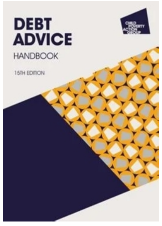
ASK CPAG



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.

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7. Budgeting advice

Although advice on budgeting is not debt advice, you should use the procedures and skills described in other parts of this *Handbook* to assist clients to deal with their debts. Budgeting advice is now a discrete area of advice work in its own right, but it can play a useful part in the debt advice process. Discussing a person's finances can be a sensitive subject and so a good interview technique is required. Be careful not to impose your own values on a client.

It can sometimes speed up the debt advice process if the client has a session with a money or financial capability adviser. This adviser goes through the client's budget in detail and looks at ways to increase income and cut back on expenditure. The budget can then be brought to the debt appointment.

There are particular problems when budgeting on a low income. Often, people on a low income only have access to the more expensive forms of credit. In the absence of credit, goods available are generally more expensive because it is impossible to buy enough to benefit from the lower unit prices charged for larger quantities. Similarly, a client may not have access to the cheapest sources of goods if transport is not available to the large out-of-town stores. Budgeting on a low income often requires purchasing inferior goods because money is not available to buy more expensive goods that would last longer and so be much cheaper in the long run.

If poverty exists alongside other factors, such as disability, parenthood or the breakdown of a relationship, it is likely that budgeting is constrained by the time available, which in turn is constrained by the practical and emotional demands of these other situations.

The financial statement

Very often, the process of producing a financial statement (see here) enables a client to see the sources of their financial problems. When all items of expenditure have been listed, it is often clear that these cannot be met from available income. Ideally, if there is a need to cut expenditure, it will occur to the client themself. If this does not happen, you could suggest ways of budgeting and the likely results of such strategies to the client. Be aware of vocabulary, body language and tone of voice, to avoid giving the impression that you are judging the client. Issues such as drinking, gambling and smoking must be addressed, and you should explain to the client that these are matters which creditors are likely to raise and so have to be tackled.

On the other hand, this exercise may establish that the client is able to meet all their contractual liabilities together with any accruing charges as well as maintaining their essential expenditure, and consequently does not need debt advice or any of the strategies discussed in this *Handbook*.

Luxury items

Some items of expenditure may, in comparison to the possible loss of other goods or services, be less essential.

- Cars are generally more expensive than is realised to buy, run, maintain, tax and insure. If a car is not necessary for personal and family mobility or work requirements, the client may need to consider selling it and either getting a cheaper car or doing without.
- In the past, telephones, particularly mobiles, have been considered a luxury. This is not always the case – eg, if someone's health may require them to call for assistance in an emergency or if someone has experienced racial abuse or domestic violence and that could happen again. The phone may also be an important social lifeline or a means of making emergency help available to another person outside the client's home. However, if no such factors exist, particularly if phone bills are large, the possibility of doing without or changing to incoming calls only could be considered. If a mobile phone is used, the cost (which may be less than that for a landline on some tariffs and usage patterns) and appropriateness of this should be explained. Clients who get universal credit (and have no earnings), income support, income-based jobseeker's allowance, income-related employment and support allowance or the guarantee credit of pension credit may be able to benefit from a low-cost phone package available from BT known as BT Essentials. BT and several other broadband providers, including Virgin Media, are now offering low-cost tariffs to clients on benefits. More details are available from Ofcom at ofcom.org.uk/about-ofcom/latest/features-and-news/help-customers-struggling-to-pay-bills. The National Databank provides free mobile data, texts and calls to clients in need via the Good Things Foundation's network of community partners in partnership with Virgin Media O2, Vodaphone and Three. To find out how your agency can apply to join this network and the criteria for eligibility for assistance to clients, see: goodthingsfoundation.org/databank.
- Cable or satellite television is expensive. If a client has an agreement that has already run for its minimum period, the adviser could discuss whether satellite television is more important than other items on which the money could be spent. On the other hand, it may be part of a package, including the phone, in which case the overall cost may be justified.

The client's non-dependants

If the client is a parent and their adult son or daughter lives in their household, they may wish to charge them only a nominal amount for board. The client may want to keep the family together and the arrangement can save money – eg, by reducing childminding costs. In some cases, challenging the amount being paid by a non-dependant could lead to family disruption.

Faced with this difficult situation, a client may need information and support to make decisions. For example, if housing benefit or housing costs in means-tested benefits are being claimed, they need to know by how much this is reduced because of the non-dependant living with them. From the financial statement (see here), a client can judge what may be a fair share of the total household expenditure to be attributed to the non-dependant.

Financial inclusion: MoneyHelper

Overindebtedness and poverty often go hand in hand, particularly in deprived communities where many people are on a low income and financially excluded – ie, they lack access to basic financial products, such as bank accounts, ways of saving and affordable credit. In addition, financially excluded people can find themselves paying more for essential services, such as fuel, insurance and essential goods, because they only have access to high-cost credit provided by sub-prime lenders or loan sharks.

