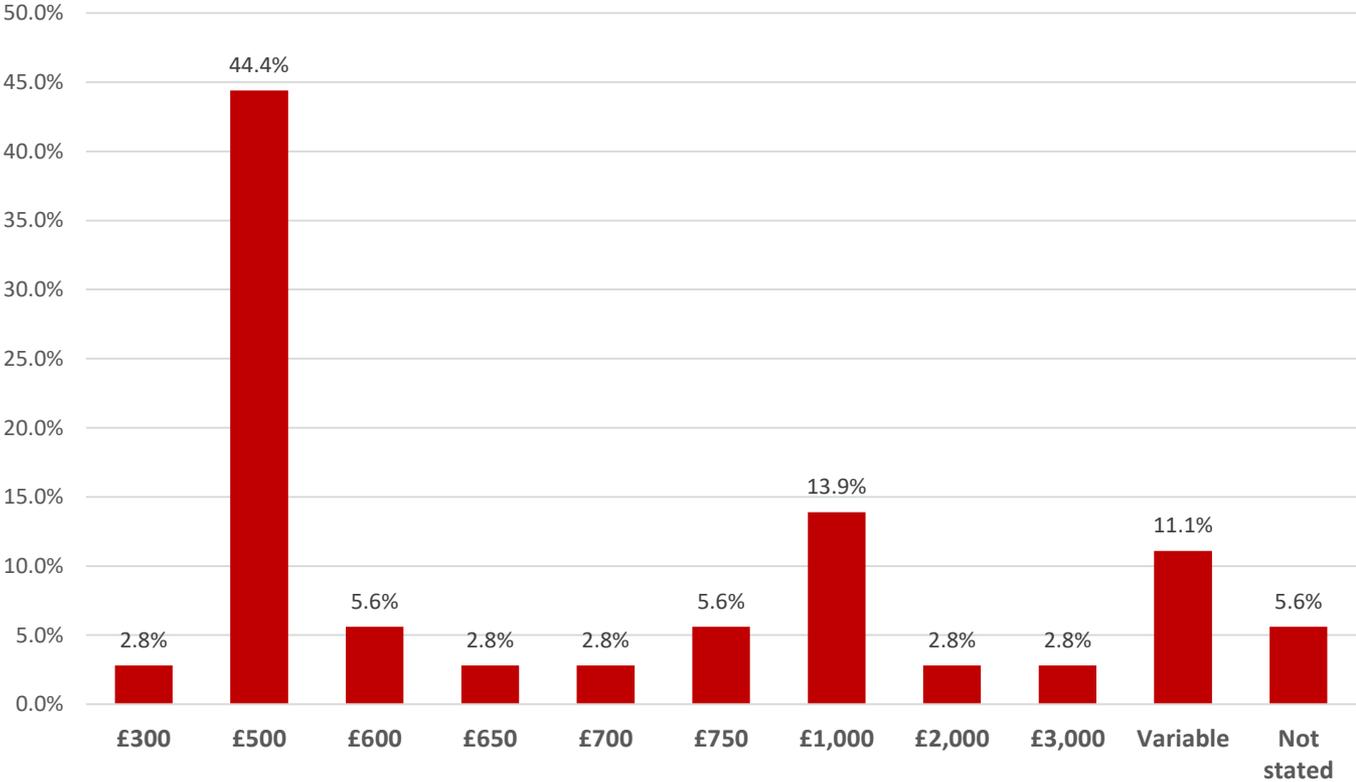
Headline sponsor



Size of loans



Maximum loan amount (n=36)



Headline sponsor



Top-ups and repeat lending



"For hundreds of local mums, Child Benefit savings and loans make the year go round. Half term childcare, new shoes, birthday parties, Easter treats, summer holidays, back to school, and then it's Christmas. And in between there's home improvements, a new washing machine, and keeping the family car on the road. If you are very lucky, there might be a little left over for you!"

