





The content

Debt Advice Handbook 15th edition

Description

With living costs and unemployment rising, budgets squeezed and problem debt on the increase, no adviser should be without this essential guide to the practice and process of giving money advice in England and Wales.

Who's this book for?

It is essential for debt advisers, welfare rights advisers, lawyers, local authority and housing association staff, social workers and union official.

What does it do?

The handbook provides the most comprehensive information needed by advisers on the key stages of money advice, including interviewing clients, establishing liability, prioritising debts, preparing a financial statement, negotiating with creditors and dealing with bailiffs. Fully indexed and cross-referenced to law, regulations and official guidance, and to court and tribunal decisions Includes tactical guidance and examples

What's new?

Fully updated to cover all recent changes to legislation, caselaw and court procedure and practice Emphasis is placed on taking due care of vulnerable clients and making sure that any payment arrangements agreed are appropriate. There is a focus on sustainable credit arrangements that do not affect a client's abilities to pay essential living expenses and priority debts.

Properties

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The debt advice system is a structured set of procedures and activities that must be worked through to provide the best possible service to someone with a multiple debt problem. It is designed to:

- maintain the client's home, liberty and essential goods and services;
- advise the client about their rights and responsibilities, and also the rights of their creditors;
- give the client the information needed to make informed choices to deal with the debt situation;
- treat all creditors equally;
- empower the client, where possible.

A systematic approach is essential because of:

- the quantity of information and paperwork generated by most debt enquiries;
- the need to avoid overlooking a particular strategy;
- the need to keep detailed records – both to ensure effective advice and follow-up, but also to enable case material to be used for evaluating the service, quality of advice assessments, peer reviews and for social policy development;
- the need to train new workers in a clearly defined set of skills and knowledge;
- the need to guarantee consistency despite the diversity of clients using the service;
- the need to protect the adviser from the strain of having continually to 'reinvent the wheel'.

However, the system should not be seen as a straitjacket, and it does not prevent you from working in a creative and flexible way in your client's best interests. Different agencies need to develop their own systems based on demand and resources, as well as any funders' requirements.

You must undertake a wide range of tasks to provide effective help to clients. In practice:

- the tasks may not necessarily be carried out in the order;
- some tasks can be carried out simultaneously – eg, maximising income while waiting for information needed to check the client's liability for the debts;
- it may be appropriate for some tasks not to be carried out at all.

Client authorisation

The client must provide a signed authority before you can contact third parties on their behalf. Most agencies have a standard authorisation form. You must also comply with data protection

legislation and obtain your clients' consent to hold sensitive personal information about them and, if relevant, to share information about their cases with third parties – eg, for monitoring or quality checking purposes.

Stages of the debt advice process

Essentially, there are three stages to the debt advice process:

- exploration;
- options;
- action.

These can be broken down into the following steps, most of which are covered in more detail in Chapter 3.

- **Step one:** explore the debt problem.
- **Step two:** deal with urgent issues.
- **Step three:** list the client's creditors and minimise debts.
- **Step four:** list and maximise the client's income.
- **Step five:** list the client's expenditure.
- **Step six:** draw up a financial statement showing what income a client receives, their essential expenditure and whether there is any income available to pay creditors.
- **Step seven:** consider whether the client meets the eligibility conditions of the breathing space scheme (see here).
- **Step eight:** deal with priority debts.
- **Step nine:** choose a strategy for non-priority debts.
- **Step ten:** implement the chosen strategies.

An agency does not need to have any written agreement with the client, but you should provide adequate written information about the nature of the service being offered.

