



LOGBOOK LOANS

PROTECTING VULNERABLE CONSUMERS

- 1.1 Every year around 50,000 people take out a logbook loan. When they do, the borrower transfers ownership of their car, van or motorcycle to the logbook lender. As long as the borrower keeps up the repayments, they may retain possession of the vehicle and may continue to use it. But if the borrower defaults, the consequences may be very serious: they can quickly lose possession of the vehicle while also having to deal with a rapidly increasing outstanding loan and hefty charges.
- 1.2 Logbook loan borrowers tend to be sub-prime. They may find it difficult to access more traditional forms of lending. One of the major criticisms made of logbook loans is that such vulnerable borrowers are given very little legal protection.
- 1.3 It is not just borrowers who can suffer detriment. Those who, unwittingly, buy a second hand vehicle that is subject to a logbook loan are faced with stark choices. Usually, their options are paying off someone else's logbook loan, paying for the vehicle a second time or losing the vehicle to the logbook lender. The safeguards that would be available to a person who buys a vehicle subject to outstanding hire purchase finance do not apply.
- 1.4 The Law Commission is consulting on proposals to reform the law relating to logbook loans. We welcome views by **9 December 2015**. This is a brief summary. For full information, please see <http://www.lawcom.gov.uk/project/bills-of-sale>.

PROTECTING BORROWERS

- 1.5 If borrowers default, it is important that logbook lenders should not be allowed to repossess vehicles too easily. In some cases, the only realistic option for borrowers may be to give up possession of their vehicle, but this should be a last resort.
- 1.6 We propose two new protections for borrowers, based on those already available for hire purchasers. They are intended to protect borrowers in two different situations.

BORROWERS IN TEMPORARY FINANCIAL DIFFICULTIES

If borrowers have previously kept up with repayments but find themselves in temporary financial difficulties, we propose that they should be protected by a requirement that logbook lenders need to apply for a **court order**.

BORROWERS WHO CANNOT REPAY THE LOGBOOK LOAN

If borrowers have no realistic prospect of being able to carry on making repayments, we propose that they should have the right of **voluntary termination**.

Court order

- 1.7 Sometimes borrowers may have already repaid a substantial amount of their logbook loan before finding themselves in temporary financial difficulties. If such borrowers default, we propose that the logbook lender should not be permitted to repossess the vehicle without going before a judge to obtain a **court order**.
- 1.8 The judge would have power to give the borrower more time to repay the logbook loan and/or to reduce the interest rate temporarily. The judge could also suspend repossession while the borrower arranged to make repayments. The purpose is to help those who can repay the logbook loan if they are given more time.

PROPOSAL 1: COURT ORDER

If borrowers have repaid more than one third of the total loan amount, a logbook lender should not have the right to repossess the vehicle without first going to court and obtaining an order. If borrowers have repaid less than one third of the total loan amount, the logbook lender would be entitled to repossess the vehicle without a court order.

- 1.9 The “one third” rule already applies to hire purchase agreements. It is intended to distinguish between those who have demonstrated an intention to repay and those who have not. An example of how the one third rule would apply to logbook loans is given in the full consultation paper on page 137.
- 1.10 For borrowers, the obvious benefit of the requirement for a court order is that it should prevent unnecessary, and potentially traumatic, repossession of their vehicle. It will also:
 - (1) ensure that logbook lenders see repossession as a measure of last resort; and
 - (2) give borrowers the protection of court supervision of the repossession process, which could have a significant beneficial impact on their lives.
- 1.11 On the other hand, there are costs attached to this proposal. The logbook lender will need to pay a court fee (currently £155) and may incur other legal costs. Under our proposals, logbook lenders would be allowed to add the court fee onto the borrower’s account but would have to bear their own legal fees.

- 1.12 Further, there may also be a wait of several months between the application to the court and the eventual court hearing. During this time, borrowers would remain liable for the arrears and interest. If ultimately the logbook lender repossesses and sells the borrower's vehicle, but obtains less than the outstanding amount, the borrower would be liable for the shortfall (though we propose that the borrower's home should not be put at risk).
- 1.13 We welcome views on whether the benefits of a court order outweigh these costs.

Voluntary termination

- 1.14 Where a borrower has no realistic prospect of resuming repayments, a judge is likely to have little choice but to give the logbook lender permission to repossess the vehicle. In these circumstances, the court order has not protected the borrower, but has merely increased costs and delayed the inevitable: repossession of the vehicle. We propose to protect such borrowers by giving them a right of **voluntary termination**.

PROPOSAL 2: VOLUNTARY TERMINATION

Borrowers should be entitled to hand the vehicle to the logbook lender in full and final settlement of the logbook loan. Following voluntary termination, the borrower would not be liable for any outstanding amount.

- 1.15 Most logbook lenders already provide a right of voluntary termination, which is provided for in the Consumer Credit Trade Association Code of Practice. We welcome the Code provision of this right, but think that the right needs to be better known. We also think that the provision should apply to all logbook lenders. We therefore propose that voluntary termination should be a statutory right.
- 1.16 Voluntary termination also applies to hire purchase agreements, but our proposal is wider. In particular, borrowers need not have repaid a percentage of their logbook loan first to be entitled to exercise the right of voluntary termination; we propose that they should be entitled to do so at any stage.
- 1.17 There would, however, be three restrictions on the right of voluntary termination. Borrowers would not have the right where:
- (1) the logbook lender has already incurred costs to repossess the vehicle. Where the borrower has repaid one third of the total loan amount, this might be when the logbook lender has paid the £155 court fee;
 - (2) the vehicle has been deliberately or intentionally damaged; or
 - (3) they have failed to take reasonable care of the vehicle and, as a result, the resale value of the vehicle has been significantly affected.

PROTECTING PURCHASERS

- 1.18 When the borrower takes out a logbook loan, the logbook lender becomes the owner of the vehicle. If the borrower sells the vehicle to another person, the purchaser does not become the owner of the vehicle. The logbook lender may seize the vehicle from purchaser, even if he or she has no knowledge of the logbook loan.
- 1.19 This can cause significant hardship to purchasers. The purchaser's choices are usually to repay the borrower's logbook loan, pay the logbook lender again for the vehicle, or else let the logbook lender seize the vehicle.
- 1.20 In hire purchase law, private (non-trade) purchasers are given statutory protection when they act in good faith and without knowledge of the hire purchase agreement. Although car dealers can find out about outstanding hire purchase agreements by conducting checks that are well-known in the industry, this is not realistic for ordinary consumers. We propose that similar protections should apply when private purchasers buy a vehicle subject to a logbook loan.

PROPOSAL 3: PRIVATE PURCHASERS

When private purchasers buy a vehicle subject to a logbook loan in good faith and without actual knowledge of the logbook loan, they should become the owner of the vehicle.

- 1.21 In the future, it may become realistic for private purchasers to protect themselves in the same way as car dealers. If this were to become the case, it would no longer be necessary to protect private purchasers by law. Achieving this situation rests in the logbook loan industry's hands.

A WIDER REVIEW

- 1.22 These proposals are part of a wider review of the law of bills of sale. The review looks in depth at registration requirements; documentary requirements; and how secured lending on goods could be made easier for unincorporated businesses.
- 1.23 The full consultation paper, together with short and long versions of the response form, can be downloaded from <http://www.lawcom.gov.uk/project/bills-of-sale>.