Executive Summary

The primary objective of this project was to explore the nature and extent of illegal money lending and problematic debt in Northern Ireland and place these findings in the context of knowledge and experiences gained in other parts of the UK and further afield.

The core research team consisted of Dr Brian Payne (Principal Investigator), Dr Conor Murray, Professor Duncan Morrow and Dr Jonny Byrne. The project was assisted by a range of public agencies and community and voluntary organisations across the jurisdiction. They provided advice on the direction of the project, took part in a focus group and gave in-depth semi-structured interviews.

Before the initiation of the project, the following research aims were identified:

- Conduct a comprehensive literature review of all the existing research and policies relating to illegal money lending.
- Explore in detail the views and experiences of practitioners and professionals working in the area of citizen advocacy with respect to money lending (both legitimate and illegitimate) and debt.
- Identify the scale and scope of the problem (processes and nature of the problem as well as its geography and consequences for communities).
- Identify those most at risk (including the demographics of those most at risk).
- Identify social demographic trends that contribute to this problem.
- Provide an overview of the types of individuals and organisations involved (as well as the rationale for their involvement).
- Assess the current levels of support and service provision required to counter this problem.
- Focus in particular on the experiences and needs of vulnerable consumers.

This final report examines each of these and, in order to facilitate maximisation of impact, it also highlights numerous examples of good practice and recommendations for further consideration. Many issues discussed in this report also have wider implications beyond this jurisdiction, and it is hoped that relevant stakeholders and scholars in other parts of the world will find it useful.

In relation to the methodology, a major component of the work involved a desktop analysis (literature survey) of relevant national and international legislation, reports published by governmental and non-governmental organisations, and national/international cases, as well as academic literature on the subject. This desktop work was significantly supplemented by a series of semi-structured interviews with key stakeholders, together with a focus group looking into the services they provide, and the challenges they face in deploying them, set against their knowledge on the scale and severity of this issue. The research team was granted unprecedented access to a range of law enforcement agencies, citizen advocacy organisations and civil society groups across the jurisdiction.

The research team is extremely grateful to everyone who kindly offered their time to be interviewed. In particular, the research team would like to express its gratitude to The Consumer Council for its support and guidance throughout the research cycle.

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Introduction

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Illegal money lending in the UK as a whole and in Northern Ireland

1. The short-term high-interest loan, or sub-prime sector, has expanded in recent years in the UK and the Republic of Ireland. In the UK, the ‘market of high cost short-term credit’ grew from £300 million in 2006 to £2.5 billion in 2013 (a growth rate of more than 700%), decreasing to £1.5 billion by mid-2016. Paying bills and providing for daily living expenses are the two most-cited reasons for requiring a sub-prime loan, which is contrary to the typical stereotype of the ‘reckless’ consumer who gets into financial difficulty by purchasing luxury items.

2. In the UK, ‘illegal money lending’ is defined as ‘lending without a consumer credit license as required by the Office of Fair Trading under the terms of the Consumer Credit Act’ 1974 (See NICVA, 2013, p 8 for a broader description). The term is used imprecisely and is often conflated with associated terms such as ‘usury’, ‘loan sharking’, and ‘illegal borrowing’. Anecdotal and case-study evidence continues to highlight the impact, if not necessarily the scale, of the practice in Northern Ireland. Two cases of ‘illegal loan sharking’ were referred to the Trading Standards Service in Northern Ireland between 2004 and 2013.

3. Illegal money lending has principally been prosecuted under two acts – the Consumer Credit Act 1974 and the often concomitantly applied Proceeds of Crime Act 2002. There is some geographical inconsistency within the UK regarding certain provisions of the Proceeds of Crime Act 2002. In 2011, the Scottish government made amendments to the lifestyle offences section (schedule 4) of the Act. Following Greaves (2011), a person cannot be punished twice for what is the same offence.

4. Illegal money lending hovers in the gap between market demand for credit and the available legal supply especially if, as on a small number of occasions, illegal lenders offer more competitive rates of APR than their legal short-term loan competitors. The Office of Fair Trading (2010) found that almost 30% of loans in the UK were not repaid on the initial repayment date, while the Irish League of Credit Unions found that 43% of clients who took out ‘payday’ loans could not afford to make their repayments, resulting in a lower credit rating. Seidl (1968) suggested that secrecy, informality, speed of access and availability are the keys to illegal money lending.

5. The interest rates associated with short-term payday loans are very high. There is persistent evidence that debt can quickly escalate out of control once payment deadlines are missed. Many borrowers are repeat customers, some of whom are taking out new loans in an attempt to pay off old ones. But despite the difficulties, high-cost sub-prime and payday loans remain in demand, potentially increasing the risk that borrowers enter a spiral of high-interest debt. While stricter regulation on payday loans since 2014 appears to have reduced the number of such loans, concerns have been raised that the demand for short-term credit could push some people towards loan sharks and illegal forms of credit.

6. There is no single reason why a person may use an ‘illegal money lender’. Among the most important reasons are that borrowers have exhausted all available resources and have a desperate and urgent need for money, often being tipped into using the service by a crisis or unexpected shortfall in income, that lending has been habitual and prevalent in communities for generations, and that there is a strong correlation between areas of high economic deprivation (particularly in social and rented housing estates) and the volume of illegal money lending (Financial Conduct Authority, 2017).

Organised crime, paramilitarism and illegal money lending

7. Across Europe, there is a lack of reliable quantitative data and research on illegal money lending and ‘loan sharking’, primarily as a result of the criminal nature of the activity. This is associated with a reluctance among victims to come forward to ‘tell their story’, which makes it difficult for researchers to work with confidence.

8. The potential for intimidation and reluctance to engage are, however, obvious in Northern Ireland. That said, the limited quantitative evidence base tends to rely on anecdotal ‘stories’ and information gleaned from larger pieces of work whose main aim is to assess the issues of credit and debt more generally. Qualitative research consistently highlights both victim fear and distress and explicit threats being made to debtors upon their inability to maintain repayments on loans taken out at extortionate rates, when they are in most financial need.

9. Two aspects appear to be evident: on the one hand, anecdotal evidence suggests that, in some areas, loyalist and republican paramilitary organisations practice loan sharking as a means of generating extra revenue and maintaining social control over specific local communities. At the same time, research also suggests that illegal money lending is not limited to organised criminal gangs. One study suggests that many illegal payments were collected by lenders themselves, and involved smaller groups of individuals (and family members) relying on informal social networks rather than the more impersonal and hierarchical structure of organised and larger criminal enterprises that involve dealing with ‘strangers’.

10. Illegal money lending is a phenomenon in communities in Northern Ireland and is therefore inevitably tied up with the illegal structures operating in communities. However, an important factor when considering why illegal money lending is so pervasive is that it is experienced as unremarkable. It is much less certain that the paramilitaries monopolise illegal money lending nor that money lending is a sole, or even the preferred, form of extortion.

Research Findings

Our research found an interchangeable, and not always consistent, use of terms such as ‘illegal money lending’, ‘loan sharking’ and ‘unauthorised lending’. Respondents appeared less concerned by precise terms than with a distinction between formal (regulated) lending and informal (unregulated) lending, described as unregistered lending from one person to another outside of the controls of the Financial Conduct Authority (FCA). While other forms of doorstep lending fell outside this definition of illegal activity, any high-interest lending was described by many participants as a major issue.

Respondents identified lender approaches to interest rates as a key factor in defining the legitimacy or illegitimacy of lending and were especially concerned with high or even extortionate rates, lenders operating without an interest rate cap, or being able to change terms and conditions, including interest rates, during a loan period.

Some respondents described illegal lending as being more prevalent in working-class districts where organisations could ensure compliance with the terms of a loan, including coercive measures such as violence and intimidation. From this perspective, the history of violent conflict and the ways in which it has defined relationships has left a distinctive legacy in Northern Ireland that cannot be compared simply with the rest of the UK.

It was suggested by some respondents that there was ‘a culture of borrowing within Northern Ireland as a whole’ (Focus Group). This belief is supported by some of the findings from the literature review. Some respondents described money lending as being like an addiction or dependency where illegal lenders were viewed by residents as an integral part of the community, providing a worthy and necessary service to community members. Some suggested that members of some communities have been utilising the same illegal lending for generations, with the durability of these lenders based upon the personal relationships that are established between the lender and the borrower ‘on the doorstep’ in working-class communities.

Many respondents categorised those involved in illegal money lending in two broad groups: paramilitaries and ‘regular’ members of the community. However, there was no evidently uniform pattern of personality, affiliation or legitimacy.

In particular, the research did not find evidence of one or more group appearing to orchestrate illegal money lending as has been the case elsewhere. Rather it appeared to be distributed widely, taking a variety of forms. However, respondents agreed that all money lenders in Northern Ireland must have some form of local influence or legitimacy, which may stem from a paramilitary connection, but must have the ability to carry out enforcement measures in order to settle or recoup the debt, including coercing debtors to facilitate criminal activity.

In practice, it appears to be increasingly difficult to distinguish paramilitarism from the broader illegal economy with any consistency. Because of their historic organisation in some areas, many believed that paramilitary groups were certainly aware of, though not necessarily directly organising, lending. In many instances, paramilitary ‘influence’ was inferred through an indirect form of affiliation or assigned authority. However, it was also frequently argued that the involvement of paramilitaries was much more indirect or ambiguous, with illegal money lending often being carried out directly by well-known community members operating without any internal organisational control.
Several of those interviewed suggested that illegal lending was also taking place within minority ethnic, including Chinese and Eastern European, communities, where it may be associated with gangs engaged in unregulated gambling, immigration offences including human trafficking, and the drugs trade.

Those working in law enforcement and citizen advocacy fields frequently reported either a lack of evidence or highly varied accounts of its prevalence. Almost every interviewee referred to the hidden nature of illegal money lending. When pressed, respondents agreed that the two most important factors contributing to the hidden nature of illegal lending were fear and shame. Advocacy groups, community organisations and law enforcement agencies have had to become adept at spotting both the symptoms and the vulnerabilities that may indicate that members of the public have a problem.

Many noted that there continues to be a reluctance within many communities in Northern Ireland to speak to the authorities due to fears that any individual doing so could be labelled an informer and invite reprisals. Many actively involved in advising members of the public speculated that their clients may be hiding the true source of their debt due to embarrassment. However, vague or untrue information ensures that advisors are unable to negotiate with lenders to secure a freeze in charges and interest or to negotiate a more realistic repayment schedule. Finding ways to encourage people with these issues to open up is therefore vital for progress.

For many of those interviewed, the reasons that people borrowed from illegal lenders were related to key vulnerabilities, including poverty-related issues. The problem has been exacerbated in recent times by changes to the benefits system and prolonged austerity. Several respondents described a situation where the areas they service have become increasingly deprived, with a lack of well-paid work ensuring that people have become dependent on lending to supplement their household incomes.

Universal Credit was repeatedly identified as a driver for illegal lending, with the changeover from the previous benefits system of Income Support frequently creating problems for members of the public. In particular, citizen advocacy groups spoke frequently about the harm caused by the four-to-five-week waiting times and issues with short-term benefits loans that were then repaid from future benefits, ensuring that benefit claimants were always short of the funds they needed to support their household, obliging them to look to other means of getting money.

