The Experience of Using Fringe Lenders in Queensland: A Pilot Study

Gregory Marston, PhD.

&

Lynda Shevellar, PhD.

July 2010

Social Policy Unit

School of Social Work and Human Services

THE UNIVERSITY OF QUEENSLAND
AUSTRALIA

Contents

Acknowledgements

We would like to thank a number of people and organisations for their assistance and participation in this pilot study.

First and foremost we would like to thank the central participants in the study: the 'borrowers' who completed surveys and spent time with us, sharing their experiences and accounts. We are very grateful for their time and honesty.

We would also like to thank the lenders who gave their time to complete surveys and participate in interviews, and for making our postcards available to borrowers. Thanks especially to the National Financial Services Federation for their assistance to us in accessing lenders, and for their ongoing engagement with the project.

We would like to acknowledge the various stakeholders who spent time with us and shared their ideas. These included: financial counsellors and consumer advocates, state and federal regulators, legal researchers, and Foresters Community Finance Ltd.

To Catherine McDonald, Roslyn Russell, Howard Karger and Marcus Banks, for their insights and assistance.

Finally, we would like to acknowledge the University of Queensland Foundation for Research Excellence for funding this research.

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ISBN: **978-0-646-53945-4**

Executive Summary

This research examined the experiences of people accessing the alternative finance sector in Queensland. The focus of the research was on high cost, short-term loans, known traditionally as 'payday loans'. The project utilised surveys and interviews with borrowers, lenders and other industry stakeholders including regulators and consumer advocates. The twelve month project, conducted during 2009, piloted a methodology now employed in a larger project that will examine fringe lending in NSW, Queensland and Victoria.

The aim of the pilot study, which was funded through an internal UQ Research Grant, was to document the experiences of accessing loans in the context of recent changes to the regulatory environment in Queensland, such as the introduction of controversial interest rate caps of 48% in 2008. While some research has been conducted into the supply and demand side of the alternative finance sector in Queensland, these studies were conducted prior to the introduction of the interest rate cap. We undertook a mixed methods study to explore how fringe lenders and borrowers were behaving in the new regulatory environment. The study involved a small number of written surveys and interviews with both lenders and borrowers, as well as interviews with other stakeholders, including financial counsellors, government regulators and consumer advocates. In total there were forty-four borrowers who gave responses to survey or interview questions, and fifteen lenders and ten other stakeholder interviews. Further details about the methodology are detailed in Section 4. Copies of the interview schedules and survey questions for borrowers and lenders are provided in the Appendices.

In terms of the findings of the study we want to emphasise that this was a pilot study. The quantitative and qualitative sample is relatively small and therefore the conclusions reached on the basis of the data can only ever be tentative. Findings from the study fell into four key areas: (1) borrower profiles, including the purpose of the loans; (2) borrower reflections on their transactions and interactions with lenders; (3) broader perceptions and understandings about money and debt; and (4) accounts of lender motivations and perceptions of changes in the industry. Each of these is discussed in detail in the body of the report in Sections 5-9.

In terms of borrower profiles our pilot study confirms other research in the US and Australia, which is that the average borrower is most likely to be aged in his or her late twenties or early thirties. This finding is consistent with national studies of personal debt, where more than half of all Australians with personal debts are under the age of 35. In terms of main source of income, our sample of borrowers was dominated by people on Centrelink income support payments as their main source of income. Of the forty-four borrowers, only six people had full-time employment, with another four people having casual-part time positions. The occupations represented in the sample included truck-driver, a scientist, a writer, various trades, a consultant, a student and a teacher. There were some participants that admitted to working in the informal economy for cash in hand work, and three participants who admitted to being engaged in illegal means of securing some income (petty crimes and drug dealing). In summary, there is quite a lot of diversity in terms of occupation, although unsurprisingly most people were concentrated in non-professional occupations.

Regarding the motivation for the loan, the obvious and common motivation is lack of money to meet a recurrent or capital expenditure. At this point it is worth acknowledging the relationship between poverty and high cost credit. Not all borrowers fall into the contested category of living in poverty, however, the overwhelming majority of the borrowers we spoke with were living below widely accepted measures of poverty. A quarter of the borrowers we spoke with were routinely accessing emergency relief for food vouchers. Many of the participants used words like 'surviving' and 'struggling' to describe their situation. Previous research has confirmed that nearly a quarter of borrowers accessing high cost, small loans were earning less than $15,000 per year (Ashton, 2008).

For some participants loans were used to meet basic necessities like food, shelter and health expenses. One notable case study was a situation where a single mother in her thirties was taking out small loans to pay for private car parking at the hospital while she underwent radiation treatment for cancer. Another woman used small loans money to pay bills due to the cost of her medical expenses. The relationship between poor health, financial poverty and limited access to fair credit illustrates the extent to which people face multiple barriers to breaking out of what some participants described as a 'vicious circle'.

In terms of the descriptions of the experience of the relationship with lenders, the responses were varied. The best way to describe this major group of respondents is as 'pragmatic borrowers', that is they were not naïve about the relatively high cost of the credit compared to mainstream banking – however they saw themselves as having little choice. They were also generally positive about what most respondents described as a 'friendly service' provided by lenders. This is not to pretend that we did not come across stories about problematic relationships with lenders. Around a quarter of the borrowers described a pattern of loans where they felt they were 'hooked in' through predatory lending practices. There are stories in our sample of people feeling like they have been taken advantage of through complex and misleading contracts and irresponsible lending.

The Industry Peak body and the lenders we spoke with acknowledged that there are 'sharks and cowboys' in the small loans industry, however, these same lenders were often not in favour of the sorts of regulations being imposed or suggested by governments. Often, lenders felt that regulations, such as interest rate caps, were more likely to push borrowers towards the 'loan sharks'.

Section 11 covers these complex policy and economic issues in some detail. We attempt to steer a course through the research literature that has evaluated the different policy responses and consider these in light of the findings from the pilot study. What we conclude is that the solution to the situation of borrowers goes beyond a debate about regulating fringe lenders. This is an issue that has multiple threads that relate to the rising cost of living and inadequate resources for people doing it tough in an economy that does not provide sufficient opportunities for everyone to get ahead and a culture that privileges consumption as a marker of success.

The educator Dr. Laurence J. Peter once said that some problems are so complex that you have to be highly intelligent and well informed just to be undecided about them. In many ways this sums up the problem of fair access to credit. The rapid growth of the fringe lending industry at a time when individuals are being expected to manage social and economic risks as independent individuals represents one of today's 'wicked problems' (Horn & Weber, 2007; West, 1967). Alongside other complex policy issues they are wicked in the sense that there is no agreement on the problem and there is no agreement on the solution. The context and key actors are changing constantly. Mann and Hawkins (2007) capture the wicked policy problem of payday lending succinctly when they state:

> Consumers want access to credit, lenders want to charge high interest rates to offset relatively high transaction costs and loss ratios, and policy analysts and lawmakers want to protect consumers from foolish behaviour, high interest rates and abusive practices.

Although very little is known about the profile of the typical borrower or the typical lender in Australia much is assumed about the morality and behaviour of both. Low income Australians are using a variety of coping strategies to overcome financial crises – none of them are ideal and the use of high cost credit is only one of them. What our research shows is that the relationship between lenders and borrowers is more complex and the policy environment much more 'muddy' than the polarised accounts in both academic studies and the mass media would suggest. The dominance of the fringe lenders in the lives of people in poverty suggests that this sector is well and truly institutionalised in the lives of many low-income people. Our starting point in thinking clearly about responses to this situation is to ask some fundamental questions, a point acknowledged in a recent report on high cost credit in the UK:

> We need to ask the question: should we accept that the poorest people are dependent on credit to make ends meet? Do we want to live in a society where contact with a debt collector is seen as important social service…do we

> really believe that the best way for poor people to make ends meet is to take out more and more credit (National Economic Foundation, 2009: 28).

In response to this question the report does not conclude by posing any easy answers. Instead it questions the framing of the problem and invites scepticism about the easy answers that we sometimes hear in the public arena.

The current policy and legislative responses to borrower harm are largely regulatory, such as licensing, contract transparency and conflict resolution schemes. Whilst important in their own right, we contend that these measures do little, if anything at all, to prevent actual harm from occurring. What it will do is permit surveillance of an industry. The inference is that surveillance will resolve the harm occurring.

Similarly, pressure on policy-makers to ban payday lenders may come from a place of good intention, but as our interviews demonstrate, the absence of payday lenders from the streets may serve to worsen some people's lives.

The problem with both regulatory and probation responses is that they name the 'problem' as the payday lender. However for those accessing payday lenders, the problem is not the alternative finance industry. For people seeking credit, payday lending is a costly but logical and legal response for many people. Those borrowers who do name it as problematic see it as a very small part of a much more complex picture.

By listening to borrowers, and understanding their relationship to debt and their pathways to fringe lenders, we can rethink the problem and pose more well-rounded solutions than that proposed in the sometimes shrill tone of the regulation versus non-regulation debate.

1. Exploring the role of the alternative economy in the lives of Queenslanders

Over the past decade, household debt in Australia has reached historically high levels (La Cava and Simon 2003). This is not necessarily a problem for higher income households because they often have an appreciating asset base to support their debt levels (Kelly et al, 2004). The 2008 global financial crash may reduce the certainty of this statement. The situation for the growing number of Australians with high debts and low assets is a very different story – a story that has barely been investigated in the Australian context. Locked out of mainstream financial services, this segment of the population is forced to access alternative financial services, or what Karger (2005) refers to as the 'fringe economy'.

The alternative finance sector in Australia has experienced considerable growth over the last decade and is currently the subject of much conjecture. Policy and law makers, consumer advocates and industry lobbyists are immersed in a political debate about how best to regulate access to credit whilst protecting consumers from exploitation.

Although an enormous amount of research has been conducted into the alternative financial sector, much of it is heavily biased – developed for and by either the industry or consumer advocates. A great deal of it is methodologically flawed and much of it focuses upon the experience of the United States. Within Australia, the majority is from Victoria – although there are also some Queensland studies through Griffith University.

The literature is heavily polarised, contradictory and subjective. Even seemingly objective academic research projects are often sponsored by a consumer advocacy organisation, a bank, or the non-bank lending industry. So the first dilemma is that there is very little objectivity throughout the research and one must identify the ideological position and author bias beneath any article before weighing the usefulness or otherwise of the study. What IS clear is that the research that exists tends to ask the same questions and reiterate the same answers to these same questions. These include:

- What is payday lending? Is it a reasonable business response to consumer need or a predation of the most vulnerable people?
- Is payday lending a good or bad thing? Is it predatory – and if so, how might we define this? Are the motives and methods unscrupulous? Or are the profits necessary and reasonable in the face of higher risk transactions?
- What is happening to this industry around the world? Can we contrast across nations and state and learn from each other or are regulatory environments so different as to invalidate comparisons?
- Who are the typical payday borrowers? Are they middle class people over-consuming due to a growth in consumerism, materialism, sensualism and

hedonism? Have we lost the art of delayed gratification? Or are these people experiencing poverty and utilising any means they can merely to survive?

- Why do people use payday lenders? Is it an absence of knowledge and skill, poor decision making and the triumph of convenience over rationality? Is it the deliberate preference for flexible, personal services with an appropriate product? Or is it the last resort for those rejected by the mainstream credit industry?
- How do we protect consumers? Do we ban small loans completely? Do we limit credit available in terms of amounts, repayments, interest rates? Do we increase public awareness, education and financial literacy? Do we ensure thorough licensing systems and access to dispute resolution? Or is protection a paternalistic and classist response?
- Do these various measures achieve the desired affect or do they actually do further harm? When payday lending is restricted or banned do people make better decisions? Do they turn to mainstream options? Or is their vulnerability increased as they access illegal lenders?

Within the literature ALL of these positions are validated and denied, proven and disproven, argued for and rallied against. There is no high ground to stand on. Our knowledge is not moving towards a shared understanding – but is digging deeper into opposing trenches. It seems that the credit debate constitutes a 'wicked problem' at the intersection of social policy, welfare, finance and business.

To move this debate forward we are therefore taking a different approach by focusing upon those at the heart of the debate:

We are seeking to understand the nature of the services being provided to people, and the experiences of people accessing these alternative finance services.

In this paper we will present an overview of the literature on the small loans industry, with reference to both Australian and international literature. We briefly describe our study and present key findings, before developing a much more detailed analysis of the key themes. The report ends with a series of recommendations.

Throughout the report we have provided vignettes of a broad cross-section of the people we have met through this study. We have done this to create a more complete picture of people's pathways into debt.

2. About Small Loans

A small loan is a form of credit. Known also as a 'cash advance', 'deferred deposit loan' or a 'payday advance', it usually involves a loan of less than $1000.00 (although some lenders specialise in larger amounts). It is marketed as a short-term advance on the borrower's next pay. The aim is to assist people to get past an immediate cash shortfall (King & Parrish, 2007). The loan term is usually about two weeks and must be paid off in full. Fees are charged for the service. The fee charged is usually 25 percent of the loan amount (T. Wilson, 2004). When the loan falls due, the borrower has several options. They can repay the loan. If the borrower cannot afford this, then they must renew the loan, paying an additional fee for the service. This is known as 'rollover'.

Despite this seemingly straightforward transaction, payday lending is an awkward terrain to negotiate. This is because, at its centre is money, the rights and responsibilities' regarding access to money and the freedoms and powers that align with these. Credit is debt (Consumer Affairs Victoria, 2006a). Debates flourish over whether credit is a luxury, a right, a necessity, a necessary evil or simply pure evil, and consequently who has the right to access credit, through whom and under what circumstances and conditions. Thus fundamental to this discussion is the issue of human agency and autonomy and the issue of rights. As Krueger observed:

> Money is probably the most emotionally meaningful object in contemporary life: only food and sex are its close competitors as common carriers of such strong and diverse feelings, significance and strivings (1986, cited in Mitchel & Mickel, 1999, p. 569).

The literature on payday lending is surprisingly vast. It is also underpinned by ideological positioning and hence highly polarised, complex and even contradictory. It is also rarely independent, with the vast majority of studies commissioned and often conducted by either the lending industry or consumer advocacy agencies, such that even comprehensive research has questionable reliability (Huckstep, 2007).

Much of the literature originates in the United States of America, which adds confusion to analysis as each state within the USA carries different legislation making comparisons extremely difficult. The most comprehensive literature review within Australia was conducted by Wilson (2004). This project provides an update to Wilson's excellent material. The present study examined over 170 articles and books including academic studies and meta-analyses, industry reports, position papers, and legislation. The research gaze of this paper is focused upon Australia – and in particular the state of Queensland – however a much broader scan was undertaken to provide a national and international context.

What the research shows is that attitudes to credit and debt have changed quite dramatically in the last two decades (Atwood, 2008). Once a shameful and private experience, it is now a fundamental part of the way we live, enabling people to ride the highs and lows of daily living. For example, the Commonwealth Bank of Australia (2007) shows that household debt has risen much faster than household disposable income. The ratio of personal debt to income in Australia is one of the highest in the world – higher even than US and the UK. Australians spend more than they earn (Consumer Affairs Victoria, 2005). On a national scale, personal debt now equates to 100.4 per cent of Australia's annual GDP, which is one of the highest ratios in the developed world (The Courier Mail, 27/12/09). In other words, regardless of how it is interpreted, having regular and easy access to credit is now a fact of life for the majority of Australians.

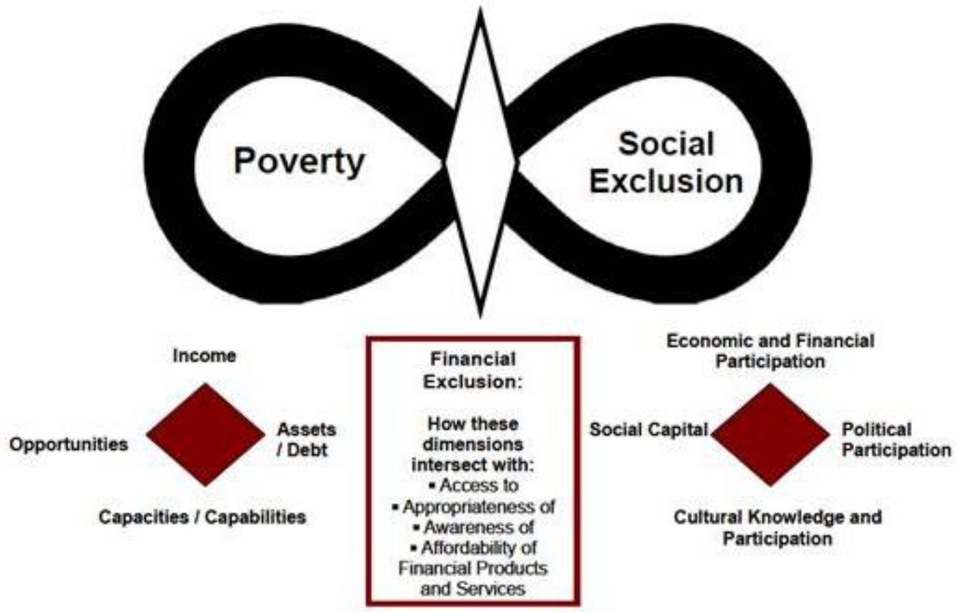
To enter this territory it is useful to think about the way in which some products and services are 'essential' to participation in social and economic life. They are referred to by legal scholars as 'services of general interest' (Wilhelmsson, 2003, p. 149). Such services vary from time to time and are largely socially and technologically determined. They are recognised as being necessary for a 'decent life': so much so that in Europe they are defined as 'social rights' (p. 153). Included in this list of essential services are access to cash transmission and banking services as well as access to short-term consumer credit to cover emergencies and smooth out the cost of large purchases.

These services are understood to be of 'general interest' because failure to ensure access to these services can have significant consequences not only for individuals but also for the broader community (Howell & Wilson, 2005). Over-indebted consumers place strain on government, community and welfare services. Emergency relief, accessed through charities, becomes committed to debt repayment. There are a range of relatively unseen costs to society when people do not have access to credit, including the provision of income support, the administering of bankruptcy and court processes, and adverse mental and physical health impacts resulting from financial exclusion. Simply having a bank account is not enough. Lacking additional banking and financial services such as direct debits, cheques and credit or debit cards, savings, insurance products and superannuation, can contribute to financial and social exclusion (Connolly, 2005; Burkett & Drew, 2008).

Financial exclusion is a highly complex terrain. As shown in Figure 3, the relationship between poverty, social exclusion and financial exclusion is not linear – but rather each of the three factors is itself is both a cause and effect of the other two (Burkett and Drew, 2008). In mapping the range of responses to people's financial needs, Ingrid Burkett and Belinda Drew (2008) depict the financial sector as consisting of four types of providers. *Formal providers* tend to be mainstream services such as banks, registered financial institutions and companies and insurance companies, and superannuation funds. They are highly regulated, secure and safe. They are also difficult to access for those people on low or irregular incomes or with poor credit ratings. Banks and credit unions also usually do not lend amounts less than $5000. The thinking behind this is that the returns on these small amounts do not warrant the set up and administrative costs (Community Financial Services Association of America, 2003). Within the formal sector, people tend to utilise credit cards for credit needs less than $5000. According to the Reserve Bank of Australia, in April 2009 there were 14.3 million credit or charge cards and 29.7 million debit cards in Australia. Australian credit card debt was $45.4 billion in February 2009, which means an average of $3149 for every Australian cardholder. Interestingly, this is the same amount for US credit card holders. However, figures such as these are usually based on an average rather than a median, suggesting extremes of money management behaviour at either end of the spectrum.

At the other end of the financial sector spectrum are what Burkett and Drew call *informal systems* such as borrowing from friends and family. Although this source of finance provides ease of access, it also has potential for conflict, and embarrassment.

Figure 3: The relationship between poverty, social exclusion and financial exclusion



Source: Used with kind permission of Burkett, I. and Drew, B. (2008). Financial Inclusion, market failures and new markets: Possibilities for Community Development Finance Institutions in Australia. A Foresters Community Finance Occasional Paper. Brisbane: Foresters Community Finance.

