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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2. The general approach to non-priority debts

When debts may need to be treated differently

If the suggested strategy is to be accepted by creditors, it is important that it is based on a consistent set of criteria, and that all creditors are treated alike. Treating all creditors alike does not mean that a particular creditor should not be challenged if, for instance, the debt is

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unenforceable, or the creditor is adopting unacceptable lending or debt collection practices. The credit industry is competitive and individuals within it are likely to reject any strategy that appears to favour another creditor. The strength of your negotiating position lies in your ability to present a strategy that is empirically based and businesslike. All offers to creditors must therefore be made on the same basis, using the same criteria when making choices with regard to their debts.

If appropriate, creditors may need reminding of their obligations under the relevant industry code of practice (eg, to treat cases of financial difficulty sympathetically and positively) and under the Financial Conduct Authority's (FCA's) *Consumer Credit Sourcebook* – eg, not to pressurise clients to make payments they cannot afford, to sell property or to increase their borrowing. Also, creditors should treat clients in default or arrears 'fairly and with forbearance and due consideration' (such as considering freezing interest or charges, deferring payment of arrears or accepting token payments for a reasonable period), and should not unreasonably require that all arrears are paid in one payment, or in unduly large amounts, and/or within an unreasonable period. [1]

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1 *FCA Handbook*, CONC 7.3.2G, 7.3.10R(3), 7.3.4R and 7.3.10R(1)-(2)

When debts may need to be treated differently

If a debt that is strictly a non-priority debt has a special importance to the client, there may need to be an exception to the general principle. **Note:** if there is any possibility of the client becoming bankrupt or applying for a debt relief order in the foreseeable future, you should advise them about the implications of preferring such debts (see here). Debts that *may* need to be treated differently include the following.

- **Debts created by a loan from a family or community member, or an employer.** These may, on strict legal criteria, be no different from money owed to a finance company. However, if failure to repay this debt will lead to serious financial or personal problems for the client (eg, free childcare being withdrawn or the client being asked to leave a family home where they are paying no or minimal rent) or elsewhere in the family (eg, if a loan has been taken out to consolidate the client's non-priority debts which is secured on a family member's home) or at work (eg, dismissal), it may be necessary to give it priority over other non-priority debts. Details need to be included in the client's financial statement as expenditure and other creditors must be told of the position. However, if the client subsequently chooses an insolvency option, such as bankruptcy, there could be repercussions as such payments are likely to be regarded as 'preferences' (see here).

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- **Unsecured debts that have been guaranteed** (see here). These may need to be given priority in order to protect the guarantor, particularly if they are a family member. The payments need to be dealt with in the same way as above and are subject to the same potential repercussions.
- **Debts to mail order catalogues**. These may be essential to someone on a low income as a way of budgeting for essentials such as household items and clothing, provided a low balance is maintained.
- **Bill paying services** (also known as budgeting accounts), perhaps through a credit union or a commercial lender. The client makes monthly payments to the credit union or lender, who in turn pays various agreed household bills on the client's behalf. These bills are likely to be for essential expenditure in terms of including them on the client's financial statement and, if they fall into arrears, will then be priority debts. It may, therefore, be in everyone's best interests to maintain these payments if this means there is more money available for other non-priority creditors.
- **A debt incurred through the fraud** of the client or their partner or a relative, for which they could face prosecution if the debt is not paid.
- **Debts that do not fit into the usual debt advice process**. These are known as 'square peg' debts because they do not fit neatly into the priority/non-priority categories and include credit union loans (see here), mortgage shortfalls (see here) and traffic penalties (see here). [1]
- **Debts to 'loan sharks'.** This expression tends to refer to illegal moneylenders who make loans at extortionate rates and enforce payment through violence or threats of violence. Once involved with a loan shark, people often find themselves permanently in debt, with late payment resulting in substantial penalties being added to the debt. As well as not being authorised by the FCA (see here), loan sharks are often involved in other criminality and sometimes coerce their victims into committing criminal offences as a way of repaying their debts.

Clients rarely admit to being indebted to a loan shark and often use money intended for essential expenditure in order to make their repayments. They may even claim that money is being used to repay a 'family friend'.

If you discover that a client is a loan shark victim, it is likely the client will be reluctant to report the matter, fearing for their own safety or that of their family. As ever, the decision about the next step is the client's but it should be an informed one. You could refer the client to the Illegal Money Lending Team (tel: 0300 555 2222) or the Wales Illegal Money Lending Unit (tel: 0300 123 3311). These teams can offer the client support and arrange to meet them at a safe venue (in your presence, if necessary) to discuss what remedies are available, what action can be taken and the protection that can be provided. [2]

1 See C Wright, ‘Square peg debts’, *Adviser* 172

2 See also P Richardson, ‘Help us stop loan sharks now’, *Adviser* 141

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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.