Several of those interviewed related evidence of a coercive power dynamic between lender and borrower including the use of violence or intimidation, and signs of overt poverty due to an inability to purchase goods and utilities or the pawning or use of violence or intimidation, and signs of overt poverty due to an inability to purchase goods and utilities or the pawning or seizure of possessions. Respondents highlighted the close connection between illegal loans and retribution for non-payment. The threat of retribution for non-payment seemed to be regarded as a separate entity in the community. The enforcement mechanisms or retributions for non-repayment were often arbitrary and subjective. However, in many instances, from the community perspective, violent retribution seemed to be an acceptable part of the illegal money lending process, likely to affect certain borrowers.

In many communities, there appears to be a consensus that violent punishment is acceptable for young men, but not for others. For young men, violent repercussions are common. Repercussions for other debtors have centred around some degree of shaming. In the case of women or elderly people, lenders can turn up at places of work, or wait for them at the Post Office on the day that benefits are received, or even take possession and have control of Post Office cards.

In some cases, lenders may make exceptions for people who are in abject poverty. Stories of this nature circulating in communities may reinforce community support for illegal lenders. However, other respondents noted that illegal lenders saw it as imperative that they pursue whoever they can to recoup debts, to avoid being seen as weak.

Mental health was raised repeatedly by respondents keen to make the connection between illegal money lending and a range of problems including stress, well-being, and even suicide. While there was a consensus that tackling illegal money lending has been one of the Police Service of Northern Ireland’s (PSNI) list of priorities, some respondents understood that the police’s priority was to tackle paramilitarism as a whole. In this view, the priority was to close down paramilitaries in all their activities, not just focusing on money lending, which is smaller in scale.

Some participants underlined the secretive nature of illegal money lending. Because of both the initial stigma surrounding being in debt and fear of reprisal from the lender, who may have connections to paramilitary organisations, participants often come to the police as a last resort. This is consistent with the fact that only two cases of illegal money lending were referred to the Trading Standards Service in Northern Ireland between 2004 and 2013.

Critics contend, however, that a purely policing approach to tackling loan sharking dilutes the social policy dimensions of the effort to combat illegal money lending. In addition, there is evidence of a desire in many communities in Northern Ireland to reassess the labelling of illegal activity in communities away from the simple view that all crime is in some way paramilitary. While a Paramilitary Crime Task Force might make a difference to illegal money lending in some areas, it is unlikely to eliminate either debt or illegal money lending in general; it would also compound the risk that, by focusing exclusively on paramilitary involvement, addressing illegal money lending is targeted only on communities with an overt paramilitary presence.

There was a shared belief that the principal reasons behind people getting into debt were (a) a lack of knowledge and understanding regarding the alternative sources of finance available to them, and (b) a lack of knowledge on how to manage money effectively. Many of the respondents felt that these knowledge deficits could be addressed by more financial education from a young age.

In this research, Credit Unions received broad support as potential sources for alternative finance. It was also felt that Northern Ireland is lagging behind Scotland in developing programmes on financial exclusion. Institutions such as the Credit Union, Scotcash or Fair for You were seen to have had consistent success in providing alternative financial solutions to borrowers. However, there still appears to be a lack of awareness among borrowers of their existence and the benefits they offer. One possibility was that banks could take up the business of payday loan companies if they increase their appetite for risk, thus addressing one of the key reasons why people have to resort to illegal lenders. Respondents were also clear that a government scheme to remove or underwrite some of the risk to lenders, to enable them to offer loans to a broader range of customers, including those with poor credit ratings, would be beneficial.

Some participants felt that The Consumer Council could be more involved in delivering education within communities and could do more to promote its services. While referencing the work done in leading attempts to coordinate forums for bringing stakeholders together to discuss problems around debt and problematic lending, many felt that part of the problem in this regard was a lack of cohesiveness between all of the organisations working towards supporting those in debt.

The research provided further insight into the wider sociocultural and economic context of borrowing from illegal money lenders. Although based on the obvious lack of access to alternative forms of mainstream credit, community illegal money lending may often be based on trust, ease, routine, and personal relationships ‘on the doorstep’ in working-class communities. Change will require a more formal focus on education and on alternatives, providing communities with an insight into the dangers of illegal lending and debt accrual, providing the knowledge and understanding of how to access alternative forms of finance.

Given the community-centric and cultural nature of illegal money lending within Northern Ireland operating within close-knit working-class communities, many of the respondents felt that it was imperative that there was more of an educational approach – with a particular focus on children – in tackling the issue. It was acknowledged that there are some examples of good practice, notably The Consumer Council-led Stakeholder Forum and the work in assisting prisoners; however, these projects were often regarded as independent, and it was strongly believed that the effective resourcing of a more ‘joined-up’ approach was necessary to ensure that similar services can be allocated to reduce the conditions for illegal money lending and assist a broad range of citizens at risk from this problem.
1. Literature and Policy Review

1.1 Understanding illegal money lending

The charging of extortionate rates of interest on money borrowed, a practice referred to as usury, is ‘almost as old as civilisation itself’ (Malcolm and Curtin, 1968, p.767). Alongside biblical injunctions prohibiting the charging of interest upon a loan (Goldstock and Coenen, 1980), Thomas Aquinas argued that the practice was ‘immoral’ and akin to selling someone a bottle of wine twice – once for the purchase itself, and additionally for the pleasure of drinking it (Aquinas, 1918).

Malcom and Curtin (1968, p.767) refer to two basic elements involved in loan sharking in a criminal justice sense: firstly, ‘the lending of money at extortionate rates of interest’, and secondly, ‘the collection of the money with interest in the non-legal means of murder, threat, blackmail, assault, fear, defamation of character’. Throughout the twentieth century, organised criminal gangs involved more generally in extortion and racketeering began to expand upon their ‘business model’ to incorporate the very lucrative enterprise of loan sharking – from the ‘Peaky Blinder’ and ‘Scuttler’ gangs in northern England (Davies, 1999) to the ‘Cosa Nostra’ of Sicily and the USA (Europal, 2013). Indeed, so endemic had the practice become by the mid-twentieth century in the United States that the challenging of such practices was a foundation of the 1968 presidential campaign of Richard Nixon (Seidl, 1968).

Yet, more than 50 years later, the practices of loan sharking and illegal money lending remain problematic, not just for the victims and the authorities in the United States, but in all contexts, as various criminal enterprises continue to be involved in such practices. This includes the sarakin 3 lenders or the Yakuza organisation in Japan (Sterngold, 1993), ‘Snakehead’ gangs in China and Hong Kong (Wang and Antonopolous, 2015; Cheng, 2018), and the Italian ‘Ndrangheta organisation, which in 2013 allegedly had an income of €44 billion, surpassing the combined turnover of McDonald’s and Deutsche Bank (Europol, 2013; Guardian, 2014).

In the UK and the Republic of Ireland, criminal gangs are alleged to remain involved in the practice (MacNamee, 2014), with Illegal Money Lending Teams having been established in England, Scotland and Wales in 2004 to tackle it. These teams bring a multi-agency approach to loan sharking, with members including seconded police officers, financial investigators, victim support services and intelligence and phone forensic experts.

There are two key purposes to the Illegal Money Lending Teams in England, Scotland and Wales:
1. They conduct enforcement actions to remove loan sharks from communities (the investigative arm); and
2. They support the victims of loan sharks in terms of accessing debt advice and trying to improve their credit rating to ultimately access affordable, and legal, credit (the financial/victim support arm) (see NISRA, 2013, p.14).

In Northern Ireland, it is alleged that some loyalist and republican paramilitary organisations continue to practice loan sharkining in the ‘Peace Process’ era as a means of generating extra revenue and helping to maintain power and social control over specific working-class Protestant or Catholic areas (NICVA, 2013, pp.8–10; Savona and Michele, 2015; NCA, 2018).

Given the longevity of the criminal enterprise of illegal money lending or loan sharking in various contexts across time and space, it is perhaps pertinent to consider two key questions. Firstly, who are those most vulnerable to falling victim to it? Secondly, given the unsavoury and intimidatory nature of the practice, why does it endure? The purpose of this literature review is to consider both questions (and more) in a particularly Northern Irish context. In order to do so, it is necessary to first consider the ways in which the terms ‘illegal money lending’, ‘usury’ 4 and ‘loan sharkining’ are used, and second, to place the practices in the wider socio-economic and cultural contexts in which they occur.

1. Law enforcement and prevention

A working group should be established between the main agencies with a stake in policing and prevention of illegal money lending in Northern Ireland, including The Consumer Council, PSNI, local councils, Trading Standards, Her Majesty’s Revenue & Customs (HMRC) and the National Crime Agency. The working group would:

• Consider the findings of this scoping exercise and other relevant research, as well as identify emerging gaps and issues.
• Agree practical inter-agency operational responses to illegal money lending and consider the relevance of good practice from other jurisdictions.
• Establish a coordinated approach to illegal money lending in Northern Ireland including enhanced support for victims, comprehensive advice and education in communities and appropriate support for all those affected by debt and its consequences.

2. Financial educational approach and inter-agency forum

The evidence from this research suggests that there are opportunities for a more formal and rigorous focus on the educational aspects of prevention. Such an approach would provide communities, and specifically those most vulnerable, with a greater insight into the dangers of illegal lending and debt accrual, and would enhance knowledge and understanding of how to access alternative forms of finance.

In supporting this work, it is recommended that The Consumer Council establish an inter-agency ‘Education Forum’ that champions and effectively resources a ‘joined-up’ community development approach. Building on existing good practice, the forum would be led by organisations with the most experience in responding to this challenge, including The Consumer Council, Christians Against Poverty and Advice NI, but would also encourage participants from a broad spectrum of organisations – including those from the citizen advocacy, community, voluntary, housing, rehabilitation and education sectors – to ensure that the widest possible range of citizens at risk from illegal money lending are able to access education and support.

3. Realistic alternatives to illegal money lending

Government should urgently explore the potential to develop viable alternatives to illegal money lending, which should be accessible in a prompt manner without protracted administrative burdens being placed on the borrower.

Building on the evidence from this research, this could involve establishing a scheme that removes or underwrites some of the risk to participating lenders, enabling them to offer less onerous loans to a broader range of customers, including those with poor credit ratings.

Recommendations
One of the factors complicating the analysis of illegal lending is the lack of universal terminology. The terms usury, loan sharking, illegal and informal lending are often used synonymously and in reference to very different practices and socio-economic environments (Marinaro, 2017, p. 202).