For further discussions of financial exclusion see: http://www.foresters.org.au/site/DefaultSite/filesystem/documents/PossibiltiesforCommunityDevelopmentFinanceInstituionsinAustralia.pdf

Alongside these is a *welfare system*, providing social security payments, small loans and No Interest Loans Schemes (NILS). NILS schemes have proven popular, but are also limited in their provision. There are limits to loan amounts ($500), geographical restrictions and restrictions on use of money (e.g. limiting loans for white goods only). Centrelink advance payments are available, and since July 1, 2010, there is greater flexibility in accessing these – however they are also limited according to pension types and amounts.

Finally there is a group Karger (2005) refers to as the '*fringe economy'* which includes payday lenders, pawn brokers and cheque cashers. The Queensland Office of Fair Trading also makes this distinction between 'mainstream' and 'fringe' markets (Queensland Government, 2006, p.11).

Fringe lending has a less than desirable reputation. As a recent Australian newspaper commented, 'the image of the payday lender is usually the bloke in a dingy office in a dodgy part of town, preying on the financially vulnerable with exorbitant interest rates, and if necessary, a hired goon or two' (Newman, 2009). Not surprisingly, non-bank credit providers tend to distance themselves from the traditional idea of 'fringe' lenders, instead re-badging themselves as the small denomination loan market or as alternative finance services (AFS) (Flannery & Samolyk, 2005).

In their defence, lenders argue they offer an essential service and fill the market space vacated by the formal sector. Payday lending is also seen as less open ended than credit card debt and not as embarrassing as borrowing from friends.

Mann and Hawkins (2007) provide a neat summary when they state:

> Consumers want access to credit, lenders want to charge high interest rates to offset relatively high transaction costs and loss ratios, and policy analysts and lawmakers want to protect consumers from foolish behaviour, high interest rates and abusive practices. The spirit of the market is captured by a recent [US] television advertisement advising that 'something things can't wait until payday' (p. 857).

Regardless of its status, there is no denying the large and growing demand for this consumer credit and the rapidly expanding network of companies willing to supply it (Stegman & Faris, 2003).

3. The Payday Lending Industry

Relatively unknown before 1990, in the USA, 'payday lenders now have more storefronts than McDonald's and Starbucks combined' (Skiba & Tobacman, 2008a, p. 2). Each year around ten million American households now borrow on payday loans.

It is difficult to ascertain the extent of financial exclusion in Australia, or the size of the payday lending industry. The Office of Fair Trading concedes, 'at present there is only limited research available on the prevalence of high interest loans in Queensland and/or fringe credit providers generally' (Queensland Government, 2006, p. 11). The National Finances Sector Federation (NFSF) estimates that at any one time there are likely to be 39, 800 active loans being provided by the Queensland payday and micro-lending industry (Smiles & Turner, 2006). Chant Link and Associates (ANZ Bank, 2004) report that there is little data available on the ownership of fringe credit products. The first payday lender appeared in Australia in 1998 and by 2001, eighty-two payday lending businesses were offering 12, 800 loans a month (D. Wilson, 2004). Recent research indicates that fringe lending has a market size of $800 million and is the fastest growing part of Australia's financial landscape (Infosys Technologies Ltd, 2008). Consumer Affairs Victoria captures this as 'a shift from the rationing of credit to the active retailing of credit' (Consumer Affairs Victoria, 2005, p. 1).

Unlike the UK and USA, in Australia there are not large groups of people who would be regarded as 'unbanked'; having no engagement with the formal financial system. In their 2004 study, Chant Link and Associates report that only 0.8 percent of the Australian population own no financial products at all (ANZ Bank, 2004). This means that whereas the US and UK systems often secure loans against the next paycheque; Australian lenders tend to link directly to people's bank accounts and utilise direct debit processes.

In the comprehensive review of literature from the United States, the US Department of Housing and Urban Development observes that surprisingly little is known about the factors that have given rise in recent years to alternative financial services and providers (Apgar & Hervert, 2006). However Dean Wilson (2004) suggests six contributing factors:

- the rising use of credit cards across social strata;
- the deregulation of the banking sector and the withdrawal of services from low income consumers;
- declining or stagnating real incomes amongst low income groups;
- rising levels of household debt;
- decreased levels of savings;
- increasing rates of personal bankruptcy; and
- individuals with poor credit ratings.

This is exacerbated by an increasing acceptance of household debt (Queensland Government, 2006).

There are four broad sets of players that are important in the payday lending industry. Firstly, there are those euphemistically referred to as 'mom-and-pop' lenders, by which they mean the large conglomerate of vaguely defined local providers (Mann & Hakwins, 2007). Secondly, there are large national providers. The third players in the industry are banks. This is a potential rather than active role as at present bank involvement is indirect and marginal. Mainstream institutions have been reluctant to provide credit to consumers on low-incomes due to a perceived increase in risk, and an increased likelihood of defaulting (Howell & Wilson, 2005). Finally, there is the much more elusive but fast growing category of internet providers (Mann & Hakwins, 2007).

In examining these players, Mann and Hawkins push for the encouragement of large and reputable lenders into the market. They conclude that in a largely unregulated market, such as that of small loans, there are numerous benefits that flow from having the actors in the market include 'a better class of lenders' (p. 905). In contrast, regulators and consumer activists have argued against the expansion of large lenders for two main reasons. The first is that allowing publicly owned companies into the small loans sector enables middle and upper-income people to benefit from making unreasonable loans to the poor (Hudson, 1996). The second is that innovative financial services – whose focus has been on serving marginalised and underserved communities – are greatly reduced or lost (Burkett & Drew, 2008).

3.1 Recent Changes to the Payday Lending Industry in Australia

In Australia consumer credit loans have been regulated by a piece of legislation called the *Uniform Consumer Credit Code (UCCC),* which in every state applies to loans for 'personal, domestic and household purposes' (Cleary, 2000). Whilst this sounds comprehensive, as Cleary observes, by simply altering the loan conditions, loans may be crafted to fall outside the Code.

Other laws which may apply to loans include the *Australian Securities and Investments Commission Act (Cth) 1989*, which prohibits unconscionable and misleading conduct in financial service provision (where the lender is a corporation and the Code does not apply), as well as various provisions of state Fair Trading Acts (Cleary, 2000).

As the Treasury Department's 2008 Green Paper (Commonwealth of Australia, 2008) observes, due to time lag and certain reservations contained in the laws, the UCCC did not achieve the uniformity its development was intended for. There are marked differences with respect to licensing, interest rate caps and promissory notes under the code (Johns, 2008). Consequently, the Federal Government announced an action plan to assume responsibility for all consumer credit. In the first phase of the plan the

Commonwealth took responsibility for trustee companies, existing credit regulation and the UCCC by enacting at federal law.

3.2 Commencement of Phase One

Phase One of the National Consumer Credit Protection reforms commenced on 1 July 2010. It included the following measures:

a) Commonwealth responsibility

The National Consumer Credit Protection (NCCP) laws replace the State- and Territory-administered Uniform Consumer Credit Code (UCCC). According to the government's Green Paper (Commonwealth of Australia, 2010):

- enhancements to close known loopholes, such as tightened exemptions for pawnbroking and low-cost, short-term credit;
- improved operation of the business purpose declaration;
- information statements and notices which require lenders to inform consumers about their rights to apply for hardship variations and stays of enforcement; and
- access to external dispute resolution mechanisms, and the existence of financial counsellors and legal aid.

b) Licensing:

Secondly, the new regime demands registration of all small loans businesses. It introduces upfront entry and ongoing conduct requirements and provides access to external dispute resolution (EDR) mechanisms.

c) Responsible lending conduct:

The third component specifically targets the issue of debt spirals. Lenders are required to:

> conduct an assessment that the credit contract or lease is not unsuitable for the consumer. A contract will be unsuitable where either it does not meet the consumer's requirements and objectives; or the consumer will be unable to meet the repayments, either at all or only with substantial hardship. In undertaking the assessment the lender must make reasonable inquiries about both the consumer's requirements and objectives and their financial situation, and take reasonable steps to verify the consumer's financial situation (Commonwealth of Australia, 2010, p. 60).

d) Strong national regulator

As a single national regulator, ASIC will be able to ban people from the industry and impose a range of penalties in enforcing the regime. Under the *Trade Practices Amendment (Australian Consumer Law) Act 2010*, it has power to make an application to the court to re-open unjust contracts and review unconscionable interest and other charges. It is worth noting that although default fees are included, under the legislation, upfront fees and charges are not.

e) Positive credit reporting

As part of this amendment the Government has agreed to increase the range of information that credit reporting agencies are able to collect. The stated aim of this move is to improve lending practices and make it easier for some people on low incomes to obtain finance. This measure is a direct response to the Australian Law Reform Commission's 2008 report *For Your Information: Australian Privacy Law and Practice* ('the ALRC report'). The report was the outcome of a twenty-eight month inquiry into the effectiveness of the *Privacy Act 1988* ('Privacy Act') and related laws. Part G of the report specifically addresses Credit Reporting Provisions.

In its response to the ALRC report, the Government accepted the ALRC's recommendations to introduce comprehensive credit reporting in Australia. The Government will introduce five 'positive' datasets into the credit reporting system. The five new datasets are: the type of each active credit account, date of opening *and* closure of account, account credit limits and credit repayment history (recommendations 55-1 and 55-2 refer). This is seen by the government as benefiting business and consumers through improved assessment of credit worthiness of individuals. It is also intended to level the playing field between large and small lenders.

The Government response (2009) supports the other moves outlined above, by articulating measures to make the credit regime more flexible and less prescriptive, including:

- requiring the industry to develop a mandatory and binding credit reporting code, with detailed standards for consistent compliance;
- emphasising industry-led complaint resolution through external dispute resolution and greater responsibility on credit providers and credit reporting agencies;
- prohibiting direct marketing using credit information, but permitting pre-screening of direct marketing lists to remove adverse credit risks (with provision to opt-out); and
- reforms to enhance consumer protection and awareness of adverse listings.

According to the Response Paper, to address privacy and consumer concerns around comprehensive credit reporting, repayment history information will not be available until the responsible lending obligations outlined in the NCCP, are in place.

3.3 Phase Two

As noted above, under the UCCC, some Australian States and Territories have previously put in place additional mechanisms to regulate consumer credit. For example, New South Wales, Queensland, Victoria and the Australian Capital Territory have all enacted interest rate caps. The issue of interest rate caps was hotly contested during the Phase One consultation process. Consequently the Government agreed that jurisdictions with interest rate caps in place would retain them, those without caps would not introduce them, and the issue of interest rate caps would be considered during the course of Phase Two. The current state of play across Australia, as provided by the Commonwealth Green Paper, is shown in Table 1.

Table1: Regulation in the States and Territories, as at July 1, 2010

Jurisdiction	Regulation
ACT	A maximum cap of 48 per cent per annum, inclusive of fees and charges. Credit providers are required to be registered. Responsible lending obligations apply to credit card providers. The ACT Government has not made an announcement about the future of its interest rate cap.
New South Wales	A maximum cap of 48 per cent per annum, inclusive of interest, fees and charges commenced in March 2006. In March 2010 NSW enacted legislation which continues, until 1 July 2011, its interest rate cap with amendments to expand the definition of credit fees and charges included in the calculation.
Northern Territory	No interest rate cap or licensing/registration requirements.
Queensland	A maximum cap of 48 per cent per annum, inclusive of interest, fees and charges. Current arrangements commenced on 31 July 2008. Queensland has retained its interest rate cap.
South Australia	No interest rate cap. However, following the release of a discussion paper in October 2006, South Australia developed legislation to introduce an interest rate cap which was put on hold in light of the impending transfer to the Commonwealth.
Tasmania	No interest rate cap or licensing/registration requirements. Introduced, but did not enact, legislation to restrict advertising of credit products where the total cost of credit exceeded 40 per cent per annum.
Victoria	A maximum cap of 48 per cent per annum for unsecured credit and 30 per cent per annum for secured credit, exclusive of fees and charges. Victoria has enacted legislation which continues its cap until 1 July 2011. Credit providers are required to be registered. Unfair contract terms have applied to credit contracts since mid-2009. Mandatory EDR membership since March 2009.
Western Australia	No interest rate cap. Credit providers (except authorised deposit-taking institutions (ADIs)) must be licensed.

Source: Commonwealth of Australia. (2010). *Green Paper: National Credit Reform. Enhancing confidence and fairness in Australia's credit law.* July, 2010. Canberra, Commonwealth of Australia.


Get a same day cash loan in
Australia with no hassle. Two
minute application process and
instant decision! Apply today, cash
in minutes.'

4. About the Project

Motivated by recent changes to the credit industry, this study was developed as a pilot project. The intention was to pilot a methodology locally (within the state of Queensland) to enable a broader application of the study in the following years.

The pilot was funded by a UQ Research Excellence Award, and received no funding from consumer groups, lenders or government departments.

The pilot project finished in 2009, and has now become part of a National ARC funded project (which will target Qld, NSW, Victoria) being run jointly by UQ and RMIT, with industry partners National Australia Bank and The Good Shepherd, in 2010 and 2011.

4.1 The Project Methodology

To explore how fringe lenders and borrowers construct their respective identities, motivations and actions, a mixed methods pilot study was conducted in Queensland, Australia. The study involved written surveys and interviews with both fringe lenders and borrowers, as well as in-depth interviews with other stakeholders, including financial counsellors, government regulators and consumer advocates.

In this paper we use 'industry' or 'lenders' to refer to the Small Loans/ Short Term/Non-Banking Alternative Finance providers, 'borrowers' to refer to those people seeking small loans, and 'stakeholders' to refer to advocates, counsellors, academics, and regulators. These are all people associated with the industry, but neither providing nor seeking loans.

Surveys included both quantitative and qualitative answers, and interviews were semi-structured. The data was collected in 2009.

Forty-seven Queensland payday lenders were sent surveys to gain a snap shot of current business practices and current issues. The National Financial Services Federation – the industry representative body – assisted with the identification of payday lenders and emailed surveys to members. Of the forty-seven lenders who were sent surveys only thirteen responded (making a response rate of 28 percent). Two lenders agreed to an in-depth interview following the surveys.

Ten stakeholders were interviewed: including representatives from two regulatory bodies (one state and one federal), representatives from a community finance institute; an academic researcher; three financial counsellors; and three consumer advocates. Stakeholders were asked about their experiences with small loans – and payday lending in particular, their thoughts about the lending industry, and the impact current regulations were having on payday loans. We were also interested in what they thought responses to their issues of concern might look like. This information was then themed utilising NVIVO software. We also attended a national gathering of consumer advocacy groups to better understand their position on fringe lending.

Street surveys were conducted with twenty borrowers[1]. In-depth interviews were held with twenty-eight borrowers (including four who volunteered following the survey) – making forty-four borrowers consulted in total.

People self-selected for an interview by sending in a postcard (shown in Figures 2 and 3) made available at the loans centres, financial counsellors' offices and offices of Legal Aid. This was deliberately done to ensure as wide a range of respondents as possible. We used convenience sampling in that we made only a limited attempt to ensure that the sample was an accurate representation of the larger population. We accept the limitations of convenience sampling in terms of generalisibility; however, this method is acceptable in pilot studies as it provides useful information on a field of study that has received little systemic research attention in the Australian context. The survey questions and interview questions are outlined in the Appendices.

Figure2: Postcard view 1

Figure 3: Postcard view 2

[1]Three lenders also offered to assist with distributing our surveys to customers – but later changed their minds. Two lenders felt that our surveys asked overly personal questions that their customers would not answer, the other said he had 'had a gutful' of the endless consultations, changes, research and discussions in the last four years and couldn't see that our research would make any difference and that governments would do as they pleased regardless of the evidence.

5. Key Issues in the Queensland Small Loans Industry

There was fundamental disagreement between industry members and the stakeholders that we interviewed about the nature of loans provided, how much is being provided, for how long, to whom and under what conditions. In turn this leads to differing interpretations of the data, underpinned by differing ideologies. In their overview of the field, stakeholders, including lawyers, academics, consumer advocates, financial counsellors, and regulators identified the following issues:

- a lack of empirical evidence on the impact of interest rate caps; including whether it is true that lenders cannot operate at a 48 percent cap and how innovative lenders are being to negotiate the new restrictions;
- a need to test the claims of the industry – including levels of friendliness and customer service, people's willingness to pay etc;
- an interest in understanding how people have come to access payday lending, whether they understand the consequences and whether small loans providers represent the lender of last resort;
- a concern about the kinds of items people are borrowing for;
- an interest in how people pay loans back and what happens down the track. For example does it prevent pain and stress or merely push it down and hide it for a while?
- a lack of knowledge about where else people are turning to for financial assistance when lenders have closed down; and
- a concern about the way in which behaviour becomes normalised, so that what begins as something one-off may become a regular way of accessing credit and managing finances.

What is very clear to all research participants is the growth in the complexity of the industry. As a regulator commented:

> *So in terms of what you've got for the industry, you've got everything from the person who's got the one shop, who sits down at the local shopping centre, to the guy who sits at home on the internet who targets the whole of Australia-wide, to the big franchises and everything in between. Credit itself can be very kind of – it can be from the small loans to bigger loans that are securitised or un-securitised. It can be from $20, $50 up to $5000. ..It's such a different industry to what it was not that long ago. I mean, it used be that you had a loan, you had a lender, and a borrower. Now you've got five people in between who are brokers, aggregators, originators, bloody God knows what, you've got redraw familiarities, offset accounts, reverse equity share products , so things that aren't traditional credit products. You've got Sharia lending, you've got peer-to-peer online lending. [Regulator from metropolitan Queensland]*

The internet adds additional complexity: its reduced costs make it increasingly attractive to new businesses. It means you can be physically located anywhere –

which creates jurisdictional problems for regulators:

> *In terms of enforcement, if they're sitting over in Malta and you're saying, 'Don't do this, you're a naughty boy', [they think] 'well, thanks very much, but we'll keep lending'. [Regulator from metropolitan Queensland]*

Another part of the difficulty in regulating the small loans sector is the issues of identifying lenders.

> *The challenge for us was trying to locate them, because currently its not a licensed industry and pretty well anyone with $20 000 can set up shop, stick a sandwich board out the front and away they go. [Regulator from metropolitan Queensland]*

This is an important point, because registration for lenders is only now being introduced. Furthermore, until recently there has not been a unifying body to speak on behalf of the industry. The emergence of the NFSF is an attempt to provide a representative voice and to seek to understand and influence the changes being imposed upon the industry. However our research also reveals is a lack of agreement on how best to refer to the small loans sector or even what constitutes a small loan.

5.1 What's in a Name?

For example, when asked how they would like us to refer to their industry, some lenders agreed with the term Alternative Lending Services:

> *[Alternative Lending Services] will do fine and thank you. Usually the terms used to describe us, such as 'fringe lender', are somewhere between condescending and derogatory. [Lender from south-east Queensland]*

Others were opposed to the term, saying it lacked specificity or had negative associations.

> *'Alternative lending services' implies a degree of 'not quite the best place to go, shady'. [Lender from south-west Queensland]*

A number of alternatives were proposed, including 'second tier capital lenders', 'small loans provider', 'short term, small principal lenders', 'micro-lenders' and 'non-bank lender'. Others resented even attempting to name the industry:

> *I don't understand why they need to be called anything different. Everyone has to comply under the same legislation. What difference does it make if one is a publicly listed company and another a private individual? [Lender from metropolitan Queensland]*

In its reports, the Government has referred to the industry through the intentionally neutral – if somewhat wordy – phrase, 'for-profit small-amount short-term lending market' (Commonwealth of Australia, 2010).

5.2 That Which We Call a Rose

Equally contentious was the issue of gaining agreement on the nature of their products. Lenders were asked to define a payday loan and a microloan and to flag any other loan types of which we should be cognisant. In defining a payday loan, one lender argued it was a one to two week loan. Three lenders argued that the loan term was up to one month. One lender suggested it was a six-week loan. Two lenders quoted a sixty-day term and one lender claimed a term of twelve months. In terms of amounts that could be borrowed, lenders suggested that the maximum amount that could be borrowed were $200, $500, $1000 and $10000. The only agreement people could come to was that the term 'payday lending' had been sensationalised and had highly negative connotations. There was slightly more agreement on the subject of 'microloans' – five of the lenders argued that it was any loan under $5000 – simply because this was the lowest amount banks would approve a loan for.[2] Others argued for any loan less than $3000 or $1000 or any small loan over a short time frame (maximum of twelve months) that the general banking and finance sector refuses to service. However one lender contested the idea saying:

> *The term 'micro-loan' [is] an internationally recognised term that is used in relation to third-world loan for a family to buy a cow, or seeds, or a water pump etc. so shouldn't be used for our industry. [Lender from metropolitan Queensland]*

5.3 Thorns in the Side

So pluralised is the Industry that even the main issue facing the industry is the subject of disagreement.