50% of websites stated that the loan could be topped up before it was fully repaid, typically:

- When a third or a half repaid
- When specified number of payments made, or after a certain number of weeks

50% did not specify terms for topping up the loan

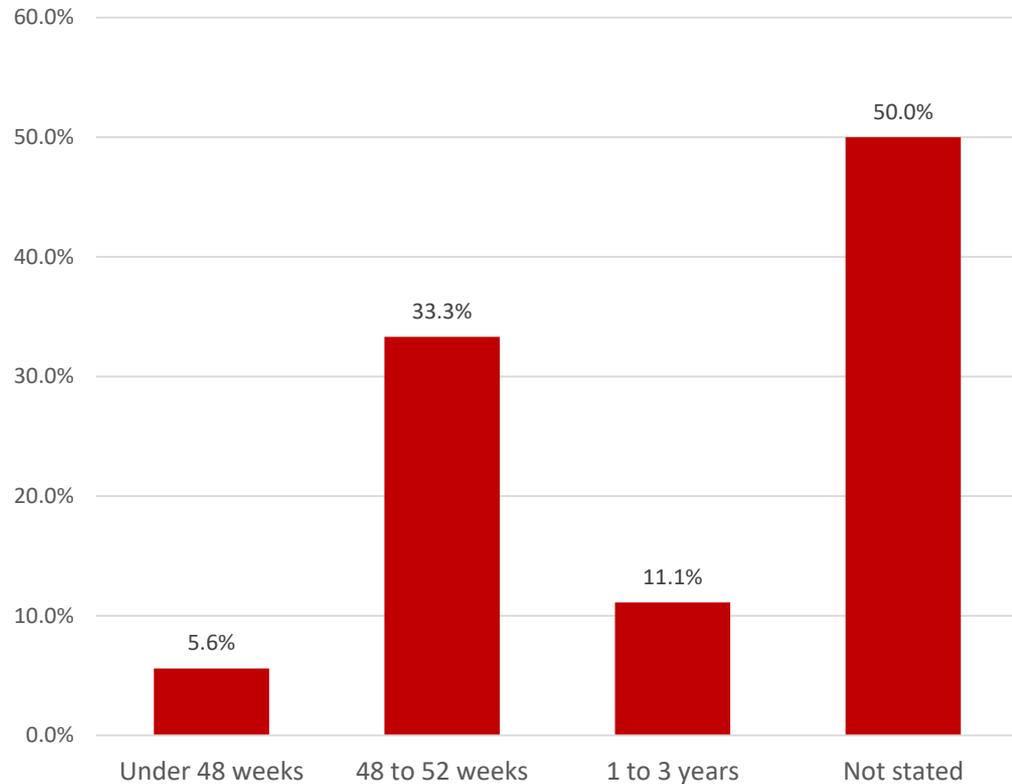
Headline sponsor

PayPlan[®]

Maximum loan term



What is the maximum term of the loan? (n=36)



Shortest 26 weeks

Longest 36 months

Half of websites did not state the term

Headline sponsor



Linked savings



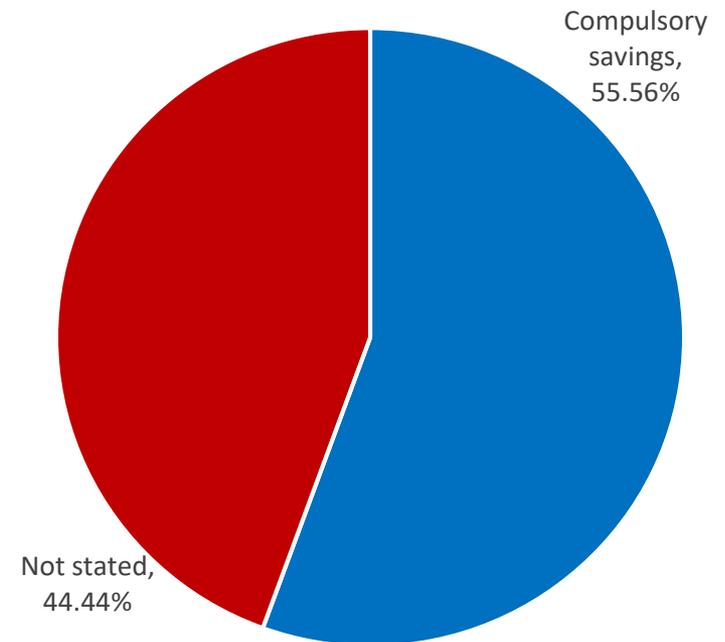
Some allow access to savings before the loan is paid back

Others specify that savings can only be accessed once the loan is cleared

Compulsory savings amounts vary:

- Lowest is £1 per week
- Highest is £8.74 a week where the client has 4 or more children

Does the client have to save while repaying the loan? (n=36)



Headline sponsor

PayPlan®

What would you advise?



