

Payday Lending Advocacy Kit

Financial counsellors and community organisations are on the 'front line', and have first-hand experience dealing with the problems caused by payday lending. Telling your clients' stories, or helping them to tell their own story, is key to achieving meaningful reform.

The problems

- 1. Repeat borrowing:** Payday loans are usually taken out to cover day-to-day living expenses (such as food, rent and utilities) rather than 'one off' expenses. Consumers already struggling to make ends meet simply cannot afford to make repayments, and are caught in a cycle of repeat borrowing.
- 2. Irresponsible lending:** In many cases, consumers are given loans they simply can't afford to repay, and the business fails to assess the consumer's requirements, objectives, or financial situation. We are also unconvinced the presumptions of unsuitability have effected any behavioural change in the industry.
- 3. Excessive fees:** Payday loans are well known for being exorbitantly expensive. Annualised interest rates for payday loans often exceed 240%. For a borrower already struggling to make ends meet, repayment of these excessive fees and charges can leave the borrower with another shortfall and encourage them to return to the lender.
- 4. Compliance problems:** While we support the intent behind the presumptions of unsuitability for payday loans, it will often be impossible for lenders to know whether one of them is triggered. Save for relying on consumer disclosure, there is presently no simple and reliable way for lenders to obtain necessary information such as whether a borrower has had previous loans before a loan is advanced, or whether an existing loan is in default.
- 5. Evasion of the Credit Code:** Payday lending businesses have a history of structuring their contracts to avoid payday lending regulations. Despite legislative attempts to close avoidance loopholes in 2014, we are still seeing payday lenders flouting the law.

The solutions

There is an Review of the payday lending laws scheduled to occur after July 2015. We are urging the Federal Government to ensure that the Review is independent and evidence-based, and considers changes that would help to fix some of these problems. These changes include:

1. Further reducing cost caps and limiting number of loans per year

2. Creating a payday loan database

3. Improving our social safety nets and access to safe small amount credit

4. Introducing a general anti-avoidance provision

5. Requiring disclosure of annual percentage rates

Want to get involved?

There are plenty of ways to campaign for change. See our attached tip sheets on contacting the media, meeting with your local MP and making complaints to ASIC.

Need help? Contact the Consumer Action Law Centre media team: media@consumeraction.org.au

Tip Sheet: Reporting misconduct to ASIC

If you think a payday lender has breached the Credit Act you should lodge a complaint with ASIC. Here are a few tips on how to make a complaint:

1. Common breaches

You should keep an eye out for potential breaches of the Credit Act when assisting clients, and refer these to ASIC if appropriate. Some common breaches of the Credit Act include:

- ❖ providing credit without a credit licence
- ❖ failing to make reasonably inquiries about (or verify) the client's financial situation
- ❖ providing unsuitable payday loans
- ❖ failing to provide a written copy of suitability assessments upon request

Unsuitable loans

If your client couldn't afford repayments when they took out the loan, then the loan was probably 'unsuitable'.

2. Confidentiality issues

Once you have identified a potential breach (or breaches) of the Credit Act, you should speak to your client to ensure they consent to you making a complaint to ASIC. You should also check whether the client:

- ❖ consents to you identifying them in the complaint;
- ❖ consents to you providing relevant documents to ASIC; and
- ❖ has signed any confidentiality agreements with the lender that may restrict your ability to provide information to ASIC.

Evidence is key

ASIC is more likely to take further action if you identify the client and the lender, and offer to provide relevant documents.

3. Lodging your complaint

Once you have resolved any confidentiality issues, you can lodge your complaint with ASIC. ASIC prefers that you lodge complaints using ASIC's [online form](#).

You will be asked to provide a range of information, including:

- ❖ your contact details
- ❖ details about the lender and individuals you want to report
- ❖ the amount of money involved
- ❖ details of your concerns, including a background to the events and a description of the alleged misconduct
- ❖ whether you have supporting documents

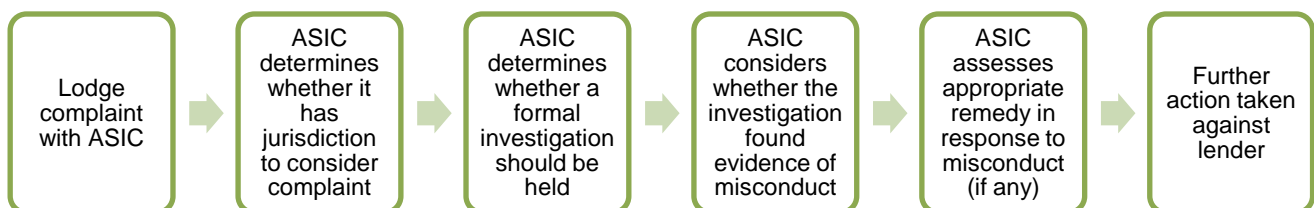
Providing documents to ASIC

You cannot attach documents to the online form. ASIC will request them if they are required.

4. What happens next?

A confirmation screen will appear once you submit your complaint. You should write down the reference number and keep it on the client's file. An ASIC case officer will usually contact you within 2 business days of submission to discuss your complaint.

There are a number of steps that must occur before ASIC will take further action after a complaint:



It is important that ASIC knows about alleged misconduct, even if ASIC decides not to take further action. Your complaint helps ASIC to understand and track broader problems in the payday lending industry.

Working with decision makers

Contacting your local MP

There are many changes needed to ensure low income consumers are protected from the harm caused by payday lending, but this won't happen unless decision makers, in particular Members of Parliament, are motivated to make this change. This requires a local approach to explain how the issue directly impacts their constituents.