An important factor in financial inclusion is 'financial capability'. The Money and Pensions Service's definition of 'financial capability' is as follows: [1]

Financial capability is the ability to manage money well – both day-to-day and through significant life events.

Without financial capability, clients risk not getting value for money and the products they obtain not meeting their needs.

Advice on buying a specific financial product from a particular provider is a regulated activity that requires the adviser to be approved by the Financial Conduct Authority (FCA). However, free generic financial advice is available from MoneyHelper (which replaces and brings together the Money Advice Service, Pensions Advisory Service and Pension Wise). Provided by the Money and Pensions Service, MoneyHelper is independent of both government and the financial services industry and aims to help people manage their money better by giving clear, unbiased money advice to help people make informed choices.

The service can be accessed at moneyhelper.org.uk. It publishes printed guides, tools and calculators, and provides support both online and over the telephone. The service is free and impartial, providing advice on budgeting, saving and borrowing, pensions, retirement planning, tax and benefits, but does not recommend specific courses of action, products or providers. It is available for everyone, but is particularly targeted at people who are financially vulnerable and those at key life stages – eg, women who are pregnant.

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1 See fincap.org.uk/en/articles/what-is-financial-capability

Credit unions

A credit union is one way of extending low-cost financial services to local communities. Credit unions are financial co-operatives owned and controlled by their members. Each credit union has a 'common bond' which determines who can become a member – eg, people living or working in a particular area. They offer savings facilities and affordable loans sourced from their members' savings. By law, a credit union cannot charge interest of more than 3 per cent a month (42.6 per cent APR), although the average is 1 per cent a month (12.7 per cent APR). Many now provide current accounts, bill-paying services through budgeting accounts, a facility to allow payment of benefits directly into a credit union account, and savings accounts.

Credit unions, together with advice agencies, offer a range of potentially complementary services that can assist in tackling financial exclusion and overindebtedness. For example, a credit union can help clients gain access to financial services and manage their finances effectively, help and encourage them to save and budget, and may even be able to provide a loan to pay off debts. However, a loan – even at a much lower rate – is not always in a client's best interests and more effective assistance can be provided by debt advice.

Some credit unions have an arrangement for housing costs to be paid directly into a rent account with the credit union, which in turn forwards the money to the landlord. This ensures the client's rent is paid and avoids arrears.

There are issues to consider when referring clients to a particular credit union. To preserve independence, you should make it clear that you are not an agent of the credit union and must not give clients unrealistic expectations of the assistance they can expect from it. Also, make it clear that a referral does not guarantee immediate access to financial services, such as a loan. Credit unions are not charities and should only lend to people who have the capacity to repay. Provided the referral is in the client's best interests, the fact that they may be borrowing to pay off other debts should not be ruled out in all circumstances. Bear in mind that affordable credit is not the only financial service offered by a credit union, and that access to current and savings accounts also promotes financial inclusion.

It is important to remember that credit union loans are generally not regulated by the Consumer Credit Act 1974. A credit union loan is not regulated if the APR is at or below the statutory limit, currently 42.6 per cent. The provisions of CONC, therefore, do not apply to them. However, the FCA's Principles of Business [1] (PRIN) do apply, in particular the 'consumer duty' (see above), and so a complaint could be made to the Financial Ombudsman Service based on this – eg, unaffordable lending. [2]

If the client defaults on a loan, the credit union becomes one of the client's non-priority creditors. Most credit unions negotiate debt repayment terms if a client has fallen into financial difficulties, but some tend to refuse low loan repayments (such as token offers) and may decide to impose membership restrictions on other products and services. If not treated as a priority, the client is likely to lose the benefits of membership.

In certain circumstances, a credit union can apply to the DWP to have loans repaid to it through deductions from certain benefits. [3] To do this, the credit union must agree that no interest or other charges will be added to the debt following the application. In addition, the client must:

- have failed to make payments as agreed for a period of 13 weeks and not have resumed making those payments;
- have given written permission for the credit union to provide their personal data to the DWP;
- not already be having deductions made to pay another eligible lender – ie, another credit union or certain other third-sector lenders;
- not already be having deductions made to repay an overpayment of benefit or a social fund loan.

Government guidance states that lenders must apply to the DWP to join the scheme and prove they meet responsible lending criteria and practice. [4] They must also have taken other reasonable steps to collect the repayments, including having written to the client on three occasions, with the final letter notifying them that deductions from benefit will be sought.

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1 Available at handbook.fca.org.uk/handbook/PRIN/2/1.html

2 See M Agboh-Davison, 'Credit union child benefit loans', *Quarterly Account* 62, IMA

3 Sch 9 para 7C SS(C&P) Regs

4 Available at gov.uk/government/publications/eligible-loan-deduction-scheme