Key issues named by lenders included the 48 percent cap and the lack of viability for businesses – and related to this, the inappropriateness of using annualised percentage rates. This was sometimes expressed as the inability of consumer groups to allow market forces to set a competitive price for provision of credit as a consumer product

The second issue raised by lenders was the poor perception of the industry, perpetuated by politicians and the media.

> *My friends (mainly professional people) are somewhat critical of the industry, citing high interest rates preying on the bottom end of society – the other view is that of my clients (the bottom end of society) who are absolutely grateful that someone at last will lend them a small loan over a long period (12 months) as the banks and finance companies will not. [Lender from central Queensland]*

Some lenders raised the lack of legal or financial redress for lenders.

> *If a default occurs really you have very little chance of recovering your money if the clients decide to ignore your demands as the cost to recover $200 could be over $1000 and the consumer knows this. [Lender, central Queensland]*

[2] Although as shown in Table 11, our research suggests amounts as low as $2000.00 are now available through mainstream banks.

Related to this was the issue of irresponsible borrowers. For others the problem was one of irresponsible lenders – often expressed as 'too many cowboys in the system'. This was seen as contributing unfairly to the poor reputation of lenders trying to do the right thing:

> *[The main issue is] lenders letting clients debts spiral and being pig-headed in their approach to a resolution in difficult client circumstances. [Lender, south-east Queensland]*

6. Discussion: Who are Payday Borrowers?

Turning from lenders and the lending industry to the borrowers, this section will provide an overview of the people we met who were utilising payday loans and compare our results with the findings in other studies.

Table 2 provides the gender breakdown for the research participants. As shown, of the forty-four people who were interviewed, eighteen borrowers were male and twenty-six were female.

Table 2: Gender of Study Participants

GENDER	NUMBER OF BORROWERS
Females	26
Males	18

The research is clear that payday borrowers are young. The average borrower is likely to be aged in his or her late twenties or early thirties (T. Wilson, 2004). This confirms US reports such as that by Elliehausen and Lawrence (2001) who reveal the majority of payday borrowers to be 'disproportionately young' with two-thirds of customers under the age of forty-five, and 36.4 percent under thirty-five years of age (see also Io Data Corporation, 2002; Logan & Weller, 2009; Pierce, 2008). In a recent study of debt collection by age it was shown that more than half of Australia's debtors are under the age of thirty-five (Bradstreet, 2008). This is consistent with the findings from the present study, as shown in Table 3; the majority of borrowers were aged 31-40, with over half of all borrowers under the age of forty.

Table 3: Number of Borrowers by Age

AGE OF BORROWERS	NUMBER OF BORROWERS
Undisclosed	1
Under 20 years	2
21-30 years	8
31-40 years	16
41-50 years	8
51-60 years	6
61-70 years	2
Over 70	1

In terms of physical location, payday lenders tend to situate themselves in poorer areas. This skews the data as people were recruited from loan centres (as opposed to online borrowers).

Table 4 provides a breakdown of borrowers by education. It shows the last year of formal education completed by borrowers. Of the forty-four borrowers participating in the study, only thirteen had completed Year 12 of high school, and of these, only four people had continued to university.

Families who borrow from payday lenders tend to belong to minority groups (Logan & Weller, 2009). In the present study, this pattern was less clear.

Table 4: Number of borrowers by educational attainment

LAST YEAR OF EDUCATION	NUMBER OF BORROWERS
Undisclosed	2
No formal schooling	1
Year 7	2
Year 8	2
Year 9	8
Year 10	12
Year 11	4
Year 12	9
Undergraduate qualification	3
Postgraduate qualification	1

Regarding cultural origin, as shown in Table 5, the majority of borrowers (thirty-three of forty-four) were Australian born. Of these, five people identified as Indigenous Australians.

Table 5: Borrowers by Country of Birth

COUNTRY OF BIRTH	NUMBER OF BORROWERS
Undisclosed	1
Australia	33
Germany	1
New Zealand	3
Papua New Guinea	1
Poland	2
Samoa	1
Scotland	1
Sudan	1

Table 6 shows that thirty of the forty-four borrowers spoke English at home.

Table 6: Borrowers by Preferred Language

LANGUAGE SPOKEN AT HOME	NUMBER OF BORROWERS
Undisclosed	1
English	30
Fijian	1
German	1
Indigenous Language	1
Madi	1
Maori	1
Pigeon English	2
Polish	2
Samoan	1
Tongan	1
Torres Strait Creole	1
Ugandan dialect	1

Within the literature it is also clear that compared to the broader population payday borrowers are more likely to be divorced or separated. 'The higher percentage of divorced and separated customers reflects financial difficulties of single parent families, which becomes apparent when life-cycle stage is considered' (Elliehausen & Lawrence, 2001, p. 30). Similarly, Dean Wilson asserts, 'Sole parents with dependents are particularly vulnerable to financial shocks given the various expenses associated with children (i.e. education and health)' (2002, p. 19). However within the present study, the majority of people were either single or in partnerships (see Table 7).

Pierce (2008) says that 62 percent of borrowers are females with children. This is important because research indicates that motherhood is now the most reliable predictor of financial ruin (Warren & Tuagi, 2003).

Table 7: Number of Borrowers by Relationship Status

RELATIONSHIP STATUS	NUMBER OF BORROWERS
Undisclosed	1
Single	16
Married/De facto	16
Separated/Divorced	10
Widowed	1

Iodata (2002) reports that 60 percent of respondents had children under the age of eighteen living at home. As shown in Table 8, this differs from our results, where twenty-nine (70 percent) of the borrowers interviewed had no children living at home with them.

Continuing the discussion of the profile of borrowers, one of the central debates in payday lending and the credit provision literature is whether payday borrowers represent the marginalised, and those unable to access credit elsewhere thus making payday lenders a lender of last report – or whether accessing alternative credit has become normalised and has become a regular way for middle class people to manage their income flow. US reports indicate that the amounts people borrow vary in size from $100 to $500, carry an average fee of $15-$20 per $100 borrowed and have a term of between fourteen and twenty days (Brown, Findlay, Lehman, Moloney, & James W. Meehan, 2004; Elliehausen & Lawrence, 2001; Stegman & Faris, 2003).

Table 8: Number of borrowers by Children Living at home

CHILDREN LIVING AT HOME	NUMBER OF BORROWERS
Undisclosed	1
0	29
1	2
2	6
3	4
4	1
5	0
6	1

What is less clear is the financial status of those accessing small loans. US research indicates that payday borrowers are three times more likely to be seriously debt burdened. They are four times more likely than all adults to have filed for bankruptcy (Elliehausen & Lawrence, 2001). Although the size of a typical loan is small (around $300 on average), a loan approach for first time applicants increases the bankruptcy filing rate by 2.48 percentage points – and the cumulative interest burden from payday and pawn loans amounts to roughly 11 percent of the total liquid debt interest burden at the time of bankruptcy filing (Skiba & Tobacman, 2008a). Yet other research contradicts this, finding no links between payday lending and bankruptcy (Stoianovici & Maloney, 2008).

Continuing this analysis to consideration of people's incomes, in the US, Elliehausen and Lawrence (2001) reported that the average income of people seeking loans ranged from $25,000 to $49, 999, while Iodata claimed an average income of $40, 594. Caskey (2001), reports that most payday borrowers are from moderate income households, leading Pierce to reflect,

> Does this profile conjure up images of a victimized group or gullible prey? Does it reflect a group unable to rationally make the decision to choose a payday lender in lieu of credit union or traditional lending institution? Hardly. (Pierce, 2008, p. 6)

However in Australian research, Therese Wilson (2004) provides a much lower income for the average borrower: approximately $24, 000 per annum, with many consumers earning less than $401 per week. Australian research also shows that nearly two-fifths (38 percent) of people borrowing from payday lenders receive Centrelink payments (D. Wilson, 2002). More than three-fifths (76 percent) also have no formal qualifications. Twenty percent of payday lending customers also access Centrelink advance payments (of $500) (D. Wilson, 2002). This echoes Canadian research which indicates that people use payday loans to meet basic needs and that many payday customer's incomes are simply not sufficient to meet those needs (Lott & Grant, 2002). Table 9 provides details of people's employment types, providing support for Wilson's findings.

Table 9: Number of Borrowers by Income Source

INCOME SOURCE	NO. OF BORROWERS
Undisclosed	1
Pension – Newstart	13
Pension – Youth Allowance	2
Pension – Disability	6
Pension – Aged	2
Pension – Family Payment	7
Pension – Carers	2
Employment – Part-time/casual	4
Employment – Full-time	6
Other (Received royalty payments)	1

Of the forty-four participants in the study who were borrowers, only six people had full-time employment, with another four people having casual/part-time positions. The remainder were on income support payments. Although the majority of people were not in full-time employment, they did refer to occupational identities, including:

- Truck-driver
- Scientist

- Writer
- Banker
- Mechanic
- Painter
- Welder
- Gardener
- Business owner
- Factory worker
- Consultant
- Student
- Teacher

However there were also a number of more marginalised identities among participants, including: prostitute, drug user, drug dealer, alcoholic, chronically ill, pensioner, mental health service recipient, gambler, and criminal.

In terms of accommodation, as shown in Table 10, the majority of people in the present study were renting through the private market. However six people had more tenuous living arrangements with two people in temporary accommodation, two people living in a caravan park and two people currently homeless.

Table 10: Number of Borrowers by Accommodation

RELATIONSHIP STATUS	NUMBER OF BORROWERS
Undisclosed	1
Own home	2
Private rental	23
Public housing	12
Temp. accommodation	2
Caravan Park	2
Homeless shelter	2

Perhaps most telling of all, was that when asked to reflect on their overall situation, of the forty-four participants, only four reported their situation improving. The remainder saw that things were either staying the same or getting worse. A quarter of the research participants regularly accessed emergency relief including food vouchers.

> *Yeah, I just find that, like people that, low income earners like myself, we find it very hard to survive and we have to pay our rent or else we have nowhere else to live and then comes in all the stress of surviving for two weeks and sometimes worrying about where our next meal comes from. [Female borrower from metropolitan Queensland,aged 31-40 years]*

Many used words like 'surviving' and 'struggling', to describe their situation. There was a strong sense of life being joyless: with little to look forward to except the ongoing burden of debt, or the struggle to make it through until the next payday:

> *[I]f you take my fortnightly wage and then I've got to pay them two [loans] back plus my, well I call it the car payment…, well most of my money is gone. See that, they all add up to $800. So, you know, and rent is like $200 a fortnight and we've got a power card and you generally pay about $25 a week for your power, at the place where you pay for your power card, and then yeah. So mainly I just get it to, you know, start off the next fortnight. [Male borrower from north Queensland, aged 41-50 years]*

So the question that emerges from this is how small loans contribute to this picture: whether it relieves the pressure people are under or whether it creates further stresses and hardship. The next section of this report will look at how people interacted with small credit providers and the fringe economy, with reference to the key issues articulated in the wider body of research.

7. Discussion: What is the Experience of Accessing Small Loans Like?

In exploring the experience of people accessing small lenders, there are four central issues that repeated throughout the literature and that this pilot sought to explore: predatory practices, chronic borrowing and the creation of debt traps, exorbitant interest rates and how consumers use their credit.

7.1 Predatory Practices

'Predatory' lending is a term used to condemn high prices, excessive lending and other dubious practices (Morgan, 2007, p. 21). Although no official definition exists, it generally refers to practices that are so detrimental to consumers that they are considered abusive (Stegman, 2007). Payday lending has been referred to as a 'predatory lending' practice because it is essentially opportunistic (Malbon, 2005b, p. 225). According to ACORN (Association of Community Organizations for Reform Now) it involves 'imposing unfair and abusive loan terms on borrowers, often through aggressive sales tactics, taking advantage of borrower's lack of understanding of extremely complicated transactions and outright deception' (cited in Malbon, 2005b, p. 25). Malbon asserts that this practice does not simply rely upon consumer ignorance, it also takes advantage of the financial vulnerability of its victims and the limited options they have for dealing with a financial crisis. As part of predatory behaviour there is some evidence that unscrupulous fringe lenders do not always fully and frankly disclose terms and conditions of the loan (Infosys Technologies Ltd, 2008).

For our stakeholder group, consumer advocates, financial counsellors, lawyers and regulators, this was obviously the key issue.

> *I see clients who are very upset. It's not uncommon for me to see people who have had suicidal thoughts because of debt collection phone activity: people just hounding and hounding them day and night, asking for their money, pressure, pressure. And I think that has an enormous impact of suffering on clients. So I'm very mindful of the fact that I might see the extreme end. I wonder how many people there are out there who never get into my office, but who got into too much debt and then had to seriously compromise their lives in order to get themselves out. So they never got to a point where it was impossible, they never got to a point where they came and saw me, but maybe the kids didn't go on school camp. Maybe the food budget got cut right back to the bone, maybe they couldn't afford the childcare, maybe the kids didn't get any Winter pyjamas that year. That's the quiet financial suffering that we don't acknowledge in this country, which is a result of irresponsible lending. [Lawyer from metropolitan Brisbane]*

The lawyer here acknowledges that they are seeing the extreme end of payday lending clientele and it is important to note that there was variance in response among the borrowers we interviewed in relation to predatory practices.

Within the present study, nine of the forty-four borrowers indicated negative experiences with payday loans. For many it was about the contracts and perceived 'hidden costs':

> *They always seem to have that hidden, hidden costs ... They did explain [the contract] to you but there's always still that loop hole that they don't actually, I don't know - yeah, there's always that little loop hole that they don't freely express. [Female borrower from metropolitan Queensland aged 31-40 years]*

Wilson also observes that payday loan advertising is targeted at low income consumers under financial stress and businesses tend to be located in socially disadvantaged areas (D. Wilson, 2002).

Nicola Howell (2004) defines unethical lending as lending activities in circumstances where the consumer simply does not have the capacity to repay the loan, either at all, or without substantial hardship, the lender takes security over essential household furniture ('blackmail securities') or there is an imposition of excessive and unconscionable costs or unfair contract terms. She suggests that even the failure to ensure there are safe, fair and non-exploitative products available in the market could constitute unethical lending.

However there is a certain irony here, for many of the borrowers we spoke to, there is no question that they had very limited capacity to repay. Yet without a loan they were facing even greater hardship, as one mother explained:

> *It's been hard for the last few months. When my car was crashed my two children were in it too and they were in hospital. So the car's still getting fixed. We have had to, since then, struggled to survive, just due to what it's cost for this mess. And it's still going. [Female borrower from metropolitan Queensland aged 31-40 years]*

Overall, the Queensland Office of Fair Trading argues that the potential consumer detriment flowing from high interest loans includes: an impaired ability to overcome financial difficulties, a depleted capacity to save and build assets, an increased likelihood of default on loan repayments, further exclusion from the mainstream market and bankruptcy. They also point to broader social impacts including increased strain on community and welfare services and reduced consumer spending in other areas of the economy (Queensland Government, 2006, p. 13). Although Consumer Affairs Victoria says that it is hard to identify the prevalence and severity of consumer credit problems, real detriment is likely to be understated and probably growing: 'Even if the proportion of consumers who suffer detriment is low, the size of the market means the number of individuals affected is large and the impact on individuals and families can be pronounced' (Consumer Affairs Victoria, 2006b, p. 3):

'It's nerve wracking. It's stress. It's the last thing you think about at night before you go to sleep, and can be the first thing that pops into your head in the morning.' [Male borrower from metropolitan Queensland, aged 31-40 years]

Other criticisms of payday loans include the failure of lenders to consider the ability of borrowers to repay the loan, and even a direct targeting of customers who lenders know are unable to repay (Ashton, 2008; T. Wilson, 2004). Peterson (2003) takes this further, attesting that consumer credit has provided 'one of the earliest tools of forced poverty, social oppression and enslavement' (p. 810). Donald Morgan (2007) defines predatory lending as a welfare reducing provision of credit. He argues: 'Households can be made worse off by borrowing more than is optimal. Excess borrowing reduces household welfare and may increase default risk' (p. 6). Morgan and Hanson (2005, cited by Lehman 2006) define predatory lending as a welfare-reducing provision of credit undertaken by borrowers who are deluded or deceived about their future income prospects. In other words, predatory lending can be seen to occur when a borrower is encouraged by a lender to over-borrow relative to their future income levels and ability to repay. For instance, Morgan shows how a voluntary transaction can actually make borrowers worse off if lenders contrive to increase loan demand by exaggerating households' income prospects. He demonstrates that lenders will engage in predatory acts as long as the extra revenue from larger loans exceeds the cost of following households into over-borrowing and any associated increase in default risk. Borrowers are trapped into cycles of refinancing as the following section will explain.

Of course, this is only one side of the experience. Our surveys and interviews with lenders revealed a very different picture. For example, the NFSF has a Code of Practice that its members are asked to sign up to. While not using the same principles and values espoused in social work codes of ethics (such as empowerment, client self-determination, and commitment to human rights) there is nonetheless an embrace of principles that seek to protect borrowers from unscrupulous or predatory behaviour. The NFSF Code of Ethics includes statements such as 'We believe the interests and needs of our business are best served by providing adequate protection for the interests and needs of our customers' and 'all representations shall be truthful, without exaggeration, concealment or omission', and finally there is a claim to professional recognition in the statement that 'Our staff regard the provision of financial services as an important and responsible profession' (NFSF, 2010). It is useful to read these statements as an attempt at reframing a negative discourse about lenders, particularly in the context of a public moral discourse that has generally positioned lenders as irresponsible, deceptive and as acting with little concern for the material hardship faced by those that access their services.

The message from the small fringe lenders appears consistent with the principles expressed in the NFSF Code of Ethics. One of the lenders interviewed for the study presented himself as somewhat of a reluctant lender:

> *I don't want to lend to you, I don't care if I don't do a loan to you, but if you've got a real need I will give you a loan and I will tell you what it will cost. It's quite fascinating to have that attitude towards lending. I know there's a lot of lenders out there that are pretty 'sharky', but the same with lots of other industries, you can go a hire a bloody builder and he's a shark or get your car repaired and they over-service it. [Lender from metropolitan Queensland]*

Another lender's business model was premised on the importance of establishing budgets with clients. In contrast to the predatory practices argument outlined above, the lender argued that lending beyond a person's capacity to pay was not a useful way of conducting business:

> *Normally lenders will make that choice to do enough to ensure the person's capacity to pay. Because it is not in our interests that they don't pay. We don't make money from bad debts. We absolutely don't. We don't even make money from slow payers, they all cost us. [Lender from south-east Queensland]*

At the other end of the spectrum there are stories in our sample of people who have been taken advantage of, through predatory practices, or complex contracts, for example:

> *Yeah, they say that they, well you think that they've explained it properly to you and you think that, 'Well okay, they're the conditions,' and what not and you sign away and you realise that it's really more that you're repaying than what was actually discussed and signed. So once you've signed it's a done deal…they just rip you off. [Female borrower from metropolitan Queensland aged 31-40 years]*

Lenders themselves acknowledged the 'few bad eggs' [Lender, south-east Queensland] and 'sharks and cowboys' [Lender, metropolitan Queensland] in the system. Even the NFSF slogan of 'promoting responsible lending' is an acknowledgement that irresponsible lending practices exist and need correcting.

7.2 Chronic Borrowing and Debt Traps

The second objection against payday lending is the practice of trapping borrowers in cycles of revolving loans. To avoid appearing to rollover the debt, some lenders ask their debtor to take out a 'new loan' by paying a new fee and constructing a new contract (Stegman & Faris, 2003). Either way, the principal is not reduced.