In Northern Ireland, the definition that tends to be used is ‘illegal lending’, which was defined as ‘lending without a consumer credit license as required by the Office of Fair Trading under the terms of the Consumer Credit Act 1974’ (See also NICVA, 2013, p. 8). It is important to note that, from 1 April 2014, the Financial Conduct Authority has taken over the responsibilities of the Office of Fair Trading. The 1974 definition is now quite dated and has been superseded on the statute book by the Financial Services and Markets Act 2000, as amended by the Banking and Financial Services Act 2016, which defines illegal money lending as:

> carrying on a regulated activity within article 608 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/2544) (regulated credit agreements) in circumstances which constitute an authorisation offence.’ (s.29)

While the term illegal money lending is a multifaceted term that can be interpreted in a straightforward linear manner, it is often very imprecise, especially when associated with associated terms such as ‘usury’, ‘loan sharking’, and ‘illegal borrowing’. Importantly, the difficulty of accurately and universally defining illegal money lending was exemplified by a 2017 report by the FCA entitled Shining a light on illegal money lending: Consumer Council (2017), p. 1. In utilising both illegal money lending and ‘unauthorised lending’ interchangeably in its title, the FCA risked conflating terms that were once distinct, resulting in the dilution of specific meanings. Indeed, within the report, ‘unauthorised lending’ is defined as "unauthorised illegal money lending:

Unauthorised lending, often referred to as illegal money lending (IML), is the practice of lending money to individuals regardless of the regulatory framework (FCA, 2017, p. 1).

Likewise, analysis of the use of the term ‘illegal money lending’ on an international basis is also difficult due to imprecise usage of a range of overlapping terms. Marinaro (2017, p. 202) noted that “in the Italian context, the term most widely used, across all registers, is usura and informal lenders are usually called usurai. However, it has taken on a spectrum of meanings. Most dictionaries define it both as lending money for any interest and for excessive interest.” Devoto and Oli (2007, see Marinaro, 2017, p. 202), in focusing on the dictionary definitions of ‘illegal money lending’, specifically the term usura, noted that the extended term usarius is ‘a person dominated by sodality avance’ with the implication being that there is a social, cultural and moral condemnation connected with lending money illegally (Devoto and Oli, 2007). The condemnatory perception of illegal moneylenders is also reflected in the Italian colloquial equivalents and Markarian English terms relating to illegal lending. For example, local equivalents to the English term ‘loan shark’ are the colloquial Italian term struzzino (‘a manner of lending; the spreading of social relations’ and ‘maker’). Both graphically evoke gradual suffocation and eventual economic death (Marinaro, 2017, p. 202).

In theory, however, each of the terms (‘loan sharking’, ‘unauthorised usury’, ‘usury’) has a distinct meaning in relation to its universal nature and disregard for, the regulatory rules governing the legal lending of money.

The term ‘loan shark’ has been used widely in policing. According to the Illegal Money Lending Team within West Sussex Police, ‘loan shark activity is characterised by deliberate criminal fraud and theft, with exorbitant rates of interest on loans that mean borrowers face demands for payment of thousands of pounds more than they borrowed and can often never pay off the loans’ (Director of Public Protection, 2015, p. 1). Loan sharking is readily understood as denoting clear exploitation. According to Mayer (2012, p. 828), ‘loan sharking is not the annual percentage rate lenders charge, but length of time expense debt endures. Loan sharking is debt trapping; it is predatory practice that consists in renewing short-term loans again and again in order to maximise fee income.’ These interpretations of loan sharking (which focus on the exploitative nature of the debt itself rather than how its collection is ‘enforced’) differ from the classic definitions within the American literature in relation to organised crime, whereby loan sharking consists of two distinct criminal endeavours: the charging of exorbitant rates of interest on a loan, and the threat or use of force in the course of debt collection (Malcolm and Curtin, 1968; Goldstock and Coenen, 1980).

In other places, illegal money lending is conflated with the term ‘usury’. For example, Mugellini (2012, p. 75) defines usury as ‘loans at interest rates that are illegal and make their repayment very difficult or impossible’. Alternatively, Dugat (2013, p. 82) defines it as ‘loans made by banks, private persons, criminal groups or other businesses at an exorbitant or illegally high interest rate’. As Marinaro (2017, p. 203) notes, the key difference between the definitions is that the first would not include a loan that is illegal, but which the borrower is able to repay. Conversely, the second definition acknowledges that loans do not have to be illegal to be classified as ‘exorbitant’.

This is an important distinction for understanding illegal money lending is exploitative and not all loans that are exploitative are by illegal lenders. This definitional distinction crystallises the difficulty in assimilating legal contracts with socio-cultural themes.

In all cases, however, it is also important to recognise that the debt engendered by money lending generally also creates social hierarchies and dependencies and can reinforce existing power relations in communities (Guérin, 2014). Any theoretical exposition of debt reveals that differences between an economic or socio-economic view or a everyday community understanding. On an economic point of view, the repayment of debt ‘concludes the relationship between the borrower and the lender’ (Guérin, 2014) argues that this is not simple at community level, and that the social impact of debt and money lending precludes a universal and unequivocal definition of debt.

The history and anthropology of debt reveals that debt is both a product and a form of social relations, which engender values, morals, and culture. Debt has no universal meanings, but a variety of meanings and formulations within particular contexts (Guérin, 2014, p. 540).

Durl (2015, p. 34) similarly argues that ‘The history of debt sharking’ is a concept shaped by cultural notions, moral values, and culture, and that debt occurs within dependency chains that extend far beyond monetary repayments’. Understanding the sociocultural and historic context and patterns of lending, and the relationships that both create and sustain it, is therefore vital. It is important to consider the many ways in which debt has been ‘normalised’, with illegal money lending and loan sharking being only one extreme manifestation of this. The lack of awareness and urgent accepted practice for those on low incomes to seek out alternative forms of credit (Johnstone, 1985).

### 1.1.2 Historic context of credit in the UK

Ishiahistorian Sean O’Connell (2009) has produced one of the most nuanced pieces of work on the emergence and establishment of the credit sector in the UK throughout the nineteenth and twentieth centuries. Drawing upon archival work, alongside interviews with more than 30 individuals, O’Connell utilises an oral history approach to chart the development of ‘borrowing’ and ‘lending’ in working-class areas of Belfast. The establishment of ‘tallymen’ or ‘credit distributors’ and debt collectors, and the practice of lending by working-class cities across the UK and present day Republic of Ireland corresponded with an increased demand for cheaper clothing, which could be paid off in weekly instalments. O’Connell notes that what was crucial to the ‘success’ of such endeavours was the personal relationships that were established between the lender and the borrower ‘on the doorstep’ in working-class communities. This was based on the social nature of credit and the routine ‘gifting patterns’ (referred to by Bourdieu and Mauss) of pre-modern society, which were based on reciprocity and trust (Finn, 2003). Indeed, Taylor (2002) refers to the weekly call to collect money as providing ‘ontological security’ for the borrower, with the emotional and economic aspects of borrowing and debt deeply intertwined.

Although the ‘tallymen’ were replaced in post-war Britain by the rapid growth of mail order catalogues (such as Littlewoods), this relational nature of access to credit remained vital. But rather than the white, middle-class male, who became the stereotype of the post-war ‘consumer’, O’Connell (2009, p. 13) argues that it was in fact, ‘cash-poor, credit-desperate’ working-class females who managed household finances who were at the centre of the doorstep credit and lending industry. However, with the decline of catalogue companies, computerised credit assessment became more important than neighbours’ debts and ‘trust’. Indeed one another (ibid.) Yet the higher levels of interest and debt on such loans provided the conditions for the emergence of the Credit Union sector in the UK and Ireland from the 1960s onwards (Johnstone, 1985).

Interviewees did not believe that the fact that an agent called to the house once a week to collect money meant they were in debt – they only tended to perceive someone as being in debt if they could not afford to make the payments. The significance of O’Connell’s work is that it identifies the wider sociocultural (and economic) context of borrowing, which, other than the obvious lack of access to alternative forms of mainstream credit (from banks and building societies), tends to be based upon trust, ease, routine, and personal relationships ‘on the doorstep’ in working-class communities. These dynamics are what ‘payday lenders’ and, at times, loan sharks have also relied upon to develop their practices.
The effects of the 2007/2008 global economic downturn are still being felt today in the UK and Ireland in terms of the increasing numbers of people ‘at risk’ of living in poverty, the rise of insecure and low-paid employment, an increase in levels of negative equity, the revival in mortgage arrears, and a culture of limited public support for those in financial distress (Machin, 2015). As of 2016, an estimated 8.3 million people in the UK had ‘problem debts’, with one in six adults missing payments for credit card or any other debt (in three or more of the previous six months) (Mosedale et al., 2018).

While there is debate within the literature as to the primary causes for how and why personal debt occurs (macro-economic factors versus ‘reckless’ consumer borrowing and spending; see Benito, 2006; Jappelli and Padula, 2013; Montgomery et al., 2014; Walker et al., 2015; Mosedale et al., 2018), there is general consensus that debt is associated with poor physical and mental health and well-being (Dearan et al., 2015; Zegarra-Liñares and Wilson, 2017).

In Northern Ireland, half of Christians Against Poverty’s clients with debt have either considered, or attempted, suicide; the corresponding figure for the UK as a whole was one person in three (NICVA, 2013, p.7). In a similar manner, the Forum for Action on Substance Abuse (FASA) in Belfast found that of 55 clients who reported debt as their main problem, 29 were feeling suicidal (52.7%) (ibid.).

In such a context, it is perhaps unsurprising that those living with debt may make a move from the outside to be ‘irrational’, as living in financial difficulty has been found to impair cognitive judgement (Mani et al., 2013; Kirsch et al., 2014). Individuals may indeed take greater risks in their decisions when they are in financial stress (see Livingston and Lunt, 1992; Ermer et al., 2008; Mishra and Fiddick, 2012; Szilagyiova, 2015). In such a context, as noted by O’Connell et al., 2014). Individuals may indeed take greater risks in their decisions when they are in financial stress (see Livingston and Lunt, 1992; Ermer et al., 2008; Mishra and Fiddick, 2012; Szilagyiova, 2015). In such a context, as noted by O’Connell et al., 2014).

A key driver of debt is the lack of personal/household savings, and residents of the UK and Ireland generally rank among the lowest savers and have the lowest financial need (see Livingstone and Lunt, 1992; Ermer et al., 2008; Mishra and Fiddick, 2012; Szilagyiova, 2015). In such a context, as noted by O’Connell et al., 2014).

In 2009 the average number of outstanding ‘payday’ loans owed by a person was £1,090, which can be contrasted with the figure of £745 in Great Britain (Bank of England, 2018).

On the surface, recent statistics would appear to indicate that the economic situation in Northern Ireland is improving. Unemployment in the first quarter of 2019 has fallen to just 3%, below the UK average of 4% (NSISRA, 2019), and the proportions of adults and children living in poverty has fallen by 2% and 3%, respectively, within the past 12 months (DfC, 2019b). However, 16% of the population in Northern Ireland, and 19% of children, continue to live in poverty (ibid.). It must further be noted that despite the number of people in work rising by 16,000 over the first quarter of 2019 and now standing at 860,000, more than half of those who are unemployed in Northern Ireland (42%) are earning less than the poverty line. This can be contrasted with the figure for the UK as a whole, which stands at 26% (DfC, 2019b; NSISRA, 2019).

