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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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6. Drawing up a financial statement

Preparing a financial statement is an essential part of the debt advice process. The document presents financial information in a standard form and allows you to communicate that to a creditor (or court) in a structured way. A carefully drawn-up financial statement is probably your most important negotiating tool, because it forms the justification for any repayment proposal as well as for any request for non-payment.

A financial statement should present a sufficiently clear and complete picture of the individual (or family), their income and expenditure, details of their creditors and whether there is any surplus income with which to pay those creditors. It must be based on a true and accurate assessment of the client's circumstances, and any offers made must be realistic and sustainable. Provided the statement is stored electronically, it is easy to amend the financial statement as circumstances change. If there is more than one version of the financial statement on the case file, it should be made clear which is the current version. The financial statement can also be a useful budgeting tool for the client, especially if it is the first time they have reviewed their income and expenditure.

A financial statement based on either the income and expenditure of a single person or the joint income and expenditure of the client and their partner is straightforward to prepare. More care is needed if it is based on the individual income and expenditure of a client in a couple. The financial statement should always reflect what happens in practice. For instance, if the client pays all the household bills from their own income and contributions from other members of the household, the financial statement should be drawn up on this basis. It might not be possible to identify who pays what because all income is pooled. In such cases, expenditure should be apportioned proportionately to income.

Standard forms of financial statement

Financial Conduct Authority (FCA) guidance states that the format of any financial statement sent to creditors should be uniform and logically structured in a way that encourages consistent responses from creditors and reduces queries and delays. It suggests using the 'common financial statement' (even though it is no longer in use), the standard financial statement or an equivalent or similar statement. Many agencies now use the standard financial statement, which replaced the common financial statement (see below).

Advisers should use all the information from the previous stages of the debt advice process outlined in this chapter when preparing the financial statement. It should include:

- client details;
- whether the statement includes income from other household members;
- a breakdown of all the income for the client or household;
- a breakdown of essential expenditure (it is acceptable to pool certain items of expenditure together. Cigarettes could be included in the amount for other household items rather than listed separately);

- payments towards priority debts;
- a comparison between income and expenditure.

If income exceeds expenditure, that is available income for non-priority creditors. If expenditure exceeds income, there is no available income for non-priority creditors.

Explain in a covering letter any unusual items of expenditure and any special circumstances or needs – eg, whether any member of the household has a disability.

It is an FCA requirement that clients confirm accuracy of financial statements before they are sent to creditors. It is good practice to ask the client to check and sign the financial statement to confirm that it is accurate to the best of their knowledge.

The common financial statement

The common financial statement was an initiative of the Money Advice Trust and British Bankers' Association and has been replaced by the standard financial statement. The common financial statement was withdrawn on 1 April 2018.

The standard financial statement

On 1 March 2017, the

standard financial statement was introduced to replace the common financial statement. [1]

The standard financial statement was developed by the Money Advice Service (now the Money and Pensions Service) in conjunction with major advice providers and creditors to provide a universal income and expenditure statement and a single set of expenditure or spending guidelines. The spending guidelines are updated on the first Monday in April each year. The standard financial statement is available at sfs.moneyadviceservice.org.uk.

If the client's expenditure exceeds the guidelines, advisers are required to provide a 'meaningful' explanation to 'enable consideration of exceptional circumstances'. Creditors have committed not to challenge financial statements when expenditure falls within spending guidelines and to accept an adviser's reasonable explanations, unless they have reasonable cause to believe that the client's financial statement may be incomplete or inaccurate. *The Standards of Lending Practice* and the *Finance and Leasing Association Lending Code* (see here) state that if an offer of payment is made via the standard financial statement, this should be used as the basis for pro rata distribution among the client's creditors (*The Standards of Lending Practice*) or as the basis for negotiating a repayment arrangement (*Finance and Leasing Association Lending Code*).

1 See also G Harvey, 'Standard financial statement', *Quarterly Account* 43, IMA