The US-based Center for Responsible Lending (CRL) (2005) argues that 99 percent of payday loans go to repeat borrowers, and that the average payday borrower pays $800 to borrow $325. Caskey (2001) shows that over 40 percent of longer-term payday loan customers had twenty or more loan transactions per year. King and Parrish (2007) reveal that over 60 percent of loans go to borrowers with twelve or more transactions per year while the average borrower has more than eight transactions per year. Twenty-four percent of loans go to borrowers with twenty-one or more transactions per year, one in seven borrowers have been in payday debt every day of the past six months, and nearly 90 percent of repeat payday loans are made shortly after a previous loan is paid off. They argue that the payday lending business model actually *depends* on trapping borrowers in loans (p. 9). It is these kinds of patterns which lead critics to refer to payday lending as the credit market's equivalent of 'crack cocaine': a highly addictive source of easy money that hooks the unwary consumer into a cycle of debt (Stegman, 2007).

For seven of the borrowers interviewed for this study, the cyclical nature of the payday loan experience was a strong theme. People spoke of being caught up in 'cycles', being 'hooked in' and being stuck in 'vicious circles'. For example,

> *It varies. Sometimes there's periods where things seem to work out or I'm more in control of my expenditure and everything and I free myself up from the whole merry-go-round for periods of 3 to 4 months and then I'll be back on it again for as long as a year basically, just rolling over the loans. [Male borrower from metropolitan Queensland, aged 31-40 years]*

A further complaint against fringe lending is the use of direct debit facilities which feed the debt trap. If a direct debit is not honoured (for example due to an absence of money in the bank account) the bank charges $35 – thus borrowers may be charged twice for use of the money. This was a very strong complaint by borrowers in this study.

Compiling findings of studies into rollover rates of payday loans Stegman and Faris (2003) conclude that in the majority of studies the statistics understate the magnitude of the problem because they do not account for a family's use of more than one payday lender at a time or the use of a loan from one payday lender to pay off another. Their own research demonstrates that the financial performance of the payday industry is significantly enhanced by the successful conversion of more and more occasional users into chronic borrowers: 'Payday lenders who cultivate more repeat business from existing customers…will fare better financially than those who do not. Significantly, this independent variable is the second most important determinant of financial success' (p. 24). Australian data indicates that a large minority of payday borrowers take out ten or more payday loans per year (D. Wilson, 2002). In Dean Wilson's research customers repeatedly spoke of the addictive nature of loans, which was encouraged by the ease and speed of processing repeat loans: 'Indeed many consumers seemed truly surprised, and a little uncomfortable, by how easy subsequent loans were to obtain and how rapidly they received money' (p. 75). This was supported by our research, with people expressing the ease with which transactions took place as one of the things that attracted them to ongoing use of the small loans system.

Interestingly Mann and Hawkins suggest that by the nature of the business, payday loans are self-limiting. 'Unlike credit card lending, payday lending has a limited potential to spiral into escalating levels of borrowing' (Mann, 2007 #27, p. 886). On the other hand, Wilson (see note 2 at p. 165) says that 'the risk of borrowers turning to less reputable fringe credit providers does not seem to justify the continuation of current practices in the payday lending industry.'

Not all researchers agree that payday loans constitute a debt trap. In fact, Morgan (2007) makes a distinction between predatory lenders and the kind of lending that assists households to maintain consumption as their income fluctuates and he argues that payday lenders tend to fall into the latter category, speculating that 'perhaps payday loans help risky households to better manage their finances?'

In 2008 Policis, an independent social and economic researcher for the public sector, was commissioned by Cash Converters Inc to examine the impact of interest rate ceilings. They concluded that there is no evidence that payday lending creates a debt spiral and instead illustrated the way in which payday lending works to ameliorate and prevent financial difficulties (Ellison & Forster, 2008b). 'To America's middle-class, the payday advance product serves as a dignified and *cost-efficient financial taxi'* to get from one payday to another when faced with an unexpected cash need' (Community Financial Services Association of America, 2001, p. 1, added emphasis).

Other research concludes that the vast majority of payday loan customers pay on time (Elliehausen & Lawrence, 2001). However this finding would seem to invalidate the argument that borrowers constitute the high risk clients that justify high fees and charges. McKernon and Ratcliffe (2008) argue that people turn to payday lending because they lack the assets to weather emergencies. Likewise Stoianovici and Maloney (2008) find that payday loans enable people to survive income interruptions and unexpected expenses, and Adair Morse (2007) shows that communities with payday lenders show greater resiliency to natural disasters and enhances the welfare of communities. Interestingly, Elliehausen asserts that payday loans may actually be 'transitional products' for many consumers, and that as families age and incomes rise, consumers may become less vulnerable to financial distress (Elliehausen, 2009, p. vii). Obviously the assumption contained herein remains open to debate.

Making sense of this contradictory data the metaphor of a taxi seems an appropriate one. In a pinch or on special occasions taxis provide fast and efficient travel and on some occasions may actually contribute to our well being and keep us safe. The problem is that taxis are not intended for daily use and are a costly way to get around. 'Payday loans help the subjects to absorb expenditure shocks and, therefore, survive. However subjects whose demand for payday loans exceeds a certain threshold level are at a greater risk than a corresponding subject in the treatment in which payday loans do not exist' (Wilson, Findlay, Meehan, Wellford, & Schurter, 2008). Or, as Howard Karger (2005) reflects,

> For most people, the greatest danger of the fringe economy doesn't lie in a single exploitive transaction, although sometimes it can. The real danger is becoming enmeshed in a sub-economy from which escape is difficult (p. xii).

The impact of this cycle is heard clearly in one borrower's experience:

> *[I'm in] lots of trouble, yes. Going through it right now, yes. Creditors ring and harass me all the time...I don't want to speak to them, I don't want to know about it. I don't like the bullying and the threats. I know that's how they get paid and I know that they buy ledgers, collection agencies buy ledgers, and I know that they have the freedom to be able to write things off and then they're trying to make you offers all the time, 'What if I say this, dah dah dah?' It's like, 'I don't have any money in the bank. If I had, do you think I would be trying to ...don't you think I'd try and get rid of the debt?' [Female borrower from metropolitan Queensland, aged 31-40 years]*

Such comments seem far removed from the idea of payday loans as 'dignified' and effective.

7.3 Exorbitant Interest Rates

The third concern over payday lending is the charging of excessive interest rates (and/or fees and charges). Lenders argue that the establishment and service costs of a small loan are comparable to a larger loan – however because the rate of return is so much lower, a higher interest rate is charged to make the practice financially viable for the lender (Lehman, 2006). Payday lenders argue that charging 400 percent annual interest is the only way their business can be profitable (King & Parrish, 2007). Lenders also argue that the increased risk associated with their clientele necessitates higher charges. In their defence, lenders argue that they take all risks: unlike pawn broking, there is no security to offset the loan risk. Skiba and Tobacman (2008b) provide some support for this, demonstrating that over half of borrowers default on a payday loan within one year of their first loan.

Lenders also argue that the high interest rates are a reflection of the market worth of their product: borrowers are charged not only for being able to access the money, but also the timeliness of the loan. As Lehamn notes, economics is subjective, and people may be willing to pay more in the future if they place higher value on receiving the cash in the present. This in Lehman's view there is no such thing as an excessively high finance charge: 'it is entirely subjective to each voluntary participant in the transaction' (p. 9). This is a theme we will return to in Section 8.

Wilson measured the cost of a $200 loan for a period of two weeks and found that typically, the cost ranged from $48 to $69 for the two weeks. This is an annual percentage rate (APR) of up to 700 percent. It is findings such as these which lead Skiba and Tobacman to say,

> Payday loans are one of the most expensive forms of credit in the world (Skiba & Tobacman, 2008b, p. 2).

The issue of high repayments resonated strongly for most borrowers – although as will be explored later in this analysis, there were varying interpretations of these. There was however a shared sense of frustration and a link to the debt traps and credit cycles mentioned above:

> *Well every time when you pay, your payments are that high, by the time you pay them back you're re-borrowing. [Male borrower from metropolitan Queensland, aged 41-50 years]*

However lenders argue that the annualising of interest rates to enable comparison with other credit products is misleading as their product is intended for short term periods. Allan Jones, Chairman and CEO of the US-based Check Into Cash argues 'You cannot call payday companies predatory unless you compare their bottom-line percentage profits to other industries' bottom-line profits. In that case you'd have to call Wigley's chewing gum, General Electric, Matel, and the International House of Pancakes predatory!' (Check into Cash Inc, n.d.).

The annualising of interest rates is a key point of contention within the small loans debate. Imagine a person is borrowing $100 from a lender. The lender charges 20 percent for the privilege (ie $20.00). The total to be repaid is $120 at the end of the fortnight. However consumer advocates and counsellors however argue that this is inaccurate and that the rate needs to be annualised to enable easy and accurate comparisons. In the above example the annualised interest rate is 520 percent. It is on this basis that the 48 percent (annualised) interest rate cap has been introduced. Lenders argue that this is misleading, arguing that 'You don't quote an annual fee for a cross-town taxi ride'.

> *There has to be a profit in providing this type of service to the market otherwise there will be no providers, hence why the major institutions refuse to offer a product to this market sector. Comparing only the interest rate over a per annum basis to the likes of other longer term loans like home loans is not a fair comparison. Apples with Oranges. This gives the impression that the client is being overcharged. But when expressed as what they actually pay it's quite small. [Lender from metropolitan Queensland]*

Queensland lenders also argue that the 48 percent cap placed upon them is an unviable option. Unlike the Victorian model which allows recouping of fees and charges, the Queensland 48 percent cap includes ALL fees and charges.

Aaron Huckstop (2007) says that to date, no conclusive evidence has been presented to justify the claims that payday lenders are making extraordinary profits: 'The call for regulation should be based solely in principle or other subjective reasoning – not on high fees' (p. 204). Flannery and Samolyk (2005) argue that the alternative finance industry's profitability does not depend upon the presence of repeat borrowers.

Mann and Hawkins (2007) argue high interest rates standing alone are not a sufficient basis for regulatory intervention. They assert that a sensible scheme of regulation must rest on a determination that the transactions involve market failures, that the payday lending industry externalises costs to the rest of society, or that the transactions offend social norms or justice in some other way. Likewise Lehman (2006) asserts that 'a relatively high price for any good or service is not alone an argument that markets have failed or harm has been done' (p. 8).

7.4 Loans not put to good use

The final main criticism of payday lending is a much more subjective and morally fraught discussion: the purpose of loans and the meaning attached to this. As argued in the previous section there is considerable conjecture over whether payday lending is an important product meeting the needs of financially vulnerable consumers – albeit as the lender of last resort – or whether payday lending represents middle-class welfare and support for people who are simply pursuing a lifestyle beyond their financial means.

To begin this discussion it is useful to reflect on the broader issue of poverty. There are two ways of thinking about poverty: in absolute or relative terms. A family lives in absolute poverty when it struggles to find adequate food, clothing, and shelter. The measure typically used is a relative one: a person or household is considered poor if their income is below the national medium income. This includes about 8 percent of Australian households. Clearly not all borrowers fit this definition, although Ashton (2008) argues that a very large percentage of payday loans are lent to consumers who are below the 'Henderson'[3] poverty line and points to the industry's own data indicating that nearly a quarter of borrowers earn less than $15, 000 per year. Dean Wilson (2002) suggests that 38 percent of payday borrowers are below the Henderson Poverty line. A recent study by the University of Queensland Social Research Centre (2006) showed that around 40, 000 Queenslanders (21 percent) were living in poverty in 2003/04. This poverty is concentrated in a number of small geographical areas, particularly certain indigenous communities and the south-west of Brisbane and Logan City (Upham & Cowling, 2006). In the 2004 Senate report on financial hardship it was observed that in the last twenty years the level of inequality, poverty, homelessness and housing stress is growing rapidly such that more and more Australian are being driven into

[3] Based on the benchmarking process established by The Henderson Poverty Inquiry of 1975.

deprivation and disadvantage (Senate Community Affairs Reference Committee, 2004). Alongside this it reported decreasing housing affordability, inadequacy of social security payments to cover minimum costs of living and the financial hardship created by user-pays models of education and healthcare.

Not only do Australian government benefits lie below the Henderson poverty line but they are well below other international definitions of poverty, such as the European definition which is 60 percent of average earnings (University of Queensland Social Research Centre (for QCOSS, 2006), all of which leads Walsh (2007) to summarise that 'clearly, there is an extremely large pool of Australian who experience, or are at least at risk of experiencing poverty' (p. 16). This is exacerbated by what Malbon (2005a) refers to as a 'nasty reverse Robin Hood effect' (p. 224), whereby people who are poor pay actually more for household goods and services (Bondar & Collier, 2005), including telecommunications (Rich, 2005), utilities services (Stewart, 2005) financial services (Connolly, 2005) and credit (Malbon, 2005a) than people who are rich.

An illustration of this was provided by a financial counsellor, who told the story of one of her clients. Realising she could no longer afford to live in her current neighbourhood, the woman moved to an area where rents were much lower. However the more her living costs push her into areas with lower cost housing the more she needs her car and mobile phone because there are fewer services available locally and she no longer feels safe to walk.

Malbon makes a distinction between people who are poor and people who are financially vulnerable or financially stressed (2005b). Although not all borrowers may be technically 'poor', they do experience high levels of financial stress. Financial vulnerability may be temporary or enduring and stems from a broad range of sources, which includes job loss, injury, sickness, or addiction. Some members of the community are also more susceptible to financial vulnerability because of geographical location, race, age, or marital status. What is striking is that financial vulnerability extends beyond poor households into middle-class households with dependent children (Malbon, 2005b). Warren and Tyagi (2003) show that financial deregulation, the decreasing proportion of GDP spent on public funding of health and education have conspired to increase middle class indebtedness. What this indicates is that simple statistical data – such as median or average income does not tell the complete story of people's financial experiences or motivations.

For example, in their survey of Australian households, the ABS revealed that nearly 1.2 million households reported at least one indicator of financial stress. About half that number reported two indicators. About 200, 000 households reported six stress indicators. About 200, 000 of average to high income households reported having up to three indicators. Groups suffering very high financial stress included: single parents with dependent children (41 percent), a lone person under thirty-five years of age (21 percent), followed by couples with dependent children (14 percent); compared with all households facing high financial stress (12 percent) (Australian Bureau of Statistics Yearbook, 2002 cited in Malbon, 2005b).

Dean Wilson (2004) demonstrates that for the majority of consumers payday loans are not 'lifestyle' loans, with 79 percent of loans used to maintain existing living standards or compensate for shortfalls in income. This is supported by research by Logan and Weller (2009), who demonstrate that payday loans are taken out primarily for convenience, to cover an emergency and to pay for basic consumption needs, such as fuel and food. Likewise, Dean Wilson (2002) concludes that for the vast majority of consumers, payday loans are used to cover electricity and gas bills, automotive costs, rent and other living expenses. Ellihausen and Lawrence (2001) argue that nearly all payday borrowers (91.6 percent) use other types of consumer credit, and Caskey (2001) observes that most payday borrowers have reached their credit limit with mainstream lenders. However in his Australian study Wilson found that 40 percent of people borrowing from payday lenders did not access other forms of credit. He argues this is because of a lack of alternatives and the ease of use of payday loans. His research suggests that consumers use payday lenders as a lender of last resort, rather than from ignorance about other lending options.

The Australian Financial Services Association disputes this saying '70 percent of micro-borrowers in Victoria are not socio-economically disadvantaged. They have substantial and continuing employment and are not borrowing in circumstances of desperation. Rather, they borrow as a matter of convenience because they prefer to utilise micro-lender's services, rather than continue with, or attempt to acquire bank-provided credit cards' (AFSA submission, p. 4 cited in Consumer Affairs Victoria, 2006a).

Huckstep (2007) says that whilst the industry's insistence that their product is designed to be used in emergencies only, is correct in theory, it ignores the reality. He concedes that whilst it does appear that low-income people have a need for a short-term unsecured financial vehicle, 'Payday borrowers are using the product with a frequency that suggests their only emergency is that their bank account is low' (p. 220). This analysis points to an argument that gets raised by cultural critics about overconsumption: that people are spending money on goods and services to such a wasteful and unnecessary extent that serious money problems are inevitable (de Graaf, 2001). Rather than change their behaviour people seek credit to maintain their lifestyles. In short, fuelled by modern values such as materialism, hedonism, individualism, and an overwhelming 'consumption binge' (Hamilton &

Denniss, 2005) our society has become dangerously addicted to credit (Stegman, 2007). The qualitative interview data from the present study provides a mixed picture.

For some people loans were used to simply meet basic necessities, like food and shelter, for example:

Well sometimes, like yesterday I went up for $50 just because it's between pay week, just to get say milk and bread or potatoes or grocery items, you know? [Female borrower from metropolitan Queensland, aged 51-60 years]

'So that's what I'm doing is getting back on my feet'

'Carmel', a single mother, living in public housing on Brisbane's lower south side, has always experienced life as a struggle. Growing up as one of four children in a sole parent household, she can recall stealing food from supermarkets to stave off hunger. But it was her husband's drug addiction that she found hardest of all: she had to hide money from him to pay bills.

Two years ago, her husband walked out and Carmel was left with four children and enormous debt. It was at this point she began to use payday lenders to ensure her own children didn't starve. She prefers not to use payday lenders as she is unhappy about the high interest they charge and the way people are treated when they miss a payment.

Recently she has been trying to reorient her life and to set up a commercial cleaning company. However her plans to attend TAFE have been put on hold since being diagnosed with cancer. It is this event which has forced her back into using payday loans:

> ***Yeah, I found out I had cancer at the end of last year and then had to have the treatment all this year and ten weeks ago I went from chemo, radiation and another radiation treatment and then they decided a hysterectomy, a full hysterectomy. So that's what I'm doing is getting back on my feet and I'm doing it slow and that's why I had to go for the small loans because going up to the hospital, it was costing money and they charge you for car park up there and if you're there for six hours it's near to $50.***

She says that life has been tough since she was born, but that the challenges she faces serve only to make her stronger.

In such cases payday loans are often a means for survival:

> *I got to the point where the only thing I owned was a roll up mattress and I didn't have anywhere to sleep. [Male borrower from metropolitan Queensland, aged 31-40 years]*

However what people understood as a necessity is, of course, highly subjective:

> *A couple of times I've got behind on Foxtel. I need a loan or they'll cut my Foxtel off. 'Cos it costs $35 to reconnect it each time. [Female borrower from metropolitan Queensland, aged 31-40 years]*

So whilst there may certainly be a truth to credit dependency, there is also a danger in blaming the victims. The over-consumption explanation may be too simplistic. As 'Carmel' reveals in the narrative above, poverty itself can be a barrier to self-improvement. Daily pressures of living on low incomes include limited access to services (such as transport and child-care) and opportunities (employment, education and training) as well as facing discrimination and prejudice (Seymour, 2007).

Carmel's experience of having to pay more to be poor is typical. For someone well resourced, there may be alternatives to this cost: public transport, or friends and family. However for this woman, having recovered from her relationship with an addict, now living in public housing with her children, far from networks, her options appear far more limited.

Authors like Warren and Tyagi (2003) refer to the overconsumption argument as a 'myth'. In examining consumer spending habits in the United States they show that any changes to spending habits in the USA have not been sufficiently sudden or dramatic to explain the growing danger of financial ruin.

What the present research has revealed is three very distinct types of consumer behaviours in the alternative credit market.

For one group of people small lenders are clearly helpful and useful. They see the fees and charges as being highly appropriate for the level of service they receive and the convenience of the product. 'Margie', whose story is told below, is such a borrower.

> *It's been a lifesaver: I just called up and I said, 'I have to go back to hospital again,' or, 'This is happening,' and all they ask is, 'How much do you need?' and, 'When will you be coming over to the Valley?' and then I'd get on a bus…they've got the paperwork already ready for me and I just sign my name and then I'll work, you know, I'll put on my calendar each fortnight how much is coming out and then it's over with, and I've never missed a payment ['Margie', female borrower from metropolitan Queensland, aged 61-70]*

Some of these borrowers were able to access banks but choose not to as they prefer to use small lenders. They see government regulation as being highly inappropriate and that it's no one else's business!

'I just pray that his business survives'

'Margie' is a pensioner (aged 61-70 years), living in Brisbane in a housing commission unit, with her pet bird for companionship. Margie was a registered nurse – but had to retire due to back injury and then cancer. Margie has always been on her own. She is a very resourceful and assertive woman who has a skill in finding supports and services – she says there is more available than people realise. She also thinks that pride often gets in the way for pensioners and she has had to swallow hers to survive.