Northern Ireland also retains the rather dubious distinction of having the highest proportion of citizens with savings or family and friends to fall back on (Lawrence and Cooke, 2014, p.16). So, for example, 52% of Northern Ireland’s population have no savings or family and friends to fall back on, compared to 40% in Great Britain (Lawrence and Cooke, 2014, p.16).

In Northern Ireland, the debt-to-income ratio is 99% (with 67% accounted for by household income in 2009 (mortgages accounted for 133% of disposable income in 2009 (mortgages accounted for 133% of disposable income (Kempson, 2002) (Kempson, 2002; Deeming et al., 2011; Zegarra-Liñares and Wilson, 2017). For example, OECD data in 2010 (OECD, 2010) estimates that the UK region with the lowest proportion of citizens with savings of more than £100 (Money Advice Service, 2016). An additional issue with regard to promoting financial inclusion is for adults to have access to a bank account (Bridges and Disney, 2004). This has improved in Northern Ireland in recent years, with 97% of households reported as having at least one adult with some form of bank account in 2017/18, up from 94% in 2007/08, possibly due to the policy of paying benefits directly into the bank accounts of claimants (DfC, 2019a).

However, Northern Irish families often struggle to pay their weekly bills and are likely to have a high personal loan balance (customers understood being told how much money they owed rather than the more nebulous concept of APR rates); and they are quick and the money can be in your account on the same day as your application; credit checks have rarely been less robust than in the mainstream banking system; they are clear about fees (customers understood being told how much money they owed rather than the more nebulous concept of APR rates); and they are viewed as short-term solutions to debt, and ‘less risky’ than longer-term alternatives such as credit cards and overdrafts, which may incur hidden charges (Burton, 2010; Gloukovezoff, 2014).
Fair Trading. These increased regulations included strengthened controls on access to debt advice, and limits on how many times a loan could ‘roll over’ (Bouyon and Oliinyk, 2019). The evidence would appear to suggest that these limitations have reduced the number of payday loans. In the first quarter of 2014, there were 9,243 ‘problems’ with such loans encountered by Citizens Advice in England, this fell to 5,554 by the first quarter of 2015 (ibid.). But as Lane and Rodrigues (2015, p.3) ask, ‘the question now is where will the demand for short-term credit go in the absence of the payday lending market?’ There have been some suggestions that stricter criteria on such loans could push some individuals towards loan sharks (Deeming et al., 2011), thus, if payday lending is denied, illegal forms of credit may be the only alternative (Burtton, 2010, p.16).

However, this is disputed by Moseade et al. (2018, p.230), who suggest that ‘there is debate about whether restricting access to payday loans risks driving people into the arms of illegal loan sharks’. Indeed, the Centre for Responsible Credit pointed out that post-2012, when the FCA highlighted the changes it would be making to the regulations, ‘payday lending decreased with no apparent increase in illegal lending, on the contrary the number of investigations conducted by the Government’s Illegal Money Lending Team dropped sharply. In fact, servicing high interest payday loan debt may itself encourage the use of illegal lenders’ (Moseade et al., 2018, p. 230).

While there is no conclusive evidence that the contraction of the sub-prime loan sector in the UK has contributed to individuals with no other credit options using illegal money lenders and loan sharks, the socio-economic conditions that contribute to individuals turning to illegal loan sharks are well documented and money lenders increase the likelihood that this is the case. It is to this specific consideration of the literature on loan sharking and illegal money lending that the report now turns.

1.4 Loan sharking and illegal money lending: A review of the evidence

It must be noted at the outset that there is a lack of empirical data and research generally on illegal money lending and loan sharking within the literature across differing countries and contexts. This is primarily as a result of the criminal nature of the activity, which not only makes it very difficult for researchers to access (Savona and Michie, 2015), but also results in a reluctance among victims to come forward to ‘tell their story’ (Goldstool and Coenen, 2008, DT, 2007). Indeed, in their comprehensive review of the evidence in a pan-European context, Bouyon and Oliinyk (2019, p.29) found that ‘No empirical publication that aims at appreciating the volume and dynamics in illegal loans has been identified’. This is also the case in Northern Ireland and, it has been suggested that ‘researching illegal lending is problematic’ – given its underground nature and the threat of intimidation and violence (NICVA, 2013, p.8). Consequently, the very limited evidence base tends to be based on anecdotal, piecemeal bits of information, which can be gleaned from larger pieces of work whose main aim is to assess the issues of credit and debt more generally. While acknowledging these methodological limitations, and the constancy of key themes emerging from the evidence that is available.

The historic literature on loan sharking and illegal money lending in the United States suggests that the practices are dominated by organised crime gangs (OCGs) (Malcolm and Curtin, 1968; Seidl, 1968; Goldstool and Coenen, 1980). The primary reason cited for the involvement of OCGs in loan sharking (as it is typically referred to in the American literature) is twofold: firstly, OCGs have access to large reserves of cash that they can use to finance their operations, and, secondly, in involvement in such activity provides the opportunity for the gangs to ‘wash’ or launder their money from other criminal activities (Malcolm and Curtin, 1968; Goldstool and Coenen, 1980). The link between organised crime and illegal lending is closely associated with the distribution of drugs (‘narcotics’) and illegal gambling in particular (ibid.). This involvement of OCGs in loan sharking to launder money from drugs and gambling activity was also found to be the case in a much more recent study of criminal activity across Western Europe, including in the UK and the Republic of Ireland (Savona and Michie, 2015). What is crucial to the role of OCGs in loan sharking is the fear and intimidation induced by their involvement, wherein ‘the aura of fear is critical to success in the loan sharking business’ (ibid., p.134).

In his classic doctoral thesis upon the topic, Seidl (1968) suggested that there are four characteristics that are crucial to the role of OCGs in loan sharking: the secrecy of the transaction; the inability to control, the speed and convenience of it; and, the regular availability of funds. Interestingly, all of these factors were referred to in the previous section when the benefits of payday loans were discussed, and therefore there is likely to be some overlap in terms of those individuals in debt who are turning to loan sharks as a last resort. In a UK context, more than eight out of ten users of illegal money lenders referred to doing so because they had no other credit options (DTI, 2007). As Goldstool and Coenen note (2008, p.137), the demand for loan sharks ‘results at least in part from legally imposed interest-rate ceilings that preclude legal lenders from satisfying the demand of high-risk borrowers – the loan-shark fills the gap between market demand and legal supply’. This is particularly the case when, as on a small number of occasions, loan sharks may offer more competitive rates of APR than their legal short-term loan competitors (Goldstool and Coenen, 2008).

Three types of borrowers have been identified within the classic American literature:

- The ‘legitimate individual’. Defined as a ‘victim’ and most typically ‘a lower-class urban labourer’ who may have an issue with gambling or addiction;
- The ‘criminal borrower’. In an American context, this tends to relate to ‘Mob’ bookmakers; and
- The ‘legitimate businessman/worker’ who is struggling to keep their workplace afloat (Malcolm and Curtin, 1968; Seidl, 1968; Goldstool and Coenen, 1980).

More recent work on illegal lending in the UK, however, would suggest that it is not just OCGs that are involved in the practice. Ellison et al. (2006) suggested that up to 40% of illegal payday lenders are involved in the more organised and larger criminal enterprises dealing with ‘strangers’. While a cross-European report on criminal activity acknowledged this dynamic to be the case, it also found that in the Northern Irish context, OCGs in the form of loyalist and republican paramilitary groups were heavily involved in ‘economic activity’ (Savona and Michie, 2015). It should be noted, however, that although there is a large corpus of academic literature on loyalist and republican paramilitary organisations, which also makes reference to the more general involvement of organised and larger criminal enterprises with ‘strangers’, this remains a means of funding political violence (Bruce, 1992; English, 2003; Wood, 2006; Moloney, 2007; Edwards, 2017), there is little or no reference at any point to their specific involvement in loan sharking or illegal money lending. This is despite the fact that there is evidence to suggest that paramilitaries are involved in the practice in Northern Ireland. Indeed, in recent years, Operations Waggles, Microscopal and Midwifery have targeted senior members of a loyalist paramilitary group who were involved in money lending/laundering and the supply of controlled drugs. An amount of cash circa £10,000 was lifted under the Proceeds of Crime Act (2002) (NICA, 2018, p.5).

Although the Illegal Money Lending Teams, established in England in 1998 and in Scotland in 2004 (Financial Conduct Authority, 2017, para. 3.1), have been involved in the supply of loan sharks ‘results at least in part from legally imposed interest-rate ceilings that preclude legal lenders from satisfying the demand of high-risk borrowers – the loan-shark fills the gap between market demand and legal supply’. This is particularly the case when, as on a small number of occasions, loan sharks may offer more competitive rates of APR than their legal short-term loan competitors (Goldstool and Coenen, 2008).

In one of FASA’s cases a young man borrowed £20 from a paramilitary organisation with the understanding that he had to pay back £35; this debt spiralled to £1,400. The individual in question, who had severe mental health issues, found it impossible to keep his family together and was referred to a paramilitary organisation by the paramilitaries who he was associated with. The organisation was known to be ‘charging’ people with their debts, whereby: an amount of cash was paid to the paramilitary organisation who was then required to pay the debt in full. This resulted in the individual being required to begging in order to survive. In time a local community worker helped re-work the debt. Another FASA client was ‘caught’ by local paramilitaries selling heroin and was ‘fixed’. The amount they became involved was £2,000 that had been paid to the paramilitary organisation. FASA was able to negotiate an end to the debt (ibid., p.9).

The threats, intimidation, and at times outright violence used by loan sharks to collect their debts – whether OCGs or otherwise – is an important to consider why some individuals still resort to using them. An important caveat to recognise is that there is no homogenous reason why a person may use an illegal money lender as a financial resource. Each individual circumstance is culturally, socially and economically distinct.

Pursuit for payment was typically experienced immediately after receipt of benefits. Interviewees had experienced threats, often of serious violence, setting out the consequences for non-payment could take the form of a sustained campaign which might also target family members. Lenders’ membership of a gang, or criminal associations could influence threats, or make explicit threats unnecessary (Coila, 2018, p.3).
This report builds on the findings from research conducted in 2007 by the Illegal Money Lending and Debt project Consumer Council in England, Scotland and Wales. The survey of 122 victims of illegal money lending found that:

- 54% were female and 46% male and the age of borrowers ranged from 20–73;
- 50% of victims were parents with an average two children;
- 47% of clients reported a long-term health condition (including 12% who said they had mental health issues);
- 32% of victims stated they considered taking on their own life at some point in their lives – 2.5% of whom attributed this to the activities of loan sharks;
- 76% said they were in a state of ‘worry’ or ‘distress’ as a result of loan sharks;
- 43% said they had been abused verbally, threatened or physically harmed as a result of going to a loan shark;
- 70% lived in rented accommodation;
- 36% of those who borrowed from a loan shark were unemployed, 23% were employed full-time, 20% were self-employed, 15% employed part-time, 3% were retired and 2% were students;
- 58% of victims were claiming benefits at the time and 19% had visited food banks in the previous year;
- 94% had a bank account;
- 66% were told about the lender by friends or family (IMLT, 2017).