Initial interview

At the first interview, it is good practice to point out:

- the agency's commitment to confidentiality;
- the steps the agency will take and the steps the client has agreed to, or is expected to, take themselves;

- that the client should not incur any further credit commitments without discussing it first with you;
- that the client should inform you of any change in their financial circumstances;
- that a successful outcome cannot be guaranteed;
- details of the agency's complaints policy and the client's right to escalate complaints to the Financial Ombudsman Service, if this has not been explained. ¹

¹ See *FCA Handbook*, DISP 1

Monitoring creditor practices

Debt advisers should keep a record of the collection techniques and tactics used by individual creditors. This is useful in any future choice of strategy. In addition, note practices or situations that continually cause hardship to clients and monitor which creditors are responsible. The effectiveness of any pressure for change often depends on the ability of an agency to produce evidence in support of its recommendations. For this reason, case recording must be accurate, detailed, and stored in a form that allows details of particular practices and the hardship they cause to be retrieved and patterns detected.

There are frequent changes in the law and procedures that affect debt, and agencies are often in a very good position to look closely at how these are working in practice. Agencies often carry out such exercises as part of a network of local and national debt services.

Credit reference agencies

Recording defaults

If the information held is incorrect

There is no right to credit. Most lenders decide credit applications based on 'credit scoring' – ie, a system used to assess the probability of applicants meeting their financial commitments, using information supplied on the credit application form, the lender's own records (where available) and data from credit reference agencies. Different lenders use different systems, which should establish the likelihood of the applicant repaying and whether they can afford to do so.

The UK has three main credit reference agencies: Experian, Equifax and TransUnion. They provide information about clients and their credit records. They do not:

- make the decision or express any opinion about whether clients should be given credit and

are unable to tell clients why they have been refused credit; *or*

- keep 'blacklists' or details of clients' credit scores.

When a creditor informs a client that it is rejecting their credit application based on information from a credit reference agency, the creditor must provide details of the credit reference agency, including the name, address and telephone number. ¹ Failure to do so is a criminal offence. This requirement does not apply to agreements secured on land.

Credit reference agencies usually keep details of:

- electoral roll entries;
- county court judgments. These are held for six years from the date of judgment unless paid within one month, when any record is removed;
- bankruptcy orders, administration orders, debt relief orders (DROs) and individual voluntary arrangements (IVAs). These are held for six years from the date of the order or arrangement;
- credit accounts. A record is held until the account is paid off and then for a further six years;
- whether the client has defaulted on a credit agreement. A record is held for six years from the date the default was registered, normally when the account is three to six months in arrears;
- mortgage repossessions, including voluntary repossessions. These are held for six years;
- aliases, associations and linked addresses – ie, any other names the client has been known by, previous addresses or correspondence addresses, and whether they share financial responsibility for an account with another person;
- a warning from Cifas – a fraud avoidance system developed to protect people whose names, addresses or other details have been used fraudulently by other people to apply for or obtain credit. It does not mean that the client is being accused of fraud, but any credit applications may be checked out to ensure they are, in fact, the applicant;
- information from the Gone Away Information Network (known as GAIN) – ie, on clients who have 'gone away' without informing their lenders of a forwarding address. This information is held for six years;
- previous credit searches by lenders in the past two years. Several searches within a short period may indicate attempted fraud or overcommitment.

A client's credit file should hold information about them and any other person with whom they have a 'financial association' – ie, joint account holders or applicants, or anyone who informs the agency that they have financial ties. This allows lenders to take account of information about anyone 'linked' to the client. Although the client can ask a lender only to consider information about them, this does not prevent the lender from carrying out checks to ensure that this is not intended to hide a partner's poor credit rating. If there is no financial association, the client should

inform the agency so the link can be removed.

1 s157 CCA 1974

Recording defaults

Guidelines from the Information Commissioner state that a client's account should not be recorded as in default unless the relationship between the creditor and the client has broken down. This means the client has been in arrears for at least three consecutive months on the contractual instalments or under an agreement to reschedule repayments. It should be recorded as in default if such payments have not been made in full for six months. Accounts which are subject to repayment arrangements or debt management plans should only be recorded as in default if the client:

- is only making token payments. However, in this situation, they can ask the agency to record this (known as filing a 'notice of correction') if the creditor has not done so; *or*
- defaults on the arrangement and the arrears are equivalent to three months' payments under the original contract; *or*
- is making reduced payments, but no agreed arrangement is in place.