For Margie the cost of regular hospitalisation and medication is overwhelming – the only way she can manage the unexpected bills is through small loans. Consequently she thinks payday lenders are lifesavers and she is very grateful to them. Although she is aware not all are as kind as the one she goes to, she believes she would be dead by now if it wasn't for their assistance.

When asked about regulation she was unsure about the nature of the industry changes, but was aware business was much tougher for small lenders. Margie was extremely anxious that her lender would be forced to close his business. She was unsure what would happen to her if this occurred.

When asked what they would do if they couldn't get a small loan, the usual response was 'I could ask my family or get a bank loan – but I'd prefer not to'. Far from being ignorant about the cost of loans, borrowers like Margie showed a nuanced understanding of their finances and integrated payday loans into their regular budgeting process. As one borrower illustrated:

... I'll sit here working my budget out probably six weeks in advance, knowing what money I'm going to get, sit down exactly and work out okay this is what's got to come out, this is what I've got left, you know, I might get $800 something and all my bills for the fortnight come to, you know, about $680 that's at the moment thinking, okay so that week I've got $120 for the weekend before I might say, or a friend of mine might ring me up and say do you want to come up for the weekend. Just give me a minute,

> *pull the budget out, yep; I'll be up for the weekend. And just duck down the road on the Friday and get something and then go away. Because I know then and there that yes I can afford it. [Male borrower from metropolitan Queensland, aged 51-60 years].*

So confident is Margie that these are helpful services and that more pensioners should make use of them, that she actively promotes their services to those people she meets.

> *It needs other people like myself that have taken the time to research it to be a voice to these people, to pass it on; that this is available. Where, along the line somewhere in the next year in your life, you may come across people and be able to say what helped them out and say, "Gee, I was speaking to this lady and you can make your life different by thinking about going, if it's an emergency, to a small loan place." It's not forever, it hasn't been tough because I know [the amount that is] is coming out and I work my way around it.['Margie', female borrower from metropolitan Brisbane, aged 61-70].*

What is fascinating about this group of borrowers is that not only are small lenders seen as positive forces in their lives, but that this is often contrasted with the negative experiences of banks and government. As

Margie concludes:

> *I think the governments here have got away with too much for too long.*

However not all borrowers agreed with the positive view of high cost credit. Alan's story, provides an interesting point of comparison. As representative of the second group of borrowers, Alan's story depicts a pattern common to borrowers who try the alternative lending system but find it too expensive and would prefer not to have anything to do with it again. They often feel quite strongly about it and believe lenders are highly unethical and should be tightly regulated. When asked what they would do instead the usual response was 'budget better' or 'do without'.

For members of this group there is no question that small loans are an expensive and dangerous product that should be heavily regulated and/or banned. As one comments:

> *Government should watch them like hawks so they don't rip poor people off. They all stick together' [Male borrower from north Queensland, aged 41-50 years].*

For the above two groups it is easy to take the view of the lenders: that there is no 'problem' to be managed. Borrowers are 'choosing' payday loans or opting out of the process of their own free will. In this scenario, lenders are the victims of a sensationalist media and over zealous consumer advocates. However this position is undermined by a third group of borrowers.

'I wouldn't be doing that again'

'Alan' works as a scientist in a very narrow field of specialty, so when a job opportunity arose in an outer Brisbane suburb he didn't hesitate to take it. Lacking the money to move to Brisbane, he applied for a small loan of $150.00. He originally approached the bank for assistance, but the bank refused to offer him less than $2000 so he accessed a payday lender for the credit. Alan had always lived within his means and says he has had a comfortable, but not flashy life. Accordingly he made the decision to rent a house close to his new workplace, to keep travel costs down and live within his budget.

However not long after starting his new job, the company ran into financial difficulty and he was retrenched. His house is not centrally located and so has not been able to get a flat mate and is finding the rent burdensome.

> ***I need a house because I have my two little dogs so I need a backyard. My rent is $360 per week. When I had a flat mate I didn't have to worry. When I got the gas bill or the electricity bill, it wasn't 'Oh my God! Shit! Shit! Shit! Shit! Shit!' It wasn't a big concern.***

Despite his financial pressures, Alan is an example of someone who has chosen not to repeat the payday lending experience:

> ***I wouldn't be doing that again because I think I borrowed $150 and it was ridiculous the amount of money I had to give them back. It was like $220. It was almost 50% of what I'd borrowed. So I would not do that again, even if I had no money and no food and the gas bill. I'd find some other way to get the money. Because the amount of interest they charge is just so crippling.***

With an inadequate income to meet his expenses, Alan is finding alternative ways of making ends meet. In addition to small amounts of casual work, he currently participates in medical and scientific trials to make additional money to cover the rent:

> ***I'm going to go and have a brain scan at the QBI, starting from November. They put one of these caps on your head with all these wires and things and get you on the computer to do tasks. There are three medications and a placebo and you might get one of the three medications. Not quite up to selling blood – but here I am going for a drug trial. It's a bit sad really isn't it?***

This third group is where 'harm' can be seen occurring and merits concern. It is the group most in need of the work of consumer advocates, and legal aid workers and possibly in greatest need of protection. These borrowers access small lenders often out of desperation, and as a last resort. They cannot get credit anywhere else. They are often in debt from multiple sources, often being pursued by debt collectors, many have declared bankruptcy.

Their pathway into debt may be behaviourally driven (e.g. drugs, gambling, greed), or it may be circumstantial (such as loss of health, work and/or housing). Many find it hard to simply meet daily needs like food and rent and hence access emergency relief, food cards, welfare etc. Problems with debt are just a very small part of an overwhelming picture of hardship and struggle. Deb's story told below is an example of this type of borrower. The day we met, Deb had just pawned her seven year old son's X-Box so she could afford dishwashing liquid and cigarettes. She was dreading him coming home from school and finding out.

'We can't make ends meet.'

'Deb' is a young mother living in Brisbane. She had a tough childhood, frequently experiencing hunger and she left home early as a result. As one of four children, raised by a single mother, Deb has always struggled, but finds life now harder than ever. Although Deb has trained as a nurse's aide, as the sole carer of her own four children (a seven year old, nineteen month old twins and a newborn) she is unable to work at present, and is struggling with postnatal depression.

Deb fled from her previous partner because of domestic violence and is finding it tough on her own. She is living in a housing commission home on the outskirts of Brisbane and finds travel very difficult. She has used small lenders to cover the basic costs she can't meet such as food and medicine:

> ***[It's] tough because we earn such a low income; we can't make ends meet…I'm living off Newstart; bills, everything's going up, food's going up, transport costs are going up. Everything's just got, you know, costs. Like day-to-day living things that you need just cost a fortune.***

Deb doesn't particularly like using small loans because the interest is too high and she doesn't like the way she is treated by them. However she sees herself as having few options at present.

When asked what they would do if they couldn't get a loan borrowers like Deb usually had limited options. One ex-army officer explained he regularly would simply 'go bush' when life became tough. Without small loans the alternatives for most people in this category are usually begging, subsistence activities, or criminal activities: theft, drug dealing and prostitution (activities that some of the sample have engaged in, in the past). For this group small loans are about survival.

In summarising the debate on the purpose loans serve and how people use them it is useful to draw upon the thinking of Berthoud and Kempson (1992) who argue that credit fulfils different purposes and has different social meanings for different social groups: 'poorer families, on the whole, use credit to ease financial difficulties; those who are better off take on credit commitments to finance a consumer life-style' (p. 64). Our sample clearly fell into the former.

Whilst much of literature has sought to define borrowers as a discrete category and to style products as well as regulations to meet their needs, what this section has shown is that there are vast differences in the motivations and means for borrowing. What the next section will show is the difficulty in explaining people's behaviour in any simple and neat way (which in itself suggests an unlikelihood of any neat and simple solution).

8. Understanding Payday Borrowers' Behaviour

There has been extensive consideration of why consumers opt for payday loans: why they choose loans with high fees and charges and potentially exploitative arrangements, whether they consider other options or whether the payday lending system actually represents a preferred and carefully considered choice.

8.1 Supply-Side Explanations

To begin this analysis it is useful to consider supply-based explanations of consumer behaviour, which concentrate on how consumption patterns are influenced by the availability of a product or service. In the case of payday lending, a survey conducted by the National Financial Services Federation (Queensland) Inc (NFSF) revealed that 88 percent of people accessing its services did not have access to mainstream banks for credit (Smiles & Turner, 2006).

Limited access to affordable credit can be traced back to the deregulation of the Australian banking sector in the early 1980s (Scutella & Sheehan, 2006). Although the intention of this was to increase competition and promote efficiency in the market, it is debatable whether this has actually occurred. They cite Australian Prudential Regulation Authority statistics which reveal the four major Australian banks accounted for 71.6 percent of the total operating income of all banks in Australia in 2004-2005. Australia's four largest banks are among the most profitable in the world, which would indicate market failure.

The mainstream banking experience for people on low incomes can also be very disempowering. The service is often slow, bureaucratic and humiliating; with high costs and loans in excess of the maximum people seek. In contrast to mainstream financial services, payday lenders make it very easy for repeat visits by customers (Malbon, 2005b; D. Wilson, 2002). The US Lending Industry body CFSA (2001) believes payday lending is accessed not as a last resort – but as a service of choice. This is because payday lending and related small loans services are fast, convenient and professional. They cost less than mainstream alternatives such as dishonoured (bounced) check fees, late fees and other contractual penalties. They also argue that they are more accessible than overdraft protection, and more dignified than charity. There is also some evidence that because the loan is for a short, defined period, the repayment schedule is easier to understand and manage (D. Wilson, 2002). Howell argues that many borrowers access alterative lending services because there is little flexibility in mainstream credit assessment practices, many borrowers simply assume that mainstream borrowers will not assist them, many consumers are wary of credit cards, many consumers simply do not trust larger institutions and banks (Kenneth, 2008) and, as shown in Table 11, the type of finance they seek (e.g. small amounts, short terms) are not offered by the mainstream banks (Howell, 2005).

Table 11: Minimum amounts available from Australian mainstream financial institutions as at 17 September 2009

BANK	MINIMUM LOAN	MINIMUM TERM
ANZ Bank	$3000	1 year
Bank of Queensland	$3000	1 year
Bendigo Bank	$2000	1 year
Commonwealth Bank	$5000	1 year
National Australia Bank	$5000	1 year
St George	$3000	1 year
Suncorp	$5000	1 year
Westpac Bank	$4000	1 year

Source: As based upon bank webpages, and confirmed by telephone call, on 16 Sept 09

Payday lenders have capitalised on this and typically provide a quick and easy service, and work to make customers feel welcome. In the present study four individuals expressed an explicit preference for banks over small lenders, for example:

> *It's just I think that there's a lot of rigmarole going to a bank; they ask you all the ins and outs. Like with the small lender, because they sort of get to know ... see, when you go to a bank you're always dealing with different people all the time. When you go to a small lender, they know you and if you're paying your thing off regularly and if you've got no problem, you're not behind, you've got no problem. You go one day, you go on the same day and the next day or the same day you get the cheque. [Female borrower from central Queensland, aged over 70 years]*

The financial counsellors also placed some responsibility at the feet of the banks, noting that one of the rewards for managing one's finances well is to be offered access to more credit. They argue that people who may manage debt with a $1000 credit limit, do not necessarily fare so well when their limit is increased. The result can be a very rapid descent into debt, poor credit ratings and exclusion from a credit buffer that helps manage cash flow issues. Counsellors also saw banks as engaging in questionable practices, including increasingly innovative ways to increase fees, such as deferred establishment fees and other back-end charges, early termination fees, default fees, currency conversion fees, late payment fees, inward cheque dishonour fees, annual mortgage service fee, annual credit card fee, overseas ATM charges, over-limit fees, and a 'late' payment fee for paying your credit card too early! What this demonstrates is that 'predatory' behaviour can be evident across the whole finance sector and not limited to small loans.

In their US (industry-financed) study, Elliehausen and Lawrence reported that customers had overwhelmingly positive attitudes towards payday companies in general. In Australia this has been supported by the work of Howell, Wilson and Davidson (2008). In addition, payday loans give consumers a little control over their financial situations that they otherwise would not have (Elliehausen, 2009; Elliehausen & Lawrence, 2001). Lawrence and Elliehausen (2008) suggest that it may be this sense of control, rather than the experience of the service, that leads to such positive ratings of payday lending services and consumer satisfaction.

In the present study, results were more mixed with seven borrowers providing extremely positive feedback on the borrowing experience. In particular they noted:

- the convenience;
- the ease;
- the respect: borrowers saw lenders as normalising what can be a very embarrassing and potentially humiliating experience;
- the relationship: lenders were seen as warm, friendly, and respectful and they take the time to get to know their customers;
- the privacy: which was named as not having your business out in front of everyone;
- the flexibility and a willingness to bend over backwards to help (as long as you communicate with them);
- the timing: you can get money straight away (for many this justified any cost);
- the repeat options: you don't have to wait days before taking out another loan;
- the additional services: eg cheque cashing, being able to have payments directly debited from their account, one was even assisted by their lender to draw up a budget to help manage her loan better; and
- they are not banks!

One borrower said she literally owed her life to her local lender and could not express enough gratitude for all that he had done for her;

Nine borrowers reported a more negative experience of the lending process, with some only accessing a lender once. The small loans experience was rated negative because of:

- the cost: interest and fees seen as too expensive by many;
- attitude: being judged and looked down upon by a lender;
- the 'double dipping' by financial institutions: when payments couldn't be made and direct debits were in place they were stung twice, first by the lenders and then by the banks.

For those who had had difficulty paying back a loan the debt collection process was labelled as 'harrassment', 'bullying', 'stressful' and 'damaging'.

The remaining borrowers were either indifferent or highly pragmatic. The majority of people interviewed framed the issue of access to credit within a systems perspective, and saw small lenders as being a necessary supplement to what they could obtain from the formal economy and income support payments from the state. The following quote reflects the standpoint of the pragmatic borrower, which was a dominant theme in the interview analysis:

> *Look to be quite honest, I think [lenders] fulfil a real need because it comes down to credit rating, it really does. For me, for most people, most people not everyone, most people are aware that their fees are much more exorbitant than any bank or normal credit card. But the second you are in the system, and that credit rating has been affected by something – I can't even get a mobile phone contract – I think the regulation is important so that, of course, people don't get taken advantage of, but I honestly think they provide a service that's needed. [Female borrower from metropolitan Queensland, aged 21-30]*

Drawing upon the thinking of Thomas Aquinas (1225-74), John Owen notes that the concept of 'mutual advantage' is central to the notion of 'just pricing' (2009, p.65). The views of the pragmatic borrower, echoes this idea of mutual advantage; borrowers acknowledge rates are high but actually see them as just – because it is a mutually advantageous arrangement.

Borrowers revealed that it was often not the lenders they viewed negatively in their poverty management strategies, but the other actors who had forced them into a position of having few choices. Such actors included banks for unfair and lingering credit ratings, the government for inadequate payments and the high costs of living which were in the hands of private landlords, commercialised utilities companies and transport companies.

What is occurring here may be understood as a matter of interpretation: Aquinas suggests that under the principle of mutual advantage, a transaction 'should not be more of a burden to one party than to another, and consequently all contracts between them should observe equality of thing and thing' (1911-42, cited in Owen, 2009, p. 66). For the borrower and lender the transaction appears mutually advantageous: small, quick sums of money, with delayed repayment, for a higher transaction cost. For the consumer advocates, the transaction has the appearance of being mutually advantageous, but is actually exploitative and unjust as the borrower pays more than originally agreed in the longer term.

8.2 Demand-Side Explanations

Most of the literature has concentrated on supply side explanations and have seen the growth in alternative financial products and services as a market response to the needs of low-income, low-wealth, and credit impaired consumers (Apgar & Hervert, 2006). Yet

> surprisingly little is known about how low-income, low-wealth families makes choices in today's increasingly

> complex capital markets…Sorting out how low-wealth, low-income consumers as well as consumers with poor or no credit histories go about making choices between 'mainstream' and 'alternative' mortgage and financial services is perhaps the biggest challenge facing policy analysts, government officials and regulators operating in the rapidly evolving mortgage and financial services marketplace' (p. vii).

The literature concludes that what looks like irrational choices by individuals may actually be rational behaviour given people's circumstances and market options.

Morgan (2007) observes that despite their alleged naiveté, payday borrowers appear sophisticated enough to shop for lower prices. A survey by US researchers revealed that nearly all borrowers were aware of the high finance charge for payday credit, but not the annual percentage rate (Elliehausen & Lawrence, 2001). Despite their positive attitude towards lenders, borrowers have found to have substantial concern about the high cost of payday loans. In its own survey of consumers the peak body CFSA said that only about half of their customers were satisfied with the fees (Cypress Research Group, 2004).

The Australian peak body, the NFSF, argues that people assess, of their own free will, that they have a need to borrow: 'They choose the lender and they choose to present an application of funds' (Smiles & Turner, 2006, p. 2). However the issue of choice is a more complicated one than this statement would suggest and this section will explore why.

Catriona Mackenzie (2010) observes that the ideology of maximum choice is widespread in contemporary Western neo-liberal societies. Individual autonomy is equated with the satisfaction of people's individual preferences. This ideology assumes that autonomy is best realised through maximising the range of choices available to people, whilst reducing the limitations on people's choices. However this is ideology is problematic on a number of counts.

Firstly there is the issue of whether people actually have real choices. The NSFS's own survey (Smiles & Turner, 2006) reveals that only 12 percent of people utilising their service had access to a major bank, demonstrating that most customers are not exercising 'choice' but turning to the only options available to them – or at least that they perceive to be available to them. This is confirmed by recent US research which states that 'most customers perceived that they had few if any options to payday loans' (Elliehausen, 2009, p. vii).

In the context of facing a choice about having the electricity cut off at home or paying a high price for a loan in order to pay a utility bill it becomes a little easier to see why people will access a high cost loan, regardless of the charges and fees.

> *If you're starving or hanging out or whatever and you can see them on the other side going and counting out $50 notes, you're pretty much going*

> *to sign…not everybody has the time or the desire to read the small print when the end result is the promise of money handed through a little window. [Male borrower from metropolitan Queensland , aged 31-40]*

Secondly, if choices do exist, the question is whether people have the skills to *make* good choices. As Elliehausen identifies, there are difficulties in problem recognition, option identification, and choice evaluation.

There are many difficulties with information processing, and as Morgan (2007) acknowledges, credit contracts are second only to marriage contracts in terms of complication! For example, consumers may be aware of information but not comprehend it correctly. Information tends to be attenuated and distorted consistent with a person's attitudes and experiences. Furthermore not all information that is processed is retained in the memory (Elliehausen, 2009). Then of course there is the matter of selective attention and memory:

> *I try not to actually think about it. They do show you the interest rate, it looks horrendous and by the time you've decided to get a loan you're not really that - I'm not at least - I'm not really that interested in seeing, in looking at it [Male lender, 31-40, metropolitan Queensland]*

Another challenge to our ability to make choices is the psychological gap between knowledge and belief. It is possible to know something may happen but simultaneously deny that it will happen to oneself. For many people 'natural consequence' can be a poor teacher. The gaps in time and space affect the way information is processed such that 'natural consequences' do not appear natural, but random. Thus a decision made in one place and time, for example to connect to cable television, incurs a consequence such as receipt of a bill, in another. Connecting these actions is not always straightforward. And although these trends affect many people, for people with decision-making impairments such problems are exacerbated. As one lender from south-east Queensland explained:

> *[Some] people can't think three months ahead, that's way out of it. 'So okay, if your bill is coming on the 30th November, when is the next one going to be here?' Now I know at the point that somebody can't add three months onto November, that I've got to go really, really slowly with this budget, because it just doesn't make sense.*

Ramsay (2000) asserts that there is no difference between lower and middle-income consumers in levels of market rationalities. However recent reports indicate that among lower-income earners will be a higher proportion of people with decision-making impairments (Fremstad, 2009; Saunders, 2005). Decision-making impairments include some forms of intellectual impairment and brain injury, dementias, some degenerative conditions and some psychiatric illnesses. In his work on the experience of people with disabilities in choice-making, John Armstrong concludes that 'whereas for people without intellectual disability it may be that we do not *want* to believe the consequences, for people with intellectual disability it may be that one *cannot* predict the consequences' (2005, p. 2, original emphasis). A number of lenders and counsellors identified a similar pattern among some of their customers and clients:

[T]hey only think about a bill when it arrives. There's no such, every bill is unexpected… [the] people you're talking to have no idea when the next electricity bill is actually going to be here. They are not even aware. [Lender from south-east Queensland]

'It's all caught up with me'

'Elizabeth' is a professional woman, aged 31-40 and employed full-time. She has several qualifications including a Masters degree and holds a senior position in her place of work, where she is on the top salary level for her field.