The trends revealed by these statistics are reminiscent of those documented by DTI (2007, p. 16) in relation to the first evaluation of the Illegal Money Lending Teams in England, Scotland and Wales. This evaluation found that:

- Approximately one in five users of illegal lenders live in areas not served by the home credit lenders;
- Just over 50% are home credit customers who have defaulted on or reached the limit of their credit line;
- Around 25% are those who are too ‘high-risk’, even for the high-risk sub-prime sector;
- The profile of those using illegal lenders is similar to that of home credit users (most users are female, with families, and aged 30–40). However, there is a higher proportion of males using illegal lenders, and they are even more likely to be from disadvantaged socio-economic backgrounds than those using legal sub-prime loans.

In an international context, it is interesting to contrast the UK experiences of low-income households in a financial crisis and post-crisis situation with the post-apartheid experiences of consumers in South Africa. James (2014) argued that rather than borrowing money for essential household needs, there was a growth in illegal money lending in parts of South Africa as individuals borrowed to facilitate an aspirational lifestyle: the supply of, and demand for, credit interacted in a complex relationship to facilitate the rapid growth of a new middle class as well as promise of fulfilment to a far larger group of people. Such credit was being used, not simply for materialistic consumerism, but to satisfy the desire for what was felt necessary for a good life (James, 2014, p.17).

An important factor when considering why illegal money lending is so pervasive is the normalisation of illegal money lending within certain areas. The FCA has emphasised that people are accustomed to engaging with illegal money lenders who they regard as familiar to them and are encouraged as part of normal, day-to-day interactions within the community. Indeed, the FCA has posited that this familiarity, coupled with an unawareness or lack of knowledge of the possibility of receiving loans or credit legally, served to reinforce the sociocultural pervasiveness of illegal money lending.

Many of our partners observed that lack of financial education, in tandem with custom and practice in some communities, supported continued use of unauthorised lenders. For example, borrowers may have grown up in places where the unauthorised lender was a familiar part of the culture: when they need to get money urgently they know where to go (Financial Conduct Authority, 2017, para. 3.8).

The opportunistic nature of illegal money lending targeting ‘vulnerable’ individuals in need (and perhaps retaining their benefit books or bank cards, see DTI, 2007) is exemplified by the availability of unauthorised loans for people who may be termed ‘unbankable’ by formal, legal lenders. Durst (2015) has argued that those deemed to be unbankable are considered a significant asset in illegal money lending parlance due to their inability to repay money they borrow.

The community-centric nature of illegal money lending and the disparate relationship between money lender and borrower reinforces power differentials within communities, a trend which is likely to be particularly problematic in Northern Ireland, given that illegal lending typically occurs within close-knit working-class communities (DTI, 2007), and paramilitary organisations continue to have a presence in many of these areas. While some of these organisations are actively seeking to ‘transition’ away from the legacies of the past, others remain deeply enmeshed in criminality and violence (NIO, 2015). This poses the question: ‘How does the criminal justice system respond to dealing with such instances of loan sharkering and illegal money lending?’

1.2 Criminal justice and policy response

This section is divided into two parts. The first half will discuss the legislative and criminal justice system response to illegal money lending by focusing on the UK statutory provisions, but also by utilising examples from other jurisdictions. The second half then proceeds to highlight a number of approaches that aim to keep citizens out of debt, most notably in the form of promoting the use of Credit Unions and developing education work focusing upon financial ‘literacy’.

1.2.1 Criminal justice response

From a legislative perspective, illegal money lending has principally been prosecuted under two distinct acts: the Consumer Credit Act 1974 and the other more widely applied Proceeds of Crime Act 2002. It is important to note geographical inconsistency within the United Kingdom regarding certain provisions of the Proceeds of Crime Act 2002 but also that banks and finance brokers are subject to strengthening the power of the Proceeds of Crime Act 2002, the Scottish government made amendments in 2011 to the lifestyle offences section (schedule 4) of the Act. Of specific concern to illegal money lending was the addition of a Consumer Credit provision: ‘An offence under section 39(1) of the Consumer Credit Act 1974 (offences against Part III) it concerns the carrying on of a consumer credit business (as defined in section 14(7) of that Act)’.

A consumer credit business, as defined by the Consumer Credit Act 1974, ‘means any business being carried on by a person so far as it comprises or relates to (a) the provision of credit by him, or (b) otherwise his being a creditor’. The legislative provision pertaining to illegal money lending in the Consumer Credit Act 1974 is broad: ‘A person who engages in any activities for which a licence is required when he is not a licensee under a licence covering those activities commits an offence.’ As referred to previously, the Proceeds of Crime Act 2002 is often applied concomitantly to the Consumer Credit Act 1974 and this is due, in part, to the difficulty for the criminal justice system in responding to illegal money lending, necessitating the utilisation of a range of statutes. As noted in R v Dovey (2017, p.215), ‘statutory provisions are intended to provide condign punishment for those who engage in unlicensed money lending, for the obvious and proper reason that the vulnerable should be protected.

It is important to note the criminal justice system application of the Proceeds of Crime Act 2002 in conjunction with other statutes regarding sentencing for offenders. It was decided in R v Greaves (2011) that a person should not be punished twice for the same offence. Therefore, the deciding factor is whether the conduct in the Proceeds of Crime Act offence adds any culpability to the primary offence. If the Proceeds of Crime offence does not add to the culpability of the primary offence, then there should not be a consecutive sentence applied to the offender. This test is known as the Greaves principle:

(c) Where the offenders are one and the same, if the conduct involved in Proceedings of Crime Act offence in reality adds nothing to the culpability of the conduct involved in the primary offence, there should be no additional penalty. A person should not be punished twice for the same conduct. That can be achieved either by imposing ‘no separate penalty’ on the Proceeds of Crime Act offence or by a concurrent sentence where the primary sentence is imprisonment.

Following the successes of the Illegal Money Lending Teams in England, Scotland and Wales, the government instigated changes to reform consumer credit regulation in the United Kingdom through the Bank of England and Financial Services Act 2016. The practical implication of the reformulated regulations included responsibility for regulating consumer credit from the Office of Fair Trading to the Financial Conduct Authority (FCA).

The FCA regime is already having a substantial positive impact which is helping to deliver the Government’s vision for an effective and sustainable consumer credit market that meets consumer needs. However, the FCA is not best placed to investigate and enforce certain types of illegal money lending such as the type practised by loan sharks (HL Deb, 2016).

The UK government, in recognising that the FCA was not best placed to investigate and prosecute specific types of illegal money lending, principally loan sharking, highlighted the role of the Illegal Money Lending Teams in England, Scotland and Wales.

These teams are made up of local trading standards officers who accordingly have broader powers than the FCA to prosecute the particular criminality that loan sharks are involved with, and relevant expertise in educating vulnerable consumers. They are also able to draw on a geographically dispersed community intelligence officers who are crucial in identifying localised illegal lenders. The teams work alongside the police and regulatory authorities. The local teams are specifically targeted to loan sharks and to provide support and advice to the victims of illegal moneylenders. They also help educate local communities about the dangers of borrowing illegally from loan sharks (HL Deb, 2016).

In order to support the regulatory work of the FCA and the investigative remit of the Illegal Money Lending Teams, the Bank of England and Financial Services Act 2016 provided for funding from the Treasury via a levy on consumer credit firms, which is collected by the FCA. In amending the Financial Services and Markets Act 2000, the Bank of England and Financial Services Act 2016 (part 20(b) s.3333 (2)) provides that:

Taking action against illegal money lending includes—

a. investigating illegal money lending and offences connected with illegal money lending,

b. prosecuting, or taking other enforcement action in respect of illegal money lending and offences connected with illegal money lending;

c. providing education, information and advice about illegal money lending, and providing support to victims of illegal money lending;

d. undertaking or commissioning research into the effectiveness of activities of the kind described in paragraphs (a) to (c).

e. providing advice, assistance and support (including financial support) to, and oversight of, persons engaged in activities of the kind described in paragraphs (a) to (c).

It is important to note, however, that the approach to illegal money lending in Northern Ireland is different to other parts of the UK. Since 2018, the Consumer Council has been funded to provide education and raise awareness of the issues surrounding illegal money lending. However, responsibility for enforcement remains with the PSNI. It is important to recognise that a purely policing approach to tackling loan sharking has been argued to ‘dilute the social policy dimensions of the effort to combat illegal money lending’ (DTI, 2007, p. 7). The role of law enforcement, including the context of paramilitary actors who may or may not be involved in illegal money lending, is considered in light of the findings from this research below.

Illegal money lending & debt project Consumer Council
It is also compulsory for all adult French citizens to have a bank account, an overdraft over the customer’s income to improve ‘financial inclusion’ (NICVA, 2013).

Provisions for illegal lending in Japan were also made easier in 2003, since which time evidence of advertising for, or directly approaching people in order to offer, loans has been sufficiently reduced on a national basis (Giibbons, 2012, p. 22).

Of particular interest in the Japanese approach is the potential civil law recourse for victims to sue the illegal money lender for the repayment of all payments connected with their loans (Gibbons, 2012, p. 22). In 2013, Europol forecasted that the continued expansion of loan shark groups into the legal economy was a key threat facing Europe (Europol, 2015). In Italy, from a legal position, a loan is considered to be usurious and illegal if the interest rate applied to the loan is over 50% more than the rate over the capital is held on deposit by the Ministry of the Treasury. However, Marinaro (2017, p. 203) notes that the legal response is overtly focused on the actions of legal credit providers and fail to adequately consider the prevalence of the ‘distant informal credit market’ despite providing punitive sanctions for unregistered credit brokers.

While oblively recognising the particular vulnerability of certain actors, the law does not explicitly distinguish between a bank that temporarily exceeds the threshold, and a loan shark who takes a.beginning of the cycle of an increasing debt (Marinaro, 2017, p. 202).

The overarching aim of the anti-usury legislation (Law 108) introduced in Italy in 1996 was to ‘fill gaps in the law that previously discouraged usury victims from trusting the institutions and thus forcing them to renounce seeking justice’ (Buissé and La Rocca, 2006, p. 65). In addition to legal provisions regulating thresholds of interest rates above which loans were considered as usurious and illegal, the Italian government adopted a range of measures to introduce a harmonised Consumer Code framework in a number of core areas. In view of the continuously developing market in consumer credit and the increasing mobility of European citizens, forward-looking Community legislation was introduced to adapt the existing legal framework and which allows Member States the appropriate degree of flexibility in their implementation should help to establish a modern body of law on consumer credit (Council Directive 2008/48/EC).

The implementation of the provisions of the Directive apply to legally authorised money lenders and we can extrapolate from the conditions imposed on money lenders that illegal money lending from a legislative position is regarded as either unnecessary behaviour by legal lenders or lending by unauthorised individuals. Indicative of this focus on the actions of legal lenders, it is significant that the Council Directive contains no reference to the terms illegal money lending or loan sharks.

Policy response to debt

There is no international consensus as to how individual and household debt should be tackled (including legal and illegal borrowing), and state policies vary depending on culture and context (Bouyon and Oliinyk, 2019).