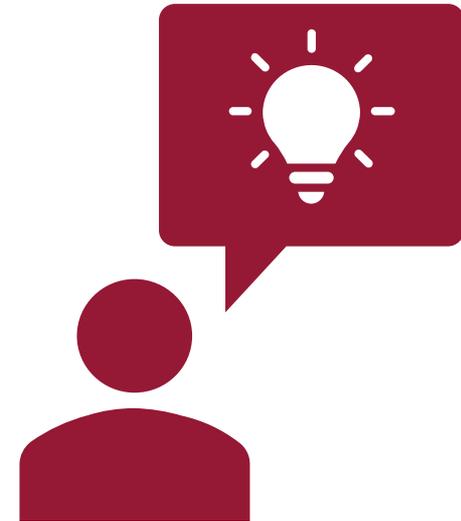
Typical case

Your client has her 4-weekly CB due soon

It is paid into a credit union account with a large part of it kept for a loan payment

If the full loan payment is taken, she cannot afford other essential costs

What do you do?



Headline sponsor

PayPlan®

Dealing with child benefit loans



- Ask the credit union to stop payments
- Call HMRC and change the CB payments to a different bank account
 - [Online form](#), [webchat](#) or phone 0300 200 3100
 - The client may need to confirm the existing bank details in order to change to another bank
- Breathing space – credit union can continue to accept payments ([creditor guidance 3.12](#)). Is a transfer of funds from account A to loan B *‘taking a step to collect a moratorium debt from a debtor’*?
- Insolvency
- First right of appropriation?

Headline sponsor

PayPlan®

Things to remember



- The client's accompanying savings are relevant in DRO applications
- The [eligible loan deduction scheme](#) could be used if 13+ weeks missed payments:
 - Can be taken from UC, JSA, ESA, IS, PC as expected, [and from state pension and CA](#) – but second-lowest priority deduction
 - 5% of personal allowance (£3.75 p/w in legacy / £20.58 pcm in UC until Sep 2021) – much less than is likely to be taken from the CB
 - No further interest can be added
- CCJs over £600 can be enforced by [High Court writ](#)
- The client can complain and escalate to FOS

Headline sponsor

PayPlan®



Affordability rules that apply to credit union child benefit loans

Headline sponsor

PayPlan[®]

Affordability complaints for regulated credit products



Covered by [CONC 5.2A](#) (and predecessor chapters 5.2, 5.3 and 6.2 before 1 November 2018).

Key rules include:

- **Must** take '*reasonable steps*' to confirm income [5.2A.15R(2)] and expenditure [5.2A.17R(2)]
- **Must** consider if payments might have a '*significant adverse impact*' on finances, e.g. missing other payments or borrowing to meet payments [5.2A.12R(3-5)]
- **Must** be affordable even if the loan is secured [5.2A.14R]
- Affordability **must** be considered for the whole duration of the loan [5.2A.12R(1)]
- **Must** take into account '*reasonably foreseeable*' changes [5.2A.15R(3)] & 5.2A.17R(3)]
- Exact questions and evidence needed depends on client circumstances and risk attached to the lending [5.2A.20R(1)]

Headline sponsor

PayPlan®

Affordability rules for credit unions



What does not apply?

CONC 5.2A and predecessor CONC chapters – **doesn't apply**

[CREDS 7](#) 'Lending to members' – **doesn't mention affordability**

Chapter 3 [PRA Credit Union rulebook](#) 'Lending' – limits on amounts, duration etc, but **doesn't mention affordability**

Older loans before 1 April 2014:

- OFT [Irresponsible Lending Guidance](#) – **doesn't apply**
- [s.55B CCA 1974](#) ('Assessment of creditworthiness' 1 February 2011 – 31 March 2014) – **doesn't apply**

Headline sponsor

PayPlan®

Affordability rules for credit unions



What does apply?