She is also facing bankruptcy.

Her credit card debts are in the hand of collection agencies or labelled as 'lost recovery', and she owes money on several store cards. Her business loan is with a collection agency and she has several outstanding loans from payday lenders. Her mortgage is in arrears and she is behind on her medical insurance, her car insurance, her council rates, and even her gym fees.

Elizabeth's decision making skills are impaired by a range of mental health issues she struggles with including obsessive compulsive disorder, depression, general anxiety and bulimia. She also lives in fear of colleagues or family discovering the extent of her debt. Her illness manifests as an obsession in ensuring that things 'match' and a need to get rid of things that are damaged or imperfect.

> ***I am medicated but the ACD leads me to want to buy things that are perfect all the time. If I perceive something as damaged or not good enough or whatever, I'll go out and buy another one.***

For Elizabeth, spending produces an adrenalin rush that she says is 'like being in ecstasy'.

Despite having excellent business knowledge and the ability to fully comprehend contracts, calculate interest rates and draw up meticulous budgets, Elizabeth's mental illness prevents her from adhering to these in her private life.

> ***I've sat down with this, that and the other but at the end of the day, I guess I don't want to know about it. But I've reached the point where I have to know about it now because I've come to the end of the line. That's it. Years and years and years of it, it's all caught up with me.***

Situational factors such as overwhelming complexity, low motivation, distraction, time pressures, conveniences, lack of domain specific knowledge, minor obstacles, language difficulties, people's mood and the influence of peers can all override expert advice (Harrison & Massi, 2008; University of North Carolina Center for Community Capital, 2007). In their study into financial difficulty, the ANZ bank demonstrated that for a small group of people financial literacy was an issue – but for many more the key issue was encouraging people to use the knowledge and skills they already had.

They suggested that although people had awareness of basic financial concepts, they over-rode this knowledge with what was termed 'unhealthy' financial thinking (ANZ Bank, 2005). Examples of unhealthy thinking include people only living for today, refusing to monitor or take responsibility for their finances, spending to keep up with the Joneses, spending to feel better, seeing credit as their money rather than as debt to be repaid, and using credit to supplement their income.

> *I have no discipline. It's about me just not being smart in using my money I know what I'm doing but that doesn't mean I'm going to stop doing it. [Male borrower from metropolitan Queensland, aged 31-40]*

In five of the interviews for this study when asked about their debt, people would identify payday loans or outstanding bills. However as the interview progressed, other sources of debt became apparent, but were not recognised as debt by the participant. These included: fines held by the State Penalties Enforcement Registry (SPER) such as fines for parking tickets, speeding and court related fines; Radio Rentals and Flexirent schemes, and Centrelink debt. These were not insignificant amounts – it was not uncommon for people to not own any furniture and to be paying rental schemes for all items in their home, including basic furniture like beds, electronic equipment and whitegoods. Another participant owed $98, 000 to state debt recovery (again not initially recognised as 'debt').

There are also social forces operating to affect the choices that consumers make. Connecting an immediate urge with a longer term consequence is discouraged in our 'have now, pay later' consumerist culture. Payday borrowers may be enticed by high discount rates in the short term (Frederick, Loewenstein & O'Donoghue 2002, cited in Skiba & Tobacman, 2008b) coupled with an overly optimistic view of the future in regard to their time or finances (Akerlof, 1991, O'Donoghue and Rabin 1999, Brunnermeier & Parker 2005 and Browning & Tobacman 2007, cited in Skiba & Tobacman, 2008b). This was a strong theme in the present research, often accompanied by magical thinking, for example:

> *If I could come into some money... say if I could get say $1,000 at any given time around about the same time as pay day well wouldn't have to use [payday lenders]. [Male borrower from north Queensland , aged 41-50 years]*

Consumers may experience financial shocks that cause variation to their usual consumption patterns (Deaton 1991, Carroll 1992, cited in Skiba & Tobacman, 2008b). Whilst this is true of most people, for people who are financially vulnerable, there is no buffer to protect them. Ironically, the availability of credit through things such credit cards, is one way in which less vulnerable people create a buffer. Interestingly, many of the interviews that were conducted for this project occurred after the federal government's 2009 'financial stimulus injection package', and this had actually served to buffer a number of individuals who would have usually accessed payday loans during this time.

> *We're on Centrelink and we're struggling and we can't afford things that we need, that we want like cars and things like that, you know. So why don't they try make it more easier for us and give us a big loan or something? And maybe then, we won't be running around all over town you know, just to look for a smaller loan to get somewhere. [Female borrower from north Queensland, aged 21-30 years]*

Another complication to choice is the expansion of options. It is also generally assumed that adding options to a person's set of choices must be a good thing and are risk free as there is no obligation to pursue them. However Mackenzie warns that the availability of new options can change a person's pattern of motivations, so that not pursuing some options become less psychologically possible. Consequently the addition of options can actually worsen a person's situation (Mackenzie, 2010).

Finally, people's higher needs for inclusion, belonging, identity and love mean that they will act in ways that will directly contradict their need for security and safety. For example, people who are vulnerable and socially isolated may sign contracts for things as a means of seeking approval and affirmation. As Westoby and Dowling assert, 'In this day and age, not to be able to consume *at will* means that you do not belong' (2009, p. 131).

According to Ben Agger 'capitalists do their share of manipulating people's tastes, which are internalized as free choices by people who appear to have many options' (2004, p. 118). This is consistent with the thinking of Zygmunt Bauman (2001, 2008) who asserts that people's individual rights to freedom of choice are defined in terms of consumption – which comes at the expense of political rights and citizenship. Thus concerns about collective welfare shift to concerns about individual lifestyles. Capitalists respond to manipulated taste by providing more of the same: 'morality lies in giving people what they want, even if those wants are bad for them and expensive for society as a whole' (Agger, 2004, p. 117).

Where all of these arguments lead is to the conclusion that whether people have an understanding of the real cost of a loan may not factor heavily in to their decision making processes.

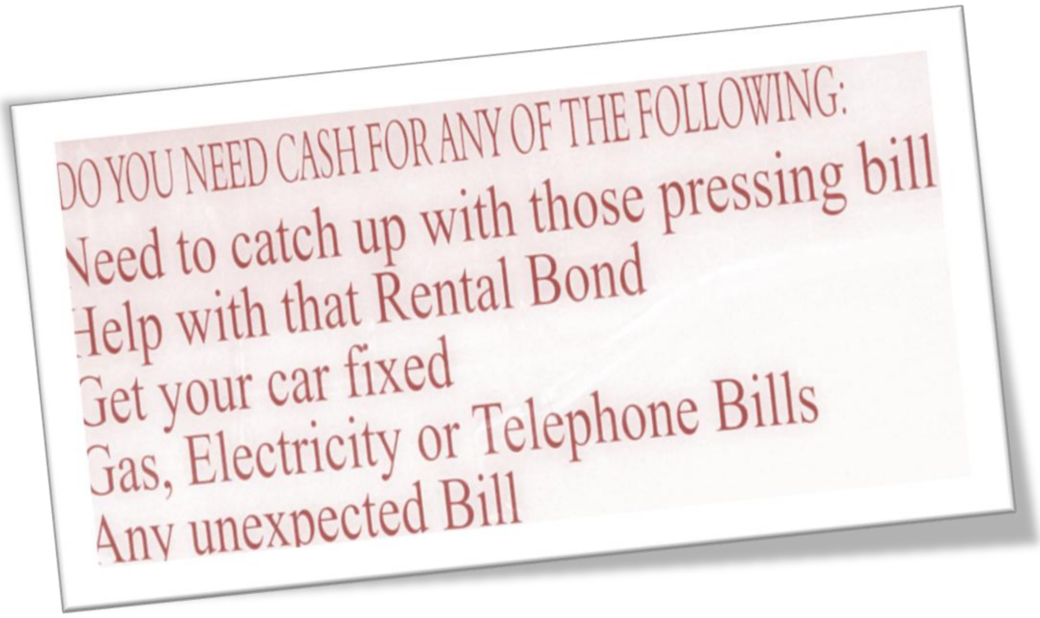
At the same time what these interviews also reveal is that borrowers are not simply passive or mere victims to the dubious practices of lenders, but are highly conscious of the decisions they make:

> *It comes down to the individual and the choices they made. You could equally live in a place like Lismore and go to the pub or the TABs or something every day, spend $80 a day or whatever on beer and pot or whatever, that kind of thing. Or you can be making different choices. [Male borrower from metropolitan Queensland, aged 31-40]*

From a governmental perspective the above quote shows the active embrace of the liberal subject, accepting responsibility for one's choices. This liberal discourse of choice, or more precisely responsibility for choices, was also supported by a lender in the survey:

> *Nobody is breaking their arms and forcing them to take these loans, any more than they're forcing them to buy a particular kind of car, or you know, and when you're talking about responsibility in lending, I think we've got to come back to responsibility in borrowing. You cannot make the lender responsible for the borrower's choices. [Lender from south-east Queensland]*

However this quote also needs to be read as a reaction against the popular perception that fringe lenders are predominantly predatory, exercising coercive power to lure unwitting customers. Choice is far from simple.



9. Money and Meaning

The final set of findings from the research is centred on people's experience of money and debt – and their meaning making around this. We were interested in how they made sense of debt, how they understand their relationship to money, and what has influenced their thinking. Rather than looking at people's income levels and understanding borrowers through a

'Trying to make every day survivable'

'Trent' has never known anything apart from poverty:

> ***It's always been poor, come from a poor family; grown up in housing commission, myself, like, ended up running away from home so many times living on the street because I thought it was better to get money easier by myself. I could actually feed myself better than my parents and, yeah, just always been hard.***

Now in his early twenties, Trent lived on the streets in Sydney and regularly stole food, clothing and items to pawn for food. He observes that this was necessary because

> ***it's not good just sitting there for a couple of days without eating something,***

Eventually Trent ended up with a drug addiction and stole to support his habit. He had lots of petty crime fines. He says he has always known 'bad people'. For Trent pawn shops and payday loans have simply been part of supporting himself, '*trying to make every day survivable, which is hard*'. Most of his stories were about being rejected by lenders and their unfair judgement of him.

Although Trent has over $100 000 of debt, he sees that life has improved enormously for him:

> ***And even though money is bad and that it's still a lot better than what I had of, like, using a cardboard box as a blanket, stuff like that, having no money, getting robbed in parks and stuff like that. Now, it's a lot better, even though it's a lot of debt to fix up, it can always be fixed up but at least there's a roof over your head and you don't have to worry about that every night.***

He has recently moved to Brisbane and is sharing a housing commission house with a friend '*to get a bit more stability*''. He wants to go back to TAFE and finish his course in car spray painting, but can't afford to just yet.

Trent has lots of thoughts on the importance of real alternatives like interest free loans, especially for people on Centrelink payments simply trying to survive.

poverty lens, we suggest it may be more useful to think about risk and capital as analytical tools.

In examining the common experiences of borrowers some patterns emerged which are worth further examination. Many of the people interviewed spent their child hood in a low socio-economic base and have intergenerational poverty patterns, some were refugees, others had experienced extreme poverty, family illnesses and deaths, divorce, abuse and violence. Education, housing and relationships were interrupted. There were stories of young people forced to quit their education to attend work and contribute to the family's income. Others, like Trent, whose story is told above, fled from the home as early as possible.

Three common and often concurrent narratives emerged from this experience of early latent risk: firstly there has never been an interruption from a downward spiral. The violence, crime and despair of childhood simply continued for people into adulthood, manifesting as gambling or substance abuse. Experiences of homelessness were common to these groups. Trent's experiences, outlined above, are typical of this group.

The second narrative was one of never quite getting started – or starting a long way behind everyone else. People in their thirties were still living with the debt incurred in their late teens and early twenties. As 'Angela's' experiences reveal below, one of the clear patterns that emerged was the damage caused by people allowing others to take advantage of their generosity or naivety.

The ripples of early mistakes in finances or relationships are felt years later, such that Angela now sees herself as 'the temporary holder of other people's money'.

'How is this going to end?'

'Angela' came to Australia with her parents and sister as a refugee when she was three years old. Her parents arrived with a single suitcase and $50. She reflects,

> ***We weren't rich, we made do with what he had, but I do not remember feeling like we were lacking in anything. So, because it seemed so easy, I probably never consciously thought about how hard it was for my mother to manage that.***

Angela traces her debt problems to the age of nineteen. She says that she made some wrong turns at this point in her life. The first was allowing her then boyfriend to use her mobile phone to keep in touch with his daughter. Within two weeks Angela had a $4000 phone debt. Not only is she still paying off that debt nearly ten years later, but she has accumulated additional debts from other similarly financially exploitative relationships. Now in her late twenties, Angela works as a contractor in desk-top publishing and studies part-time at university. Her pay is highly irregular and consequently she can never quite catch up on the amount she owes.

> ***I completely recognise that I'm in such a cycle. I honestly feel like on a merry-go-round, the second I pay one back, I think this last loan I got out on a Monday after the payment for the last one came out on the Friday. Because I had stuffed it because I had a low pay for example, I had to do it again. For example, now I'm kicking myself because next week, I don't have a pay because I've been unwell, and I was off work for ten days, so I have a zero pay coming pay up, and that was my lifeline. And now I've already took a loan so I can't take another one.***

She says that since the age of nineteen she has never been able to get enough financial traction to get out of debt, and the amounts keep accruing:

> ***So it is that cycle, and it isn't killing me but it's weighing heavily on me. Even though I can cope with it day-to-day again, it doesn't impair my functioning, it definitely weighs on me…every cent comes in and I can manage day-to-day so I'm not gonna struggle in terms of going to work or eating or things like that. But, there is not enough to fix what I've already broken.***

Angela worries about being left behind her peers and friends as she sees them setting and achieving financial and life goals while she still struggles:

> ***For me I feel like I'm so far behind everyone else in the world, 'cause most, more than 50% of my friends, oh no, most of them are either married or in a relationship, buying a house, already have a mortgage. I don't want a mortgage because I still want to travel, I'm not ready for that anyway, but I have nothing to show for it. In comparing other people and not just even your peers, anyone at the 30 age group should be a bit better off than me…I don't want to admit defeat. I want to keep fighting until I can manage to fix it. But it weighs on me and I think that I panic, how is this going to end? Am I going to end up bankrupt?***

The third narrative was that the earlier negative experiences reduce people's resources – including financial educational, relationship, physical and social resources – such that they are more likely to experience **latent** risks across their lives. Whilst many have managed these risks, the real difficulty emerges when **acute** risks arise (e.g. car breaks down, forced to move and require bond money, sudden unemployment, onset of mental illness, urgent house repairs). It is at this point, that they are more likely to become entrapped in debt. In practice what this means is that some people live with heightened vulnerability and a single event can force them very quickly to the edges of society. As a consequence of latent risks they lack fewer options when acute risks manifest. Carmel's story, shared earlier, is an example of this kind of vulnerability.

10. Responses

According to Treasury's Green Paper, during the consultation process for Phase One of the consumer credit reforms, the issue of interest rate caps met with conflicting views among stakeholders. The Commonwealth undertook to consider the issue of interest rate caps during the course of Phase Two. This section of the paper will look both at the options considered by Treasury, as well as the responses canvassed in the literature and utilise the present research to enrich these responses.

As a starting place, it is useful to note that the literature seems relatively clear on what does NOT work to protect consumers. According to researchers, the following restrictions do not stop payday borrowers becoming 'ensnared' in long-term debt: renewal bans/cooling-off periods; debtor amnesties; charitable lending; cooperative lending; limits on number of loans outstanding at any one time; payment plans; loan amount caps based on a borrower's income; databases which enforce ineffective provisions; over reliance on unregulated markets; or regulations that narrowly target payday loans (King & Parrish, 2007; Peterson, 2003).

Of the remaining options – much like the literature on the payday lending industry, its role and its customers – there is much contention. For the purposes of this review, responses to debt are divided into three main categories: preventative, developmental and corrective. This division is somewhat arbitrary, but provides a helpful framework for considering the responses canvassed to date.

10.1 Preventative Responses

Preventative responses are those responses which seek to prevent harm from occurring. In the context of this paper harm is in the context of the consumer and includes the predatory practices named in previous sections.

a) Banning Payday Lending

The first preventative measure to be implemented is obviously a complete ban upon payday lending. Two states in the USA provide a useful case study of this option. In May 2004 the state of Georgia in the USA banned payday loans. North Carolina followed suit in December the following year. In examining the effects of the bans, researchers concluded that the absence of storefront payday lending has not had significant impact upon the availability of credit for households in North Carolina. Further they argue it has had a positive rather than negative effect on households, with nine out of ten households surveyed claiming 'payday lending is a bad thing' (University of North Carolina Center for Community Capital, 2007, p. 1). Participants reported using several credit alternatives to payday loans including pawn shops, overdrafts and internet providers. Others developed lower cost strategies, took on additional jobs, changed their spending habits and chose to simply do without. Whilst this would seem to lend support to a banning strategy it is worth noting that of the 400 people surveyed, only twenty-three were former payday lending clients. In other words the idea of payday lending as being 'a bad thing' was espoused largely by people who already chose not to use payday lending and would not feel the effect of the ban.

In direct opposition to these findings, Morgan and Strain (2007) argue that there has been an impact – and that it has actually been a negative one. Compared with households in states where payday lending is permitted, households in Georgia have bounced more checks, complained more to the Federal Trade Commission about lenders and debt collectors, and filed for Chapter Seven bankruptcy protection at a higher rate. North Carolina households have fared about the same. Their paper concludes that payday credit is preferable to the alternatives and substitutes, such as the bounced-check protection sold by credit unions and banks or loans from pawnshops. Similarly Jonathan Zinman (2008) asserts that on average, restricting access to credit actually harms consumers.

In Australia, the option of banning payday lending has been dismissed by policy makers due to the lack of alternatives at present for low income consumers. Although pilot schemes for accessing small loans are being established (National Australia Bank, 2008a; National Australia Bank, 2008b; Scutella & Sheehan, 2006), these are often based on narrow eligibility requirements, including geographical restrictions, access to those only on social security and a limiting of loans to the purchase of essential living items rather than general living expenses. Wilson argues that this is a different demographic than that currently served by payday lenders. Some researchers argue for a restructuring of credit unions to enable them to meet this need (Pierce, 2008; T. Wilson, 2006). They suggest that this would be an act of social responsibility. Banks can offer cheaper loans and fees because of their economies of scale. They argue that the markets will only work better by changing the suppliers of the products – rather than merely changing the terms of it (Kenneth, 2008).

Given the current absence of product availability from the formal financial sector one of the fears in banning payday loans is that borrowers will have no other option than to turn to 'loan sharks' and black markets, with even greater negative consequences for consumers. Policis consumer research in France, Germany and the UK all show that use of illegal lenders is concentrated among those who have experienced credit refusals from legitimate lenders (Ellison & Forster, 2008b). However Ashton (2008) argues that the substitution hypothesis is not correct. The reduction of one form of credit will not result in a substantially identical increase in another form of credit. Lott and Grant suggest that people are unlikely to turn to loan sharks, and usually are unacquainted with them. Rather they would be more likely to turn to family and friends for help (Lott & Grant, 2002). Ellison and Forster (2008a) show that informal borrowing is an inadequate substitution for commercial credit. 'If payday lending is welfare improving for at least some portion of the population, a move to ban payday lending is ill advised' (Morse, 2007, p. 35).