In France and Germany, there are lower consumer levels of borrowing and debt, interest rates on loans are capped, and there are greater restrictions on sub-prime lending than in the UK and Ireland (ibid.). Germany has a long-established system of detailed credit checks on individuals prior to allowing access to loans (Deeming et al., 2011), while in France the Scrivener loan (1978) has promoted quality of information for consumers (Deeming et al., 2011).

The most widely espoused means of tackling debt within the literature is legal (or illegal) widening access to affordable credit for individuals in need (NICVA, 2013), and encouraging greater levels of partnership working between government, the mainstream banking sector, charities, Credit Unions and Community Development Financial Institutions (Deeming et al., 2011). Several examples from international contexts are cited in this regard. In Australia, a no-interest loan scheme was introduced by the Good Shepherd Youth and Family Service in 1991, offering up to $800 free of interest and fees for 12 months (Deeming et al., 2011). In France, in January 2005 a social cohesion fund was established between the government, banks and finance institutions to provide small loans (between €500 and €1,000) for those who do not otherwise have access to mainstream credit (Deeming et al., 2011).

With the ending of the Social and Growth Funds in the UK (which provided emergency loans to those in financial distress), the financial difficulties associated with the moves towards Universal Credit are likely to be exacerbated for many people in receipt of public welfare. Given that the £500 million mitigation package for those living in poverty in Northern Ireland is also due to end by 2021 (NICVA, 2020), consideration must urgently be given to how best to support those in debt in Northern Ireland, and particularly those most at risk of having to resort to using illegal money lenders or loan sharks.

1.2.3 Summary

Illegal money lending is a multifaceted and all-encompassing issue facing many individuals and families across the UK and beyond. From a definitional perspective, a detailed analysis of existing legislative frameworks relating to illegal money lending reveals that there is a distinct and nuanced difference between the legislative understanding and the practical, lived reality for people within working-class communities. Within a legislative and governmental framework, illegal money lending is a broad term that encompasses associative terms such as ‘usury’, ‘loan shark’ and ‘unauthorised lending’ amongst others. Consequently, there is a crucial need for a nuanced definition of illegal money lending to be used in relation to illegal money lending and generally the terms have come to be used interchangeably. Notably, the critical correlation between the terms is the divergence from, or the disregard for, regulatory controls over, the legal lending of money.

From a criminal justice and policing approach, a review of the legislation, case-law and approach of the Illegal Money Lending Teams across the UK illuminated the perception of ‘loan shark’ as a synonym to illegal money lenders, an attitude that is not well understood in a clearly exploitative manner. The key legislative provision for prosecuting illegal money lending in the UK is the Bank of England and Financial Services Act 2016. The criminal justice system is dominated by a system of definitions related to the types of people that lend money that operate without a licence. However, given that the failure to maintain repayments to illegal money lenders, or loan sharks, often incurs threats of and/or use of violence against the debtor, it is important to note the capacity for the criminal
A change in personal circumstances due to the death of a loved one, loss of earnings due to ill-health, addiction, or difficult/abusive domestic relationships;

- Individuals view using illegal money lenders as a relatively ‘normal’ interaction within their community;

- Vulnerable individuals, usually on low incomes with few alternatives, are targeted and exploited by opportunistic illegal money lenders.

The literature review has identified that illegal money lending is a significant problem in many communities across the UK and further afield. It is perhaps its embeddement as a sociocultural norm within communities, combined with persisting socio-economic inequalities, that significantly contributes to its prevalence as a community, and to the difficulty in combatting it from a criminal justice and policy perspective.

The literature points to a correlation between illegal money lending and OCUs (such as paramilitaries in the Northern Irish context); however, there is a general lack of reliable data as to the scale, scope and impact of their involvement. Much of the evidence is anecdotal and relates to the fear of victims, or explicit threats being made to debtors upon their inability to maintain repayments on loans taken out at exorbitate rates, when they are in most financial need.

**Glossary**

1. Predominantly written in the Old Testament, such as Exodus, 22:26 or Leviticus: 25:35–37
2. A sudden and unexpected change in circumstances
3. Consumers are unaware of their eligibility for accessing money they require is too small to meet the threshold for a credit (they are deemed too 'high risk' or the amount of money remaining after the average UK household has had taxes subtracted from their income and bought essentials such as housing
4. Extensive use of payday loans. In the UK, this is not the case. While 67% of payday loan borrowers in the UK house an income of between £20,000 and £30,000, the average for the USA is closer to £25,000, and is at least 75% (Hoff, 2013).
2. Illegal Money Lending Project – Findings and Discussion

2.1 Core characteristics of illegal money lending in Northern Ireland

A principal task for this research was to probe the current nature of illegal money lending in Northern Ireland by drawing upon the knowledge and experiences of key stakeholders working in the types of sectors where illegal lending could be causing identified problems within their day to day operations. The research team focused first of all on the concept and definitions of illegal lending before attempting to build a picture of the lenders and those who access their services. These will each be looked at in turn.

2.1.1 Definitions

From the interviews and focus group with key stakeholders it was evident that illegal lending is a complex and multifaceted issue, with research participants providing a range of definitions of the problem.

Most of those interviewed focused on the difference between formal (regulated) lending and informal (unregulated) lending with informal lending described as unregistered lending from one person to another outside of the controls of the Financial Conduct Authority. Most were happy to refer to such practices as illegal money lending although other terms such as ‘loan shark’ and ‘unauthorised lending’ were used interchangeably and led to an impression across the research team that respondents were unconcerned by the label assigned to it as long as the practice met the core description of having occurred outside of the regulatory rules governing the legal lending of money (FCA, 2017, para. 1.1.). Interestingly, this placed other forms of doorstep lending outside of the definition of illegal activity; however, in practice, when dealing with problematic lending practices, this form of lending was still described as being a major issue by the research participants. Respondents also referenced the interest rates charged by lenders as being a key factor in identifying the legitimacy or illegality of lending. This centred on the charging of high or even extortionate rates, operating without a cap on interest rates, or being able to change the terms and conditions, including the interest rates, during the loan period.

Instead of focusing too much on formal legislation and legal definitions, several respondents referred to the characteristics of the consumer, normally from working-class districts, and the means employed to ensure they complied with the terms of the loan, including coercive measures such as violence and intimidation, as being central to their conception of illegal lending.

For me, the illegal lending of money is something which occurs primarily in working-class areas, for extortionate interest rates. The threat of violence for non-payment underpins the agreement. (Focus Group)

There needs to be enforcers involved, otherwise the debt has no weight. In one case, a neighbour owed money. Then his son turned up and asked for the cash and it was a neighbour. It may also not be fully presented to us by clients: owed to a ‘family friend’ for the client might be understood as paramilitaries outside. In some areas they may not be telling us. (Int. 4)

From such a perspective, Northern Ireland was described as being potentially unique as the history of violent conflict and the ways in which it has defined relationships within communities has ensured a complexity of having occurred outside of the regulatory rules governing the legal lending of money (FCA, 2017, para. 1.1.). Interestingly, this placed other forms of doorstep lending outside of the definition of illegal activity; however, in practice, when dealing with problematic lending practices, this form of lending was still described as being a major issue by the research participants. Respondents also referenced the interest rates charged by lenders as being a key factor in identifying the legitimacy or illegality of lending. This centred on the charging of high or even extortionate rates, operating without a cap on interest rates, or being able to change the terms and conditions, including the interest rates, during the loan period.

2.1.2 Who are the illegal lenders?

Respondents sorted those involved in illegal money lending into two broad groups: paramilitaries and ‘regular’ members of the community. However, in practice, the identification of those involved was far more difficult, with no consistent practices that ensure that it cannot be compared easily with the rest of the UK. This will be explored further in terms of the characteristics of the lenders and those accessing their services.

I expected it [links between illegal money lending and paramilitaries] to be in all the towns. But it turned out not to be the case. In Carrickfergus, Lome and Newtownabbey this issue is raised. But not so much in similar places elsewhere, like Portadown and Newtownwards. (Int. 4)

Paramilitaries are involved in all of it – community development, drugs, money lending the lot. Does that mean that all money lending is paramilitary? – no. Does that mean that money lending is a paramilitary programme? – no. (Int. 5)

Paramilitaries need to be stopped, but it is also the ordinary people on the street doing it. Everyone knows who they are. Everyone knows their rates. There are always connections between these independent people and paramilitaries. (Int. 3)

In certain areas, they would be paramilitaries-related. This would be more in rural areas. In urban areas, it would be more someone who had a family that has influence in this area.

But it is very difficult to get a scale of the problem. There is a sense that some (paramilitaries) are doing it directly and others are merely taxing those lending money in the area they control. (Int. 9)

Not necessarily paramilitaries but more of a prominent figure in the community who goes to your wedding and your kid’s christening, part of your family almost. (Int. 7)

The system of financing is opaque. Is the money lender in an armed group? Or is it a known person? Are they enriching themselves or the organisation? (Int. 4)

Secondly, the lenders had to have the ability to carry out enforcement measures to recoup the debt or find some other means with which to settle, such as coercing someone to help facilitate criminal activity.

For all of these transactions/lenders to be successful there had to be some legitimate threat of violence. (Focus Group)

This is about adding legitimacy to the role of criminal gangs – they use illegal money lending as a way of establishing a role in their community as well as showing their strength. (Int. 1)

From the experiences of the participants, it is local paramilitaries or subsidiaries that have it all sewn up. Or they have levied a debt on someone for an action or a perceived action, i.e. you owe us a debt for doing this. It can be a non-financial solution, e.g. leaving a door open somewhere. (Int. 1)

Several of those interviewed noted that illegal lending was also taking place from within minority ethnic communities including Chinese and Eastern European populations. Commonly, illegal lending transactions only occurred ‘within’ the community with little or no cross-pollination.

It was explained that links to paramilitary organisations were either minimal or non-existent in such communities, with illegal money lending and the associated problematic debt tending to be associated with gangs engaged in other illegal activities such as unregulated gambling, immigration offences including human trafficking, and the drugs trade.

Not clear evidence, but reading between the lines I suspect that it is big problem in Polish and Romanian communities where the close-knit nature of these cultures and fear of reprisals by prominent people ensures they do not seek help. (Int. 9)

In the Chinese community it tends to be most serious with respect to backroom casinos, where people can lose their car, their deeds to their restaurant – I even heard of one case where a local person lost £115,000 in just one evening. (Int. 8)

As one respondent proposed, the close-knit nature of these cultural groups and a tradition of not talking to outsiders ensured that they were effective in hiding such practices:

A common theme is that they are in this together so if something happens, they close ranks. One gang is universal, hence, there are no wars attracting bird publicity. They are a small close-knit community, so the police or those
outside of the community will never hear about it. There are big fears of reprisals from OC goings for going to the police. (Int. 8)

The link between illegal lending and other crimes was also a core characteristic in local communities, with a particular issue being the trade in drugs. Many respondents reflected on the link between drugs and debt, with young men in particular at risk of falling into debt from borrowing money to purchase drugs.