If the lender does not agree to accept reduced payments (including token payments), although any payments the client makes are reflected in the outstanding balance recorded, arrears continue to accrue and a default may be recorded once the equivalent of three months' arrears is reached. If a creditor fails to record a default within the three- to six-month period but, for example, delays registering the default until the client misses an agreed repayment, the Financial Ombudsman Service may order the creditor to backdate the registration. A default cannot be registered in respect of an irredeemably unenforceable agreement. ¹

A zero balance on a credit reference report marked 'balance satisfied' (with or without the flag 'partially satisfied') indicates there has been a default, but that:

- the account has been paid in full; *or*
- the account was included in an IVA that has been satisfactorily completed, or in a bankruptcy from which the client has been discharged or in a DRO that was not revoked during the moratorium period; *or*
- the creditor has agreed to accept less than the full amount due in full and final settlement of the account.

1 *Grace v Black Horse* [2014] EWCA Civ 1413

If the information held is incorrect

A client can get a copy of their file at any time, free of charge. 1 As the different credit reference agencies hold different data, getting reports from the main three agencies is useful. Request can be made:

- online from:
 - Equifax (equifax.co.uk);
 - Experian (experian.co.uk);
 - TransUnion (transunion.co.uk);
- in writing. The client must provide details of their full name and address (including any previous names or addresses used in the past six years). See ico.org.uk/your-data-matters/credit for more information about making a written request.

If the client considers that any of the information in the file is wrong and that it is likely to cause prejudice as a result, they can write to the lender or the credit reference agency. However, as the credit reference agency would have to contact the lender to ask it to investigate the complaint, it might be quicker to write to the lender and send a copy to the credit reference agency. The client should state why the information is wrong and submit any supporting evidence – eg, that a debt has been paid. The agency must respond in writing within 28 days, stating either that it has corrected or removed the information, or done nothing. 2 While the agency checks its accuracy, the information is marked ‘account query’. If the agency fails to remove the information or the client disagrees with the proposed amendment, they can ask the agency to add their own ‘notice of correction’ to the file – eg, an explanation of how the debt arose. This must be up to 200 words and sent to the agency within a further 28 days. The agency must inform the client within 28 days if it accepts the notice. If it does not, the agency must refer the case to the Information Commissioner for a ruling.

If the client receives no response after writing to the lender and/or the credit reference agency, they can complain to the Information Commissioner. A client can also complain to the Information Commissioner if they believe inaccurate information is being held but a ‘notice of correction’ is not appropriate – eg, it should be completely removed. If the information about the client’s credit history is factually correct, it is not removed just because they do not want it made public.

Under the General Data Protection Regulation, clients have the right to access the information that their creditors hold about them by making a 'subject access request'. No particular form of words is required so long as the client makes clear that they are asking for details of their personal data held by the creditor. The creditor must respond within one month of receiving the request. In most circumstances, the creditor cannot charge a fee for complying with the request. A reasonable fee can be charged to cover administration costs where requests are excessive or unfounded or if the client requests further copies of the data.

Credit repair companies that claim to be able to 'clean up' credit reference files (in return for a fee) should be avoided, as the information they give may be misleading or worse.

Experian has published a new guide entitled *Understanding your credit information and how lenders use it*, which is available at experian.co.uk/consumer/product-factsheets/understanding-credit-information.pdf. The Information Commissioner's Office (see Appendix 1) has a useful leaflet, *Credit Explained*, available at ico.org.uk. The Information Commissioner also collaborated with the credit industry to produce a guidance document, *Principles for the Reporting of Arrears, Arrangements and Defaults at Credit Reference Agencies*, available at scoronline.co.uk/key-documents.

1 s158 CCA 1974

2 s159 CCA 1974

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Please be aware that welfare rights law and guidance change frequently. This page was printed on Friday, October 17, 2025 and may go out of date.