The problem with these kinds of analyses is that they tend to pose markets as oppositional rather than complementary. As our research has shown, borrowers already use a range of credit solutions including payday loans, Centrelink loans, emergency welfare options, and informal sources such as family and friends. The loss of payday loans (or their product equivalent) is a reduction in options, not a redirection. Again, this differs across borrowers. Returning to the three groups of borrowers we met, we can see that for one group of borrowers, the loss of payday lenders would simply mean they would have to turn to lesser preferred options like friends and family, or banks, or in some cases, rework their finances or try to gain employment. Some counsellors were strong advocates of this option, seeing at as the only way people would learn to live within their means:

> *I'd like to see loans phased out. If people could get used to the fact that they're not around they'd be far better off. They'd realise they can't spend the money. [Financial counsellor from metropolitan Brisbane]*

Another counsellor explained:

> *So when you consider that these people are chronically financially distressed and will always have bills they can't pay, it's not doing them a kindness to top them up with loans that they can't afford either, because all you've done is add another problem to the list of problems that they already had. It's not that their situation is temporary: I think that's the guts of it. As soon as this electricity bill is gone then there's going to be tyres, then there's going to be the mobile phone and then there's going to be this – so by giving them that one loan you really haven't helped them at all. Because the issue is [that] they need to live within their means and if their means is abject poverty it's actually better for them to accept that and learn how to do it than for someone to give them a false sense of being able to live to a higher standard, which they just can't. [Financial counsellor from metropolitan Brisbane]*

For the second group of borrowers, the banning of payday lenders would be met with approval, but would have little or no effect upon them as they have already decided against this form of credit.

However for the third group, the abolition of payday lending would have serious repercussions, as one advocate recognised:

> *When you look at [a single parent] in terms of their $30000 from Centrelink you think, well that's a great income, that's an OK income for a single person. But if it's an income where you're supporting four kids and you have to pay $250 or $300 a week in rent, which leaves you $300 a week to feed, clothe, get kids to school, have*

car. For you and four kids, it's just totally inadequate. They can't actually afford to live within their means because there is nothing. [Advocate from metropolitan Brisbane]

Echoing the advocate's thinking, Karian and Zinman observe that 'restricting supply does not restrict demand' (2009, p. 9). Instead they argue for the asking of new questions, such as instead of asking how we shut markets down, how do we make them work better? 'How can we create an environment that allows those who would benefit to borrow, and leads those who would be harmed to avoid expensive traps?' (p. 9).

On the other hand, The Consumer Action Law Centre argues that just because there is a demand for a product in the marketplace, it does not necessarily make it a good idea for that product to be supplied (Ashton, 2008, p. 30). Robert Shiller (2004) suggests the need to provide the financial sector with incentives for undertaking investments with high social benefit and punish those if its investments cause social loss, as a means to managing risk and developing appropriate price management.

b) Interest Rate Capping

The next preventative move is to allow payday lending to continue – but with tighter restriction placed upon the way business is conducted. Chief among these restrictions is the capping of interest rates.

Interest rate caps or ceilings, sometimes also called usury laws, have been in use throughout history and constitute the earliest form of consumer protection law (Rougeau, 1996). There are links back to the Babylonian Code of Hammurabi of 1750BC, the Roman Empire in 450BC, the Chinese empire in the 1500s, and the British colonies in the 1700s (Malbon, 2005b). Malbon also argues that this is a history of regulatory and enforcement failure!

As was shown in Table 1, enormous differences exist in the way in which interest rate caps have been implemented across Australia. Proponents of interest rate capping and other cost controls argue that controls protect from usury and exploitation, they ensure consumers pay fair rates, they address the issue of unequal bargaining power, they help individuals build assets, they encourage competition which reduces excessive pricing and inefficiencies and controls compensate for a lack of choice (Howell, 2005). King and Parrish argue that the 'only proven way for state policy makers to protect their citizens from predatory small loans is to enforce a comprehensive small loan law with an interest cap rate at or around 36 percent' (p. 4).

Critics of interest rate caps contend that they harm rather than protect low income and vulnerable consumers (Durkin, 1993; Engel & McCoy, 2002) and have unintended consequences (Karian & Zinman, 2009). There is now evidence from the World Bank and the Consultative Group to Assist the Poor which advises against ceiling rates as damaging to the interest of the poor and their communities (cited in Ellison &

Forster, 2008b). Durkin (1993) also suggests that interest rate controls cause shortages in the provision of credit, impede competition and are ultimately wasteful: both lenders and regulators waste resources in finding ways around them and in enforcing them.

Interest rate caps can easily be avoided by loading additional costs into the largely unregulated additional fees and charges (Howell & Wilson, 2005). As a response to this concern, the 2010 Green Paper is also considering introducing restrictions on late payment fees and other fees or charges, particularly those applying after a consumer has defaulted.

The 2006 Report of the Consumer Credit Code Review suggests that interest rate ceilings can also be harmful in that they may give consumers a false sense of security (Consumer Affairs Victoria, 2006a, p. 4). At a more ideological level there is a criticism that cost control by government is both inappropriate and paternalistic (Howell, 2005).

Large lenders and representative bodies for the lending industry argue that the cap is unworkable for lenders, leading to business closures and increased requests for social welfare assistance by borrowers (Cash Converters, 2008a, 2008b). The Victorian Consumer Action Law Centre states: ‘it is not economical for most payday lenders to lend at or below 48 percent per annum’ (Ashton, 2008, p. 2). Payday lenders predict disaster for payday borrowers if they can no longer charge triple digit interest rates (King & Parrish, 2007). Likewise Ellison and Forster (2008b) argue that retreat of lenders from the credit market will attract illegal lenders and criminal activity, force borrowers to use products less suitable to their needs, and force some borrowers to access more money than they actually require thus exposing them to greater credit risk. In a fascinating Catch 22 they also argue that the interest rate caps will reduce lenders in the market, thus discouraging healthy competition – the very thing that lenders believe keeps borrowers safe from exploitation. This is supported by Morgan whose research suggests that competition amongst lenders works to lower loan prices. He says ‘The problem of high prices may reflect too few payday lenders, rather than too many’ (2007, p. 22).

To examine these claims, a small loan pilot was initiated in 2008 by the National Australia Bank (NAB). The NAB Small Loans Pilot, found that for loans between $1,000 and $5,000 an annual percentage rate of 32.8 per cent (or $18.70 per $100) was the minimum required to enable the lender to break even. For smaller loans the breakeven rate would be even higher, due to the need to recoup fixed administration costs. The conclusion was that for smaller loans it would be not be possible for lenders to operate legally within a 48 per cent cap.

Ashton refers to interest rate caps as a blunt tool. He says that whilst an interest rate cap does not address the causes of over-indebtedness, ‘as a matter of common sense debt is the cause of over-indebtedness and the two factors that are going to influence the extent of debt are the amount borrowed and the interest and fees on the amount borrowed' (2008, p.5).

The timing of this study in Queensland provided a unique opportunity to study the impact of the 48 percent cap on both lenders and borrowers. Among lenders three patterns of behaviour were observed in response to the introduction of the 48 percent interest rate cap. Firstly lenders have been forced to reduce profits. The flow-on effects to business have been devastating for employees. As one lender explained:

> *We had to let go of eight staff as the economics of our previous model were no longer profitable [Lender from south-east Queensland]*

Secondly, and as a direct consequence, many lenders have closed shop or moved their business into other states and territories (including Tasmania and the Northern Territory). Because the industry has never been regulated and licensed, the exact size of the small loans sector has never been ascertained, however sector representatives estimates that about one third of lenders have closed down. Several of the lenders we spoke to admitted that if they were able to get out of current lease arrangements they too would be leaving the industry:

> *I'd like to close. Unfortunately we are locked into a lease agreement for another year. I wonder how the Members of Parliament and the OFT bureaucrats would like to have their incomes slashed by 80 percent? [Lender from metropolitan Queensland]*

The blame for this has been placed on the introduction of the 48 percent cap.

> *Lenders whether micro or Payday will not be able to financial survive under an all inclusive cap of 48 percent. 48 percent effectively gives you a 26 percent gross p/a (reducing balance payment method). I can't see any business make money working on a 2.1 percent gross profit margin. [Lender, south-east Queensland]*

The lack of viability of the business model was a sentiment echoed by the regulators:

> *I don't think you'd get a huge profit in microfinancing. That's the problem. They're still saying that 28-30 percent is the cost. They've got 2 percent profit in there. So small amounts of money. Who can run on 2 percent profit? [Regulator frommetropolitan Queensland]*

However, industry regulators were less clear that the cap was the reason for these business closures.

> *Can we say that credit providers are no longer there? Yes. Can we say why? No. There's too many other factors around – the general credit crisis, some credit providers have shut down their commercial premises to cut down their overheads and are now working from home. They're still providing credit… It's also much more difficult for them at the moment to raise capital. So with that on top, it probably wasn't the situation twelve months ago, it's skewed the results... It's further complicated by the fact that it was businesses doubling up as credit providers for a short while, who*

> *just rescinded thereafter from their practice because it's no longer viable. So it's hard to draw a clear distinction. [Regulator from metropolitan Queensland]*

Regulators argue that there was a glut in the market and the cap has effectively rationalised the industry to a sustainable level. One regulator acknowledged potential growth for small lenders:

> *Banks are going to start tightening up more on their lending in terms of their risk it's going to create a bigger market and that nominal sort of line, where this socioeconomic spectrum goes to payday lenders and this one goes to banks, is going to raise up. And those people are going to start going to payday lenders because it'll be a little bit easier to get a loan from them rather than the banks. [Regulator from metropolitan Queensland]*

As mentioned in the previous section, regulators also believe that where Lenders are closing down, borrowers are simply turning to online services.

Advocates and Financial Counsellors are clear that the Caps are having an impact and small businesses are closing. The difference is that they interpret this outcome positively.

> *These businesses have established themselves by exploiting vulnerable people. That's really – I'm really sorry for those individuals who have put money into that, but they have known that there's been a push on for interest rate caps for the last ten years. So this is not something new to them. They've known that people have had very widespread concerns about the negative impact on consumers about this. Some of those people have made a lot of money out of it…They've made a lot of money selling franchises of this. Yes I feel very sorry for those individual businesses but I don't think that we should support those at the cost of the hundreds of thousands of families that are affected by this. [Academic from metropolitan Brisbane]*

The third response by lenders to the introduction of the cap has been the development of a range of innovative responses to the new consumer credit code. They have adapted current business models to try and circumvent the cap, such as the use of brokerage models, and in some cases they have worked to circumvent the consumer code all together:

> *We have stopped providing loans and have moved to a new business model that is not regulated by the Consumer Credit Code. [Lender from south-east Queensland]*

Such is the impact of this that by the time we had rolled out our survey, only two of the thirteen lenders called their product a 'payday loan'.

Advocates and counsellors supported the idea of interest rate caps:

> *I think the only thing that's effective is interest rate caps…to me, has been the most effective measure in terms of people coming and complaining to us, in the last twelve months and reducing that number of people who are struggling to repay small loans. [Stakeholder from metropolitan Queensland]*

However, the impact of the 48 percent interest rate cap on borrowers who participated in this study is best summed up by one borrower: who responded *'Caps? What caps?'*

None of the forty-four borrowers had heard of interest rate caps or understood what it meant. Some had noticed a slight change in their payment schedule (often only a dollar) – suggesting that lenders were buffering their clients from the industry changes. What borrowers did note however was the changing language that occurred as a result of lenders' more innovative business models:

> *You just notice the change in, not discourse – what's the other word? – in the wording, the way that they spoke about it and the way that it was documented. So they never said, 'So, you're borrowing this much, you're interest is this much.' They say, 'So, you're borrowing this, our service fee is $90 or this of that, and that's due.' So you notice the shift in the language they used and the paperwork. [Female borrower from metropolitan Queensland, aged 21-30 years]*

c) Product Disclosure

The third preventative measure is product disclosure requirements, as canvassed in the current Green Paper (Commonwealth of Australia, 2010).

Warnings currently under consideration include drawing borrowers' attention to the risks and costs of a financial product, and information about alternatives including payment options for utility bills, hardship variations, advances of welfare payments and information about services offered by welfare groups/ community organisations.

At first glance the provision of information to assist consumers to make good choices seems to be a highly beneficial response to criticisms of predatory behaviour, contract confusion and deliberate omission on the part of lenders. Product disclosure is predicated on the assumption that increasing disclosure requirements will reduce information differences between lenders and borrowers, and will promote a more competitive marketplace, thus driving out predatory loans.

However pre-contractual disclosure and consumer education programs fail to prevent the cycle of debt (Malbon, 2005b). Likewise, in their Australian study, Sheehan, Wilson and Howell (2008) argue that government should reduce reliance on disclosure as a means of protecting customers because of contract length and obscurity. Disclosure requirements may also serve to increase the risk for borrowers, by increasing the sense of trust, and deepening the relationships between borrower and lender:

> The risks associated with some products or activities may be so great that policy-makers may feel that it is inappropriate merely to inform affected parties about these matters (Baldwin & Cave, 1999, p. 49).

The other flaw in truth in lending as a safeguard for vulnerable consumers is that it assumes viable alternatives. Many low-income consumers are focused upon obtaining a loan from anyone who will lend to them (T. Wilson, 2004). They assume they will be paying high fees and interest rates and do not shop around between different lenders (Lott & Grant, 2002; Malbon, 2005b). Thus disclosure is unlikely to influence consumer's behaviour.

d) Prohibition on Extension of Outstanding Loans

Another option currently being considered is the prohibition on extensions of outstanding loans, or advancing new loans prior to the repayment of existing loans. The intention is to protect consumers from the risk of entering a debt spiral. Such thinking accords with researchers such as Stegman (2007) who argue that that if payday lending is really intended for one-off emergencies then quarterly access should be sufficient to meet borrowers' needs.

However as the Green Paper (Commonwealth of Australia, 2010) acknowledges, this is ineffective against people accessing multiple lenders. The Australian Government's current position is that some of these issues will be resolved by the new responsible lending conduct requirements (which require lenders to make inquiries about the purpose of the loan and the consumer's capacity to repay) and the impending move to comprehensive credit reporting.

10.2 Developmental Responses

Developmental responses are those responses which seek to find a balance between all-control and all-risk by assisting consumers to develop the skills they need to make good decisions. The main response utilised here is financial education.

a) Increased Financial Education

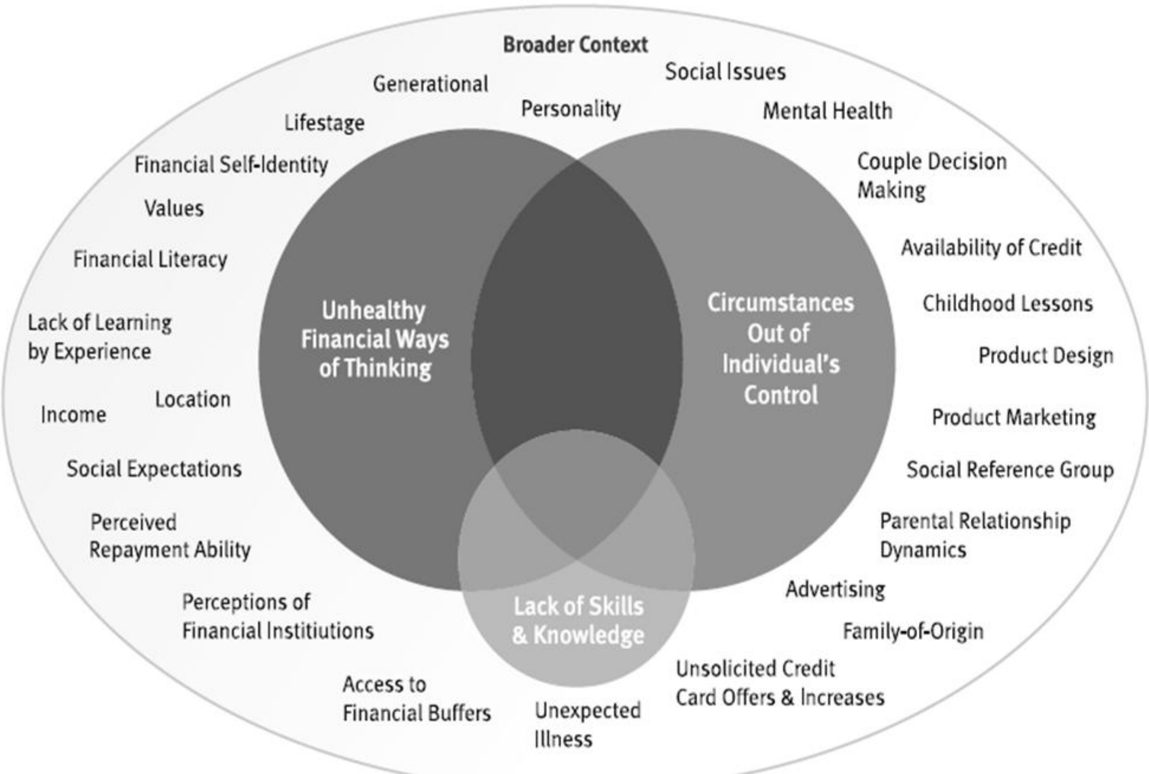
Research shows that credit counselling has a positive effect on personal debt levels, provides a buffer against financial hardship and facilitates long-term change (ANZ Bank, 2005; Courchane & Zorn, 2005). If coupled with structured opportunities to save, financial education can increase participation in savings plans and increase the level of savings for people (Barr, 2004). Whilst counselling serves a developmental function, assisting borrowers to develop the skills and knowledge they need – most people initially access counsellors for more corrective intervention to intervene when debt spirals out of control, to negotiate directly with lenders and banks and to assist people to re-establish financial control. However as mentioned in the previous section on consumer behaviour, lack of financial knowledge and skills actually plays a smaller part in people getting into financial difficulty than is often assumed.

As depicted in Figure 4 below, it is mainly a combination of unhealthy thinking combined with circumstances outside an individual's control that lead people into financial difficulty.

Not surprisingly, financial counsellors had strong support for financial education:

> *It's about literacy, mental ability and then maybe the way the contracts are written. But yeah, the literacy is the issue. It is different depending upon what area you are in…Educating the public is the only way forward because every time one thing changes they [lenders] are ready to bounce back…The problem is that it doesn't matter how you try to explain it to these people, a lot of them don't understand. Now you can put it in the most simplest ways, but they know that these are the ones who can lend them the money when they get into difficulty. And they don't understand that eventually they're going to get so far under that they can't get out…There are some people who just don't understand at all. [Financial counsellor from metropolitan Brisbane]*

Figure 4 : Contributors to financial difficulty



Source: ANZ Bank (2005). Understanding Personal Debt and Financial Difficulty in Australia. Maquarie Park, NSW, ACNielse.

Financial counsellors had particular concerns about the lack of financial literacy among young people, and the normalising of debt through mobile phone plans and credit cards.

Regulators agree that education is important – particularly knowing who one is borrowing from. They also acknowledge the growth of a secondary industry which sits behind other lenders:

> *There's also the secondary industry that sits behind ones, like car yards and those sorts of things. And you don't know – when you see 'finance approved quickly' and all that sort of stuff – you don't know who's providing the finance behind them. [Regulator from metropolitan Queensland]*

However, the Regulators also acknowledge the limitations of educative approaches:

> *it wouldn't matter who they're borrowing from, as long as they knew what their rights were under the legislation and whether they're being charged excessively, but anecdotally my experience is that once a person wants to get credit, it's just a matter of who is going to lend it to them. [Regulator, metropolitan Queensland]*

The financial literacy approaches are therefore limited because understanding is not necessarily a key determinate of behaviour.

Singh et al (Singh, Myers, McKeon, & Shelly, 2005) take a broader approach and argue that the main gap in the literature is in the study of the social and cultural dimensions of debt, credit and decision-making. Whereas many economic behavioural analysts have focused upon explanations for an individual's choices (see for example, O'Donoghue & Rabin, 2001, 1999a, and 1999b). Singh et al argue that with the inclusion of the social and cultural perspectives, financial decision-making no longer remains an individual economic issue. Singh et al argue that culture needs to be understood as an important macro factor in understanding consumer behaviour because money is a social and cultural phenomenon. Their paper explores different attitudes to money and credit among other cultures, exploring the way in which culture influences the meaning of money, who money is shared with, management and control of money, attitudes to savings, attitudes to spending and credit and attitudes to financial institutions. So whilst money is an object – an inert thing – it is also has subjective and affective meanings as well which influence people's attitudes and behaviour.