They [young men] often lived in the short term, borrowing money to buy drugs, in some circumstances with no intention of paying the money back. This could lead to violent retributions or potential recruitment into selling drugs to pay back their debts or even being recruited for paramilitary activity. (Focus Group)

It’s all to do with drugs. Feeding their habit. The lenders may say, “Instead of giving you money, I can give you a lend of coke”, then they sell the coke to get their money. But because they are addicts, they take the coke themselves and then are in more debt. It then increases and increases. (Int. 3)

Drugs are often the starting point for debt based on the ‘on- tick’ system. One client started taking drugs in prison – we saw him in for over a decade trying to deal with his debts. The paramilitaries use such debts to recruit people into the practice of drug dealing on their behalf. (Int. 6)

It’s more about someone was supposed to sell x amount of drugs for x amount of money and [they] end up taking them or losing them and [are] then asked for the money. When they can’t pay, they are placed under threat. (Int. 12)

With large debts, it is usually someone has been caught with a large amount of drugs and then the debt falls on them.

You have to make up the loss. (Int. 13)

In summary, it would appear that paramilitary groups have played and continue to play an important role in facilitating or profiting from illegal money lending, however, the nature of their involvement and the activities underpinning the debt can vary greatly across a range of cultural and geographical contexts, ensuring difficulty in applying any one definition to such a broad range of activities. The next section focuses more on those who borrow from illegal money lenders, considering a number of important factors and vulnerabilities that appear to be key in the appeal of illegal money lending, which together can give a sense of its prevalence.

2.1.4 Vulnerability and the symptoms of lending

Gauging the true extent of illegal money lending in Northern Ireland has historically been a difficult process. Those operating in the law enforcement and citizen advocacy fields have frequently reported either a lack of evidence or highly varied accounts of its prevalence. However, a number of themes emerged during the research that go some ways towards explaining why information has been so difficult to uncover, and shedding more light on its prevalence:

Firstly, almost every organisation and individual interviewed referenced the hidden nature of illegal money lending;

We looked into it with [our] own research and found that it is huge. People are not disclosing to advisors at all or are just lying and saying their debt is from another form of funding. (Anon)

When pressed, respondents agreed that two factors in particular were contributing to members of the public’s unwillingness to share their experiences with the authorities due to fears that an individual doing so could be labelled an informer and invite reprisals. It is predominantly due to fear. They are scared that if an advisor finds out the source of their debt, they will take action (this is not true by the way), causing the victim to be labelled a traitor in their local community, placing them and their families at risk. This is especially the case where paramilitaries are involved. (Anon)

Those actively involved in advising members of the public also speculated that their clients may be hiding the true source of their debt due to embarrassment that they have had to resort to such lending in the first place. This was particularly problematic as vague or untrue information ensured that advisors were unable to negotiate with lenders in the normal way, in order to secure a freeze in charges and interest or to negotiate a more realistic repayment schedule. It is vital that they find ways to encourage people with these issues to open up:

It is only when you work with people for a period of time and build up a relationship that they then may say, ‘I owe money to a money lender, he is putting pressure on me and my family and if I do not pay him my door has been kicked in’ etc. People may open up about it because their back is to the wall. (Int. 13)

As members of the public who are accessing the services of illegal money lenders are not always sharing their experiences, advocacy groups, community organisations and law enforcement agencies have had to become adept at spotting both the symptoms and the vulnerabilities that may indicate that members of the public have a problem.

2.1.3 Difficulties assessing the prevalence of illegal money lending

For many of those interviewed, the reasons that people borrowed from illegal lenders were related to a range of vulnerabilities including poverty-related issues, such as paying for gas, heating or electricity, purchasing necessities such as food / clothes, with the problem having been exacerbated in recent times by the economic downturn and changes to the benefits system brought about by austerity. It was noted that for young men this could have negative repercussions for those young men this could have negative repercussions for young men who have not been able to pay their debt. (Int. 9)

We have also not seen any evidence of reprisals for those who have not been able to pay their debt. (Focus Group)

People are desperate to get the money, but they quickly lose any sense of how much they need to pay back when and after their first payment. Yes, you can apply for UC in advance of getting it, but if you can’t pay a week later, they will lend you $150 that you will lose your home. They do not let you off the hook once they know you can’t pay back the loan. (Int. 13)

Universal Credit was repeatedly described as a driver for illegal lending, with the cite a gap from the previous benefits system of Income Support frequently creating problems for members of the public. In particular, citizen advocacy groups spoke frequently about the harm caused by the four- to five-week waiting period and issues with short-term benefits loans that were then repaid from future benefits, ensuring that benefit claimants were always short of the funds they needed to support their household, leading them to look to other means of getting the money they need.

Universal Credit is a big issue. See, if you were on Income Support and you were switching over to UC it can be straightforward and take four to five weeks. But if you have a change of circumstances, they bring you back to the very start. Then they lend you money, but then take it out of your money when you finally get it. You do not really benefit from it. (Int. 3)

Austerity and welfare reform has led to a need for desperate people seeking out illegal lending. The introduction of the five-week waiting period ensured that we saw desperate mothers who, needing to feed their kids, borrowed £500 [and] when they couldn’t pay a week later, they were lent £1,000 and only given £500 again. (Int. 6)

Universal Credit, there is a five-week wait before you get your first payment. Yes, you can apply for UC in advance of getting it, but if you can’t pay a week later, they will lend you up a few days because they will be repaying friends and family. That money will not last five weeks until the first payday. (Int. 13)

It was noted repeatedly that the reliance on illegal money lending to pay for such basic amenities could result in borrowers being stuck in a never-ending money-lending cycle where people accessing the illegal lending were losing track of what they owed and subsequently what they would have to pay back, with lenders charging interest inconsistently, often based on the circumstances of the borrower and their ability to pay back:

They borrow money each week to get them through to the next week and then have to do this every week, but in most circumstances the transactions / agreements were not based upon mathematical equations or percentages and were more arbitrary in nature. For example, if you borrow £50 you pay back £70. (Focus Group)

It is extortion, there is too much of it, it is happening every day in deprived areas, people taking advantage of each other. I know people that put 100% interest on it. You get £200, you pay £400 back. (Int. 3)

For many of these young men this could have negative implications for their families. Their mother may have paid initially, then got herself into debt, and then a vicious cycle emerged. (Focus Group)

The topic of coercion and intimidation was discussed at length in the stakeholder focus group, with those present reflecting on the role of paramilitary groups. In this regard, the connection between the loan and the retribution for non-payment was crucial. The loan created a coercive power dynamic between the lender and borrower. However, the enforcement mechanisms or retributions for non-payment were again arbitrary and subjective. It was noted that for young men who did not pay, it was common for violent repercussions, for women / the elderly, the lender might turn up at their place of work, or wait at the Post Office on the day their benefits are received, or even maintain possession of their Post Office cards.

This was referred to as part of the PR of being a money lender. You had to keep the community on your side. In a community, there was an acceptance of violence, but not as exploitative for young men, but not for other demographics. In a similar vein, the lenders may make exceptions for people who were

Ninety per cent of illegal lending transactions do not incur retribution. This provides the lenders with some degree of legitimacy within communities. (Int. 11)

We have also not seen any evidence of reprisals for those who have not been able to pay their debt. (Int. 9)

Although hidden, several of those interviewed described how they had come across evidence of a coercive power dynamic between lender and borrower, including the use of violence or intimidation, threats of reprisals, signs of overt poverty due to an inability to purchase goods and utilities, or the pauperizing or seizing of possessions.

What happened in some areas was that doorstep lenders became bailiffs, walking into a house and saying, ‘Can you pay off your debts? Okay, you can’t, I’ll take this flat-screen TV then.’ (Int. 6)

Signs of intimidation are the main symptom – people reporting being under threat but not saying why. (Int. 6)

But if you borrow and can’t pay, the responsibility shifts to your family, your wife and kids and your parents and other extended family. They will come and ransack your house or carry out other methods to increase the pressure. (Int. 8)

Normally, a family member or a community rep are reporting rather than a direct victim. Anecdotally, people will be subject to threats, intimidation, fear for their personal safety. We are finding a lot of benefits books or bank cards when searching houses for otherOC activities. (Int. 7)

When one of the food banks decided to deliver a parcel to a family rather than have them collect it, they found the house had no heat, light or hot water, having been cut off due to unpaid bills. It turned out their son had run up large debts with paramilitaries and had then fled the community, leaving their extended family. They will come and ransack your house or carry out other methods to increase the pressure. (Int. 8)

However, for others, violence and intimidation was not something they saw a lot of in their roles.

There are times – for example, when kids are going back to school, Christmas, Easter – that are all pressure points, if you cannot go to legitimate sources you go to illegal ones. And then you have it like, ‘Oh, sure there’s another one over here’ and you will lose your home, you give extra. But they are still charging interest on that. They do not let you off the hook once they know you can’t pay back the loan. (Int. 13)

Illegal money lending & debt project Consumer Council
in debt already. Financial debt and mental health are always come back to us. Financial stress, Universal Credit, …

2.2 Law enforcement – issues of resources, expertise and prioritisation

In England, Scotland and Wales, official Illegal Money Lending Teams have been operating since 2004 to tackle the practice of illegal lending. They assume an agency approach and the teams consist of seconded police officers, financial investigators, victim support services and intelligence and phone forensic experts. However, the evidence about the illegal money lending market in Northern Ireland differs from the rest of the UK as it does not have a dedicated Illegal Money Lending Team. Instead, The Consumer Council are funded to provide education and awareness raising, and the PSNI are responsible for enforcement. Across both elements of data collection there was a general consensus amongst participants that the PSNI should have the principal responsibility in tackling illegal lending within communities in Northern Ireland. However, they suggested that due to a range of impediments, including restricted resourcing, illegal lending was a low priority for the PSNI:

There is a general belief that the police are not concerned about the illegal money lending transactions within communities, unless there were direct and transparent links to paramilitaries and / or organised criminal enterprises. (Focus Group.)