[PRIN 2.1.1R](#) applies ([CREDS 10.1.3G](#) underlines this), for example:

- **Principle 2:** A firm must conduct its business with due skill, care and diligence
- **Principle 6:** A firm must pay due regard to the interests of its customers and treat them fairly

[s.138D\(2\) Financial Services and Markets Act 2000](#) – right to sue for loss resulting from breach of an FCA rule (though not PRIN rules)

[Unfair relationship](#) provisions apply ([ss.140A-C CCA](#))

CONC 5.2A '*should always be looked to as best practice*' [Matt Bland, ABCUL head of policy, January 2019](#), and confirmed in [key FOS decision](#)

Headline sponsor

PayPlan®

A blue circular icon containing two white quotation marks is positioned on the left side of the slide, overlapping the yellow and orange background sections.

The FOS response to credit union affordability complaints

Headline sponsor

PayPlan®

FOS decisions on credit union affordability checks



Only **11** published ombudsman decisions:

Case ref	Date of decision	Outcome
DRN7358128	16/08/2017	Not upheld
DRN8876754	29/11/2017	Not upheld
DRN7971157	23/07/2018	Not upheld
DRN3531398	23/09/2019	Not upheld
DRN-1862646	27/05/2020	Not upheld
DRN5683339	18/12/2020	Not upheld
DRN1209015	06/03/2018	Partly upheld
DRN5870431	15/08/2017	Upheld
DRN1403859	18/02/2020	Upheld
DRN-2347957	16/11/2020	Upheld
DRN8549928	10/05/2019	Upheld (though not the affordability part)

Headline sponsor

PayPlan®

FOS decisions on credit union affordability checks



DRN5870431 upheld August 2017 – client says CU didn't tell her the repayment amount, and inflexible when she reported financial difficulties. CU didn't respond so FOS could only decide on information client provided

DRN1209015 partly upheld March 2018 – CU failed to ask about other debts when client took out 5 loans £1,500 - £2,500 within one year

DRN1403859 upheld February 2020 – client told CU he had a gambling addiction and financial difficulties, but it continued lending to him

DRN-2347957 upheld November 2020 – client in financial difficulties getting £11k loan to repay other debt. CU could not show full expenditure checked (only payments to other debts, not to rent, bills etc)

DRN-1862646 not upheld May 2020 – loans totalling £27k over 3.5 years paid by salary deduction. Client gambled and had other debts. Client's situation was improving while lending from CU, gambling less severe and he accumulated £5k of savings. CU had seen proof of income, expenses and banks statements. Client had not been forthcoming about debts and gambling.

Headline sponsor

PayPlan®

How does FOS decide these complaints?



[DRN5683339](#) December 2020 – key decision which sets out FOS approach (but not itself upheld):

- PRIN applies, especially Principle 6 - *‘due regard to the interests of its customers and treat them fairly’*
- Industry guidance taken into account, in this case statements from ABCUL about the importance of CONC
- CONC should be taken into account as *‘best practice’*, even if not binding on CU – e.g. in this case, repeated lending as indicative of underlying difficulties [CONC 5.2A.7R(1) – information *‘of which it is aware’*]
- As with other affordability complaints, the higher risk the product, the greater scrutiny a lender should apply

Headline sponsor

PayPlan®

Why are FOS complaints so low?



Further research needed here, but reasons might include:

1. There is genuinely very little unaffordable lending
2. Clients unaware they can complain
3. Loyalty or unwillingness to lose access to credit union
4. Claims management companies not active in this area

Any other thoughts?

Headline sponsor

PayPlan®

What's next?



Early discussions with ABCUL, Illegal Money Lending Team and FCA

Possible credit union / debt advice online event – watch this space

Article in Autumn 2021 Quarterly Account

Keep highlighting good and bad practice through usual social policy channels

IMA [Affordability Complaints](#) course if you want to find out more

Headline sponsor

PayPlan®