Through this lens, gaining access to money, and likewise, access to credit, is about attaining achievement and recognition, status and respect, freedom and control, and power – what Mitchel and Mickel (1999) see as 'four of the most important symbolic attributes humans strive for' (p. 569). From this perspective, financial literacy is limited in effect unless social and cultural meaning is understood as central to all discussions.

10.3 Corrective Responses

Corrective responses seek means for addressing harm that may have already occurred.

a) Legal Redress

The UCCC has hardship and unconscionability provisions that consumers can access to reopen unjust transactions or review costs and charges associated with a loan. However Therese Wilson (2004) cites studies demonstrating a lack of resources or reluctance to bring applications under the ACC before the court. Court proceedings are costly, potentially overwhelming for people already suffering enormous financial stress and fear and time consuming. They require financial resources to access legal expertise, and a willingness to prosecute the very people whose services they have relied upon extensively – and may require again. People may lack the knowledge to access legal system and may fear acrimonious disputes. Whilst they theoretically are able to challenge under the code, as a corrective measure it relies upon borrowers applying to the courts to enforce their rights:

> There is little or no evidence of successful challenge to payday loan contracts by borrowers under the Code; the applications that are made tend to settle privately. The vulnerable consumers who take out payday loans are least likely to have the confidence or capacity to take the lender to court and the relatively small loan amounts involved may not in many instances justify the costs of a legal challenge (Office of Consumer and Business Affairs (OCBA), 2006, p. 10).

For these reasons the National Review of Consumer Credit includes implementation of External Dispute Resolution schemes. Given Wilson's critique above, it will be interesting to see if and how these are accessed by consumers.

10.4 Future directions

What this discussion has shown is that the non-bank provision of credit remains a vexed and contentious issue, with a lack of agreement on the precise nature of the problem – or its solution. Adair Morse (2008) neatly sums up the debate with the title of his paper 'Payday Lenders: Heroes or Villains?' thus illustrating the polarised nature of the discussion. Rougeau (1996) suggests that at the heart of this debate is a conflict between economic and social values, and that ultimately, what is needed is for economic arguments to give way to broader social values. However Howell (2005) observes that such a response assumes agreement on the broader social values' and this seems highly unlikely. Karger (2005) argues that the very existence of a fringe economy is evidence that morality has been superseded by free-market ideology. He concludes that legislative regulation will not eliminate the fringe economy nor the economic injustices upon vulnerable people.

Consistent with this thinking is the development of Community Development Finance (CDF) Programs (Malbon, 2005a) and Institutions (CDFI) (Burkett & Drew, 2008). CDF is an umbrella terms to cover areas of microfinance, microcredit, microbanking, microinsurance, social and microenterprise, and can include small savings and loans groups and the provision of financial literacy training.

Burkett and Drew point to the potential for 'fourth sector' organisations, to blend the strengths of business, civil society, and government. These organisations move beyond charity models by generating small surpluses that generate both social and financial returns for investors and for the communities they serve.

Research suggests that CDF initiatives cannot survive without government and private subsidies (D. Wilson, 2002). Far from seeing this as inappropriate intervention, some authors argue that the financial deregulation of the 1980s was a moral and economic failure and have proposed a return to government direction of lending into areas with high social returns (such as housing) (Stretton, 2005). It is argued that offering incentives to financial institutions aligns with government anti-poverty schemes such as public housing, pension schemes and other welfare arrangements. 'It adds further armoury to the battle against poverty, and reduces total reliance on direct welfare schemes' (Malbon, 2005a, p. 21).

Returning to the debt narratives shared by borrowers in this study, what CDFIs have the potential to offer is the opportunity to finally 'catch up', to regain financial footing and to build some of the financial and social capital to buffer against acute risks. It will be interesting to see whether the $7.5 million pilot approaches for developing a Community Development Financial Institution sector in Australia, provides an opportunity to do this (Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), 2010).

As Malbon summarises, the long history of credit and debt suggests that no single approach will solve the problem. Further, as economic and social conditions change, legal and policy initiatives will need to change in response to these. However the development of responses that challenge current paradigms hold the greatest potential for change. The option being developed through CDFIs and localised economies have potential to offer options that are self-evidently more beneficial and pose true alternatives to the small loans, large bank, welfare and illegal lending options. However current proposals suggest it is unlikely that the group most at risk of ongoing harm will be eligible for these schemes (Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) (2010).


Fast
Cash!

11. Conclusion

This pilot study report has provided an overview of how Queenslanders are accessing high cost small loans in Queensland in the context of a segment of the financial sector that is undergoing significant change. While regulatory reform has had a significant impact on how fringe lenders operate, the behaviour of low-income borrowers is governed by other pressures and incentives. The need for short term credit does not disappear when a pay-day loans store closes its doors. When people are living with entrenched poverty or are facing a short-term cash crisis they will do what they can in order to access goods and services in a market economy. At the same time we need to recognise that the ease at which people can get credit from this same market contributes to the problem of unsustainable levels of personal debt in Australia.

As is appropriate with a pilot study we have not sought to offer definitive directions for reform. What we have aimed to do is problematise dominant assumptions about the behaviour and motivation of both borrowers and lenders. We have argued that we need a better understanding of the economic and social relations at the local level of fringe lending if appropriate policy responses are to be developed. The larger ARC Linkage study will be an opportunity to collect more information and make firmer conclusions. What we have done here is illustrate that there are many interrelated problems and solutions that deserve further exploration. What we hope we have demonstrated is the benefit of an in-depth approach to understanding people's experience of accessing small, high cost loans in the present and their own historical 'debt plots' – that is the range of characters, including the villains and the victims, that feature in narratives about credit and debt, hope and hopelessness. While there are some common themes there is also significant divergence in the personal accounts of the causes and consequences of insufficient means to make ends meet.

What is clear is that short-term credit is not a permanent solution for the majority of the people we spoke with. Short-term credit can help buffer the external shocks of living a life towards the bottom end of the labour and housing markets, but they can also become part of the problem due to the relatively high costs associated with loan defaults.

Policy reforms aimed at limiting the costs of these loans and access to these products may be well intentioned, but they can also have unintended consequences, particularly if fairer credit alternatives are not made available and more permanent preventative measures put in place. As we indicated in the beginning of this report there are no simple policy or practice solutions. We need to start by considering the macro context, the appropriate mix of public, private and community services in the Australian welfare state. In part, what the growth in the fringe economy illustrates is that there are for-profit providers that have filled the gap left by inadequate public services and the historical withdrawal of mainstream credit services from low-income Australians. In large part what various stakeholders are left arguing about in the contemporary context is whether the plug is the right size or a good fit. This is of course ultimately a moral question, a point that unfortunately gets lost in the technical policy debates about viable business models and interest rate caps.

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Appendix A: Borrower Survey

Section A: About the loan

1. Did you visit [business name] to

❑ Get a loan ❑ Repay a loan

❑ Other: ___________________________________

If a) or b) continue. If c) specify service used and terminate survey.

2. How much was your loan for? _______________________________

3. What is the purpose of the loan?_______________________________

4. a) What did the lender do to ensure you understood the terms and conditions of the loan?

____

b) Do you think you've got a good understanding of the terms and conditions of the loan?

❑ Yes ❑ No ❑ Unsure

5. How long did you get the loan for? __________________________

6. How much is the fee for that loan? __________________________

Are there any other charges? ___________________________________

7. What did the lender do to check whether you could afford the repayments?
8. Is this the first time you've got this kind of loan ❑ No ❑ Yes → go to Q 14

9. Why did you use this lender? ___________________________________

10. How many loans have you had in the past 12 months (not including today's)?________________

11. And were they all from the same place? ❑ No ❑ Yes → go to Q14

12. How many other lenders have you used? ____________________________

13. What's good about this kind of loan? _______________________________

14. What's not so good?____

15. Have you used any of these forms of credit in the last 12 months?

❑ Credit Card
❑ Bank or Credit Union Loan
❑ Centrelink Advance Payment
❑ Finance company
❑ Cash Converters or Pawn Shop
❑ 12 month interest free plans on goods
❑ Mobile phone credit plans
❑ Cheque cashers
❑ Loan from family or friends
❑ Any other kind of credit? ___________________

Section B: Demographics

16. Gender ❑ Male ❑ Female

17. Age

❑ Under 20 ❑ 31-40 ❑ 51-60 ❑ Over 70

❑ 21-30 ❑ 41-50 ❑ 61-70

18. Relationship Status.

a) Are you: ❑ Single ❑ Married/De facto ❑ Separated/Divorced ❑ Widowed

b) And do you have any children living with you? ❑ No ❑ Yes → If YES – how many? _____

19. Income

a) What is your usual weekly income? _______________________________

b) And is that from: ❑ Full-time work ❑ Part-time work ❑ Casual work

❑ Centrelink payment: (specify) _________________❑ Other: _______________________

20. Accommodation

a) Which suburb/town do you live in?

____

b) Is your accommodation: ❑ Private rental ❑ Public rental ❑ Own home ❑ Temporary accommodation ❑ Other: ________________________

c) How long have you been living there (approx)?_________________________________

21. Education

What grade did you complete when you left school? ______________________________

And have you done any courses since then? _____________________________________

22. Language & Culture:

a) Where were you born?____

b) What languages do you speak at home?____

Section C: Interview Request

23. Would you be willing to participate in a longer interview to help us understand the experience of using credit services?

❑ No ❑ Yes: name & contact details: ____________________________

Appendix B: Borrower Interview

Section A: Demographics

1. Gender ❑ Male ❑ Female
2. Age

❑ Under 20 ❑ 31-40 ❑ 51-60 ❑ Over 70
❑ 21-30 ❑ 41-50 ❑ 61-70

3. Relationship Status.
   a) Are you: ❑ Single ❑ Married/De facto ❑ Separated/Divorced ❑ Widowed
   b) And do you have any children living with you? ❑ No ❑ Yes → If YES – how many?
4. Accommodation
   a) Which suburb/town do you live in?_______________________________________
   b) Is your accommodation: ❑ Private rental ❑ Public rental ❑ Own home ❑ Temporary accommodation ❑ Other: ___________________
   c) How long have you been living there (approx)?___________________________________
5. Education
   a) What grade did you complete when you left school? ________________________________
   b) And have you done any courses since then? _______________________________________
   c) What is your main occupation?____
6. Language & Culture:
   a) What country were you born in?____
   b) What languages do you speak at home?____
   c) Do you identify as an indigenous Australian?_____________________________________

Section B: Income& Expenses

1. What is your income?
   a) What are your formal income sources? (Centrelink, work, self-employed)
   b) How much is your net fortnightly income?
   c) Do you have any informal income sources (eg family, friends)?
   d) When would you use these sources, under what circumstances (search for examples)
   e) Do you make ends meet in any other ways? (eg trade skills, trade time for produce, accessing emergency relief payments?)
2. What assets do you have?
3. What are your main expenses?
4. Do you have any credit cards or store cards? (if so how much is your total debt on these cards and what is the credit limit and the interest rate?) → If yes, how did you get these cards? (apply, or pre-approved through the post)
5. Do you have any other debts (eg personal loans with banks)?
6. Are there things you need, but find that you can't afford them?
7. How would you describe your financial situation at present? And is this better or worse than it has been in the past?

Section C: About your experiences with lenders

1. Can you tell me something about the situation that first led you to access a payday loan? (what were the circumstances, how did you find out about them)→ How long ago was this?
2. How often would you access a payday lender and what is the size of the loan?
3. Why do you use a payday lender (and not some other kind of loans service) What constitutes a crisis/emergency?
4. What's the process like of getting the loan?
5. How is your relationship with the lender (friendly?, business like)?
6. Can you tell me about the nature of the loan? What kinds of conditions do you have to agree to? What are the costs? Do you understand how interest and charges are applied?
7. Do you use secured or unsecured loans?
8. If you use secured loans, what do you put up to secure the loan? Do you worry about the secured item or paying the loan back?
9. Have you – or anyone you know – had trouble paying loans back? What happens to you/them in this situation?
10. Will you continue to use pay-day loans, or do you see yourself getting to a point where they are no longer necessary?
11. Would you prefer to access credit through more mainstream lenders, like banks or credit unions? If so, what prevents you from using these services?
12. What kinds of loans have you tried to get? (Formal? Informal? Shadow economy? Successful? Unsuccessful?)
13. Did you notice any difference when the interest caps were introduced?
14. If you couldn't get money from a small loans provider where else would you go?
15. Do you have a view about government regulation of pay-day lenders? (do you think there should be more or less government regulations that aim to reduce the costs to borrowers)?

Section D: Your thoughts on money & debt

1. What do you think of when you hear the word "money"?
2. Thinking back on your life to this point, how would you describe your experiences of money?
3. Can you name a time when things were really tough financially?
    a) Can you describe this? What was it like?
    b) What happened? What things led up to this?
    c) What did you do?
    d) Did things improve and if so, how and why?
4. Have there been times when others were involved in helping you with money management? (eg financial counsellors, other welfare agencies)
5. How would you rate your financial skills? What do you do well in managing money?
6. Under what circumstances do you think it is okay to go into debt? (for what sort of things)
7. Do you think being in debt is more socially acceptable these days?
8. What do you think is the hardest part is for people who don't have much money?
9. What do you think should happen to assist people who are on low incomes?

Appendix C: Lender Survey

General Information

1. In which town or suburb is your business located? (If you own multiple stores please apply your responses to only one of those stores. You are also welcome to fill out additional forms for other stores.)

2. What is the nature of your role?
   - ☐ Owner ☐ Store Manager ☐ Loan Assessor
   - ☐ Other (please describe):

3. How do you define
   a) A micro-loan:
   b) A payday loan:
   Are there any other loan categories you think we need to be aware of?

c) We use the expression "alternative lending services" to refer to non-bank lending services. Please let us know if there is an alternative phrase you would prefer us to use in describing your sector:

4. What proportion of your business would be:
   - ☐% Microloans ☐% Payday Loans ☐% Cheque cashing
   - ☐% Pawn broking ☐% Other (please describe):

5. What proportion of your customers would fall into the following (gross) income brackets?

☐% $0 - $10 000	☐% $60 001 - $70, 000
☐% $10 001 - $20, 000	☐% $70 001 - $80, 000
☐% $20, 001 -$30, 000	☐% $80 001 - $90, 000
☐% $30 001 - $40, 000	☐% $90 001 - $100, 000
☐% $40 001 - $50, 000	☐% Over $100, 000
☐% $50 001 - $60, 000	

6. Over what loan amount do you require security? $_______

7. What would be the typical forms of security you would accept? (please mark as many as apply)
   - ☐ Car ☐ Furniture ☐ White goods ☐ Electronic equipment
   - ☐ Jewellery ☐ Clothing ☐ Car ☐ Other:

8. What is the range of loans that you provide?

	For unsecured loans:	For secured loans:
Smallest loan amount:	$	$
Largest loan amount:	$	$

9. Do you do anything in particular to encourage customer loyalty and repeat business?

- ☐ Get to know customers' names
- ☐ Provide hospitality (e.g. tea & coffee)
- ☐ Ensure premises is welcoming
- ☐ Spend time talking with people (about non-loan related matters)
- ☐ Offer other services:
- ☐ Other (please describe):

10. What percentage of your loans are unrecovered?

☐% (approx) of secured loans ☐% (approx) of unsecured loans

11. What typically happens in your business if a borrower can no longer make repayments?

For a secured loan:

- ☐ Reminder phone call
- ☐ Letter
- ☐ Follow-up Letter
- ☐ Personal visit
- ☐ Legal action
- ☐ Other *(please describe):*

For an unsecured loan:

- ☐ Reminder phone call
- ☐ Letter
- ☐ Follow-up Letter
- ☐ Personal visit
- ☐ Legal action
- ☐ Other *(please describe):*

Comments:

12. What do you think are the main issues/problems affecting the alternative loans sector?

13. What changes would you like to see in the alternative loans sector?

The following questions relate only to PAYDAY LOANS:

14. Who would be your <u>typical</u> payday loan customer?

a) Average age of customer:

- ☐ Under 20
- ☐ 21-30 yrs
- ☐ 31-40 yrs
- ☐ 41-50 yrs
- ☐ 51-60 yrs
- ☐ 61-70 yrs
- ☐ 71-80 yrs
- ☐ Over 80 yrs

b) Gender:

☐ % Male ☐ % Female:

c) Employment status of typical borrower:

- ☐% Unemployed: receiving Centrelink jobseeker allowance
- ☐% Receiving disability pension
- ☐% Casual/Irregular work only
- ☐% Part-time work only
- ☐% Full-time work

15. What would proportion of your customer require payday loans for:

- ☐% Getting basic needs met (e.g. to buy food, pay the rent)
- ☐% Paying utilities bills (e.g. telephone, electricity etc)
- ☐% Essential white goods (e.g. washing machine, refrigerator etc)
- ☐% For non-essential consumer products (e.g. television, DVD, holiday)
- ☐% To repay other debts
- ☐% Other (please describe):

16. What percentage (approximately) of your clientele would be repeat payday loan customers?

- ☐ 0-10%
- ☐ 11-20%
- ☐ 21-30%
- ☐ 31-40%
- ☐ 41-50%
- ☐ 51-60%
- ☐ 61-70%
- ☐ 71-80%
- ☐ 81-90%
- ☐ 91-100%
- ☐ N/A: Payday loans not provided

17. For a $300 loan over two weeks:
    a) what upfront fees and charges would be applied?
    b) What interest rate would you charge?
    c) What would be the total repayment?

18. What percentage of your payday loans are unrecovered? ☐%

19. When a payday loan customer comes to you seeking a loan, what do you do to assess the customer's ability to repay?

20. What do you think the main issues are in the payday loans sector?

The following questions relate to the new Queensland regulations:

21. We know the sector has recently come under new state regulations in Queensland and are interested in the impact upon businesses. How have these regulations affected you?
    - ☐ I have had to increase fees and charges
    - ☐ Business continues – but it is much tougher
    - ☐ I am looking to leave the industry
    - ☐ I am moving my business on-line
    - ☐ I have moved into a new area of the market (please describe):
    - ☐ I have had to become more innovative to make business viable (please describe):
    - ☐ Other (please describe):

22. What impacts of the regulations have you seen upon other loan providers?
    - ☐ Businesses have closed
    - ☐ Business have relocated
    - ☐ Businesses have had to increase fees and charges
    - ☐ Businesses continue but it is much tougher
    - ☐ Businesses forced to innovate (please explain):
    - ☐ Lenders have moved into other market areas:
    - ☐ Other (please describe):

23. Do you have any comments on the national regulations?

24. Is there anything else you would like to tell us?

Survey Follow-Up:

25. As part of our research we are also interested in surveying and interviewing customers. Is there anything you would be willing to do to enable us to recruit customers for our study?

26. *Although this survey is anonymous, we would like to spend time talking to business people about their experiences – particularly regarding regulatory changes. We will be conducting telephone interviews with payday lenders throughout Queensland and we would welcome your involvement.*

If you are willing to be involved in this stage of the research please provide your details below - or in a separate email to us. Please note that NO IDENTIFYING INFORMATION will be included in our final reports. All participants will be de-identified following the interview.

☐ Yes I am happy to be contacted for a follow-up telephone interview

Name:

Business:

Address:

Telephone:

Email:

Thank you for your time.

Appendix D: Lender Interview

1. Can you tell me a little about your business?
   - What's your role?
   - Number of employees?
   - Locations?
   - How long they have been operating?
   - Types of loans?
   - Other services provided?
   - What percentage of your customers would be repeat business?
   - What percentage would pay off a loan and then request a new one straight away?

2. How did you come to own a small loans business?
- History?
- Motivation for becoming involved?

3. Who are your customers?
- Range of people?

4. How do you think the sector has changed?
- What other changes would you like to see?

5. What are your views on regulation of the sector?
- What has been the impact of the regulations upon you?
- How have they changed the way you have conducted business?
- What changes have you noticed in other lenders?
- What do you hope will happen with the regulations?

6. What do you think are the key issues in your sector?

7. What do you say to people who argue that interest rates are too high?

8. If you didn't exist what would happen for the people you serve?

9. What are the things that you pride yourself on in your business?

10. What do you think the sector does well overall?