It is not a big crime. They [PSNI] do not get the resources for it … they turn a blind eye to that and small-level drug deals … they are not interested in the smaller issues, such as money lending or family fraud, but that is wrong. It is these smaller endeavours which fuel the organisations. (Int. 3)

While there was a consensus that tackling illegal money lending may have been low on the PSNI’s list of priorities, some respondents understood the police’s role in tackling paramilitarism as a whole. Their duty was to close down paramilitaries in all their activities, not just focusing on money lending, which is smaller in scale. However, some respondents felt that focusing on the connections between illegal lending and paramilitarism had neglected the complexity of the issue:

Our experience is that the PSNI response is based on their paramilitary task force, but the problem is a lot more complicated than that. It is not just paramilitary groups, there are lots of local OCG groups and local community lending systems that can be drawing on the same illegal revenue. (Int. 7)

Outside PSNI resourcing, other impediments facing the police were discussed, and many respondents suggested that the complexity of illegal money lending transactions meant that it was difficult to prosecute individual lenders:

From the PSNI perspective, the lead is from the Paramilitary Crime Task Force, therefore the PSNI are more likely to investigate the individual as opposed to the particular type of crime. It is extremely difficult to get prosecutions on money lending alone, it can form part of a larger investigation. (Int. 1)

Indeed, other participants discussed how the secretive nature of the transactions (see above) ensured that participants would only come to the police as a last resort for this was often two-fold: firstly, there was an initial stigma surrounding the fact of being in debt and a feeling of embarrassment that accompanied it; and secondly, there was a fear of reprisal from the lender, who may have connections to paramilitary organisations. They suggested that this secrecy would also impede PSNI resourcing:

PSNI have their hands tied. They are not going to get a statement or other evidence. Clients won’t even tell an advisor never mind the police. If someone spoke to the police, they and their family would have to move, effectively. Why would they? Big police operations or organised gangs are great but are not going to work for all these small lenders and dealers in close knit communities. (Int. 6)

PSNI should do more, but … the community do not report issues with illegal lending and debt, so the police are not interested or encouraged. (Int. 8)

As a result of the range of impediments facing the PSNI, some respondents felt that there was a need for a more formal task force that would stabilise the area and therefore be better equipped to recognise where problems were occurring and respond effectively:

The big recommendation from us is that the PSNI need to have a dedicated money lending team here in Northern Ireland that is modelled on the teams in the rest of the UK and does similar work. This team would quickly get a true sense of the problem. (Int. 7)

We hear of log book lenders, where members of the public have sold their car for cash and then bought it back, but the log book would no longer belong to the car. … But the PSNI would look at the log book and see the name of the lender, not the borrower, and support the lender despite the illegality of the activity they are engaging in. That is where specialist police are needed. (Int. 7)

It is evident throughout discussions with research participants that there was a range of impediments facing the investigation of illegal money lending within Northern Ireland (more will be discussed in the next section). This research suggests that the focus on paramilitarism means that illegal money lending in Northern Ireland is not identified as a specific crime target and its nature is over-simplified.

A working group should be established between the main agencies with a stake in policing and prevention of illegal money lending in Northern Ireland, including The Consumer Council, PSNI, local councils, Trading Standards, HMRC and the National Crime Agency. The working group would:

• Consider the findings of this scoping exercise and other relevant research, as well as identify emerging gaps and issues.

• Agree practical inter-agency operational responses to illegal money lending and consider the relevance of good practice from other jurisdictions.

• Establish a coordinated approach to illegal money lending in Northern Ireland including enhanced support for victims, comprehensive advice and education in communities and appropriate support for all those affected by debt and its consequences.

2.2.2 Overcoming cultural and historical impediments

In this section, we will discuss the historical social and cultural norm of illegal money lending in Northern Ireland. A number of respondents, in both the interviews and focus group, alluded to this as a long-standing feature of illegal lending within certain communities in Northern Ireland. It was suggested that there was a ‘culture of borrowing within Northern Ireland as a whole’ (Focus Group). This belief is supported by the historical literature review, which identified that Northern Ireland has the lowest proportion of citizens with savings of over £100 within the UK, an estimated 10–13% of adults in Northern Ireland are ‘unbanked’ and do not have access to a bank account; the average personal loan each adult in Northern Ireland has amounts to £1,109, compared to £745 in GB, 16% of the population in Northern Ireland, and 19% of children, continue to live in poverty. Northern Ireland reportedly has the lowest discretionary income of any UK region (Asda, 2018). It is because of these reasons that some respondents described money lending as being like an addiction or dependency:

Because areas are so deprived and there is a lack of work, people have become dependent on lending, so it has grown and become more of an issue. (Int. 3)

People don’t want to stop because they can’t afford to. Even though they come looking for help, they go straight back once they are sorted out. I think there is a fear, but it is a fear of not having any money. (Int. 4)

A number of groups interviewed suggested that illegal lenders, in many regards, were perceived by community members as an integral part of some communities and seen to provide a worthy and necessary service:

There is a general belief that lenders are providing a good service to impoverished community members. (Focus Group)

We need to be very cognisant of the environment in which we are working within – there is a pervasive environment around the use of illegal lending whether it is for generation ‘grandmothers, mothers, daughters have been going to the same lender for years’ (Focus Group). It was evident that the durability of these lenders was based upon the personal relationships that were established between the lender and the borrower ‘on the doorstep’ in working-class communities. Anecdotally, respondents suggested that these illegal lenders had a level of trust within communities that they attended some of their borrower’s children’s birthday parties and weddings. This was often based on the social nature of credit and the routine ‘gifting patterns’ that were based on reciprocity and fairs, it was suggested that lenders, during pressure points in the year – such as Christmas or the upcoming school year – would offer lenders more money as a sign of generosity. Such findings are supported by other research conducted in the area. For example, Ellison et al. (2006) found that up to
In this regard, the decision on whether a Credit Union could lend is increasingly becoming risk dependent. This is a problem that is exacerbated in Northern Ireland by the existence of higher regulatory restrictions on the interest that can be charged, ensuring that Northern Ireland Credit Unions are under higher pressure to reduce risk than their counterparts in the rest of the UK. It was also recognised that in other jurisdictions within the UK, Credit Unions are better supported by governments:

The CUI try to look at the bigger picture of members, but the credit regulated and have to base their decision on the affordability of the loan for the borrower. They cannot lend to everybody, some people will be excluded, and as a result may resort to other means. (Int. 9)

From a political dimension, Northern Ireland is lagging behind the rest of the UK where there is a successful programme for government on Financial Exclusion. One of the few unambiguous motions in the Northern Ireland Assembly was for £4 million to support the Credit Unions, but no money was actually paid out. (Int. 9)

As has been documented throughout this section, some ‘Community Development Finance Institutions’ such as the Credit Unions, Scotch and Fair for You, have had consistent success in providing alternative financial solutions to illegal lenders. However, as with other issues discussed throughout this report, there appears to be a lack of awareness from the borrowers of their existence and the benefits they offer. It should also be noted that the role of such institutions is vital in terms of providing a viable alternative to those accessing illegal money lending. Government should urgently explore the potential to develop viable alternatives to illegal money lending, which are accessible in a prompt manner without consumers being faced with administrative burdens being placed on the borrower.

Building on the evidence from this research, this could involve establishing a scheme that removes or underwrites some of the risk to participating lenders, enabling them to offer less onerous loans to a broader range of customers, including those with poor credit ratings.

2.2.4 Education and working in partnership

Many of the respondents in this research provided support and advice to individuals in debt (both legal and illegal). There was a shared belief that there were several reasons people were getting into debt was a lack of knowledge and understanding regarding the alternative sources of finance available to them, and how to manage money effectively. Many of the respondents felt this could be addressed by more financial education from a young age:

Education is imperative, teaching children from a young age the value of money, teaching them how to money manage, and how managing their money illegally can be. (Focus Group)

Education is crucial – supporting schools/teachers to raise the value of money, teaching them how to money manage, and build good financial habits. (Int. 9)

Again, this was consistent with findings from the literature regarding the FCFA and their role in promoting knowledge, of how to receive loans or credit legally served to reinforce the sociocultural pervasiveness of illegal money lending:

Many of our partners observed that lack of financial education, in terms of custom and practice in some communities, supported continued use of unauthorised lenders. For example, borrowers may have grown up in places where the unauthorised lender was a familiar part of the culture: when they need to get money urgently they need to know where to go (Financial Conduct Authority, 2017, para.3.8).

Some participants felt that The Consumer Council could be more involved in delivering education within communities and could do more to promote their services. While referencing the work done in leading attempts to promote forums bringing stakeholders together to discuss problems around debt and problematic lending, many felt that part of the problem in this regard was a lack of cohesiveness between all of the organisations working within supporting those in debt:

There needs to be more of a focus on educating people at a community level. (Focus Group) I feel that there needs to be more of a multi-agency or joined-up approach to promoting The Consumer Council within communities. (Int. 10)

In two interviews, respondents also felt that specific demographics of people living within Northern Ireland would benefit from a more formal education on money management and finance. For example, one of the respondents who provided support and advice to prisoners mentioned how difficult it could be for a person who had been in prison for a certain amount of time, to then go into a new country, migrants often find it difficult and could easily find themselves in debt via illegal lenders. This practice could transcend generations:

Education and awareness raising should come from within the community. (Focus Group) It would be good if The Consumer Council could find a way to relate more to the Chinese community, but this is difficult as their English is poor. Consumer Council could carry out workshops in Chinese, similar to when they did with supermarkets, which are symbolically important sites for the community. The Chinese Christian Church is also a great place to try to do this work. (Int. 8)

Of particular note, for some respondents, was NACRO’s ‘Families and Money Matters’ (FAMM) project, which was described as an example of good practice for providing specialised debt and money management advice to vulnerable citizens. The project is funded by the Money Advice Service and provides support to people in a variety of contexts and situations. The project also works with individuals who are not engaging with mainstream debt advice services to identify any potential debt issues and offer money management advice and supports prisoners on the build-up to their release or on their return to prison. This is often set up based on the guidance and sign up to necessary benefits. The project also provides advice on finance issues for people entering prison, such as how to deal with car finances, mortgages, credit card payments, and monthly outgoings. As one respondent explained:
3. Conclusion

This project has explored the nature of illegal money lending and problematic debt in Northern Ireland. It is clear that a range of agencies have been busy working to identify evidence of this practice and assist members of the public in challenging the vulnerabilities that can cause it and the symptoms that suggest it is happening.

The evidence from this research therefore suggests that there are opportunities for a more formal and rigorous focus on the educational aspects of prevention. Such an approach would provide communities, and specifically those most vulnerable, with a greater insight into the dangers of illegal lending and debt accrual, and would enhance knowledge and understanding of how to access alternative forms of finance.

In supporting this work, it is recommended that The Consumer Council establish an inter-agency ‘Education Forum’ that champions and effectively resources a ‘joined-up’ community development approach. Building on existing good practice, the forum would be led by organisations with the most experience of responding to this challenge – including The Consumer Council, Christians Against Poverty and Advice NI – but would also encourage participants from a broad spectrum of organisations, including those from the citizen advocacy, community, voluntary, housing, rehabilitation and education sectors, to ensure that the widest possible range of citizens at risk from illegal money lending are able to access education and support.

A number of issues were identified for further consideration and improvement. To begin with, the research identified a series of difficulties for law enforcement around resourcing, evidence, specialisation and prioritising in response to illegal money lending. It was proposed that in continuing to respond to these, the PSNI might consider reorganising investigative and enforcement measures for tackling illegal lending and enhance other measures, including the provision of support for victims, educating communities about debt, and working in partnership with citizen advocacy groups to support people affected by this problem.

Secondly, the research team suggested the need for a more formal focus on education and on alternatives, in order to provide communities with an insight into the dangers of illegal lending and debt accrual, and to provide the knowledge and understanding of how to access alternative forms of finance. A third recommendation was that more support and resourcing should be given to providing viable alternatives to illegal money lending for community members, including the provision of a government scheme that could remove or underwrite some of the risk to legitimate lenders so that they are able to offer loans to a broader range of customers, including those with poor credit ratings.

Finally, the research team suggested that more resourcing be given to support the broadening of a ‘joined-up’ approach to ensure that services can be allocated to assist a wide range of citizens at risk from illegal money lending.
References


Consumer Credit Act 1974 (c.39). London: HMSO.