If you are not sure who your local MP is (and how to contact them), you can search via the parliamentary website here: http://www.aph.gov.au/Senators_and_Members/Members

The Australian Electoral Commission can tell you which electorates you are living or working in via this link <http://apps.aec.gov.au/esearch/>.

Payday lending is regulated by Commonwealth legislation, so you will be contacting your Federal MP. If the MP for your home and work address is different, focus on your MP at work as your client base is more likely to share your Federal MP at work.

How to contact your MP

Start off by giving the MP's electorate office a call. MPs receive huge numbers of email every day, so calling can cut through. You will probably speak to a staff member – this is fine as it is the Electorate Officers who arrange meetings and set the MP's diary.

Before calling, find out some information about your MP. Check their web-site, social media or media releases to see what motivates them. Are they in government or opposition? Do they have a ministry or a particular interest? Your research may determine how you make your pitch.

Calling your MP

Introduce yourself and the organisation you are calling from, in particular, that you work in and have clients in the MP's electorate. Clearly explain the reason for your call, and that you would like to have a meeting with the MP to explain the issue.

Consider outlining your case experience with payday loans, such as how many recent issues you have had, and the effect it is having on your community. You may wish to discuss a particular case or client (de-identified) to build your credibility as an expert with the MP's office.

Don't talk too much – keep it short and business focused. Give the staffer enough information to convince them that they should get you an appointment. Offer to send through more information by email if that would help. Staffers are also busy and deal with a lot of calls on a huge variety of issues. They really appreciate clarity and brevity.

Following the call, be sure to email the office to confirm the details of the call. Asking for the best email address to contact the Electorate Officer during the call will mean that your email won't get lost. Be patient and flexible about meeting times, MPs are busy and receive lots of requests for meetings.

Meeting your MP

Consider, "What am I asking for?" - This is vital, because you are meeting your MP to create positive change for your clients and your community. There should be two basic elements to your meeting:

1. **The Local:** How does the issue affect the MP's electorate? Consider bringing along a colleague who also has experience with payday loans. Even better would be to invite a client, or a community advocate to the meeting to tell their story. If you do this, ensure that your guest is aware of the context of the meeting, and keep them on track.

2. **The Change:** How can payday loans be made safer for your clients through regulatory and legislative change? MPs can do a number of things to promote change; including writing to the relevant Minister, making a public statement or asking a question in Parliament.

If you have de-identified case studies or client statistics, bring these along to add weight to your argument and to give to the MP.

After the Meeting

Make sure you follow-up after the meeting by thanking the MP via email, or even better via social media (particularly Twitter). The MP may then "re-tweet" you to further publicise the issue. Maintain your relationship with the MP by keeping in touch about new cases or evidence that comes up.

More tips

Below are the most common mistakes made when approaching an MP (according to a 2006 survey of Australian MPs):

- ❖ wasting time getting to the point or on insignificant issues
- ❖ making ambit claims and general or vague requests
- ❖ being poorly briefed and prepared (including lack of understanding of the MP's personal views and speeches)
- ❖ failing to have an 'electorate focus', that is, failing to apply your argument to community views and interests
- ❖ failing to follow up in a timely manner

There are three key lessons to be learned from others' mistakes:

- ❖ **be clear** about the purpose for your contact and what you are requesting – keep it succinct.
- ❖ **be prepared** – know the context and who you are talking to
- ❖ **follow up promptly** – this is a measure of how serious you are, and it helps to build relationships

Working with the Media

Contacting the Media

The media is a fantastic way to increase awareness of the hidden costs of payday loans in your community, and if you are lucky state or nation-wide. There are a couple of ways to ensure that your story gets picked up.

1. **Start Local:** It is far easier to get a local media outlet, such as a Leader newspaper or regional ABC radio to use your story, as they are always looking for local content. You can contact a journalist directly, by phone or email, or ask to speak to the news desk.
2. **Make it personal:** Do you have a client who is willing to speak publicly? Do you or members of a community you work with have a personal story to tell? Or do you have some telling statistics about your client base?
3. **Off the record:** When contacting the media to outline the story and issue, be clear if you are speaking off the record. This means that anything you say during these initial discussions cannot be attributed to you.
4. **The change you want:** Ensure that you this opportunity to outline the type of legislative or regulatory change you would like to see as well. How could things be different? You can get help for this part from Consumer Action Law Centre. Remember - it is vital to be factually correct.

Do it yourself

There are other ways to promote change and build the profile of the issues facing your community.

1. **Letter to the editor:** As a person with credibility and expertise, you are the perfect person to write to a newspaper to explain your experience with payday loans, and call for specific change. Your letter is more likely to be published if it is in response to an article or opinion piece, so monitor the media as much as possible.
2. **Talkback radio:** This is often a reactive form of media activity – by responding to a radio presenter, guest, or current news issue – but other opportunities may arise, particularly on regional radio stations when open talk-back segments occur.
3. **Social Media:** Social media is a powerful tool to speak directly to decision makers, such as your local MP, and your community, but you do need to take care. A few things to keep in mind:
 - Once you publish something on social media it is in the public space – even if you later delete a post or tweet, it may have been captured already.
 - Using a person or organisation’s handle (e.g. **@JohnSmithMP**) in a tweet or *Facebook* post is the best way to speak to someone on *Twitter*. These posts are public.
 - On *Twitter*, private messages on twitter require both you and the person to follow each other. This is not the case on *Facebook*.
 - Hash-tags, created by using a pound-sign (#) before a word or phrase, can build your audience as they allow other users to search based on the hash-tag used. Commonly used hash-tags can “trend” in real time, further building an audience (**#jesuischarlie** is a recent example). Remember not to use spaces between words if using a phrase.

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