





## 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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# 1. Deciding on priorities

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After dealing with any emergencies, checking whether the client is liable for the debts and maximising the client’s income, advisers need to identify which debts must be dealt with first – ie, which debts are priority debts. The criteria for deciding which debts are priorities are largely ‘objective’ – the severity of the legal remedies available to creditors determines the degree of priority. If non-payment would give the creditor the right to deprive the client of their home, liberty or essential goods and/or services, that debt has priority.

When considering whether goods and services are essential, you should consider the client’s personal circumstances. A debt is not a priority debt merely because the creditor can prioritise itself by deducting money from the client’s earnings or benefits to repay the debt without a court order, although clearly this affects the client’s ability to maintain their essential expenditure and the income they have available to make payment arrangements with their other creditors. For a discussion of other debts which are not strictly priority debts as defined above but may, nevertheless, need to be treated as priority, see Chapter 9.

Clients often believe that priorities must be decided on the basis of the amount owed, or that any debt that is subject to a court order should be a priority. The existence of a court judgment does not automatically give priority status to a debt and there are many judgments given by courts in England and Wales each year for debts that remain unpaid. These debts only become a priority if the enforcement methods available to a creditor through the court pose a serious threat to the client’s home, liberty or essential goods.

***Sanctions for non-payment of priority debts***

<i>Debt</i>	<i>Ultimate sanction</i>
Mortgage/secured loan arrears	Eviction

Rent arrears	Eviction
Ground rent and leasehold charges	Forfeiture of lease and repossession of property by freeholder
Council tax arrears	Imprisonment (in England only)
Unpaid fine/maintenance	Imprisonment
Child support arrears	Imprisonment
Gas/electricity arrears	Disconnection
TV licence	Imprisonment
Income tax/national insurance (NI)/VAT arrears and some tax credit overpayments	Goods taken control of by enforcement agents (bailiffs)
Hire purchase/conditional sale arrears	Goods repossessed
Bills of sale	Goods repossessed

A client who is a tenant may find that water charges are paid as part of the rent, so they could be evicted for non-payment. In such cases, water charges should be considered as a priority. If a client is threatened with possession proceedings for non-payment of water charges, see Chapter 4. For emergency action, see [here](#).

Using the criteria outlined above, the following are priority debts.

## Secured loans

Mortgages and all other loans secured against a client's home are priorities because non-payment can lead to possession action by the lender, and homelessness. One of the strategies outlined in this chapter must be adopted immediately for any secured loan in arrears. For emergency action, see [here](#). If the lender has already begun possession proceedings, see Chapter 13.

## Rent

Rent arrears are a priority because they can lead to possession action by the landlord, and homelessness. If the landlord has already begun possession proceedings, see Chapter 13.

For emergency action, see [here](#).

## Ground rent and leasehold charges

A property may be bought on a long lease rather than freehold if there are communal areas – eg, in blocks of flats and housing estates with shared parking and green spaces. Long leases typically include clauses requiring occupiers to pay an annual ground rent along with service charges for upkeep of the communal areas. Some may also include provision for administration charges – eg, for consent to alter premises.

Ground rents often increase after set periods (eg, every 10 years) and increases can be substantial. Service and administration charges should be detailed in the lease and relate to the costs actually incurred by the landlord. These costs can be challenged by an appeal to an independent tribunal if they appear unreasonable.

Arrears of ground rent, service charges or administration charges are classed as priority debts as failure to pay can be viewed as a breach of the lease. They can ultimately lead to the lease being forfeited and the property being repossessed by the freeholder. There will be a court hearing if the freeholder is bringing forfeiture action.

The freeholder can only start forfeiture action for non-payment of the above if the leaseholder:

- has been in arrears for three years or more; *or*
- owes £350 or more in ground rent (or a combination of ground rent, service charges and administration charges).

A freeholder can also take action to seek a county court judgment for arrears, or ask the mortgage lender to pay as an alternative to forfeiture action, thereby adding the arrears to the mortgage.

Leaseholders can obtain free, independent advice from [lease-advice.org](https://lease-advice.org).

## Council tax

Council tax arrears are a priority because non-payment could ultimately lead to imprisonment in England. From 1 April 2019, non-payment can no longer lead to imprisonment in Wales, but it has been agreed that arrears should still be treated as a priority as councils are generally quick to take court action, followed by enforcement action, that can add significant costs to the debt.

If the magistrates' court has issued a liability order (which allows the local authority to use enforcement agents) or the client is facing a committal hearing or a warrant has been issued that could result in imprisonment, see [here](#) and [here](#). If the local authority has a liability order and the amount outstanding is at least £1,000, it can apply for a charging order in the county court (see [here](#)). If the local authority has served a statutory demand on the client or issued a bankruptcy petition, see [here](#).

## Fines, maintenance and compensation orders

Unpaid fines, maintenance and compensation orders being enforced in the magistrates' court are a priority because non-payment could lead to imprisonment. If the client is in arrears with any of these debts, even if no enforcement agent (bailiff) or other enforcement action has been taken, see Chapter 14. For emergency action, see [here](#).

## Child support

Child support arrears are a priority debt because, in addition to being able to recover them by deductions from the client's earnings/benefits or from the client's bank account without a court order, the Child Maintenance Service can obtain a liability order which enables it to instruct enforcement agents to take control of goods. Ultimately, non-payment could lead to an order disqualifying the client from driving or from obtaining or holding a passport or other UK travel authorisation for up to two years or even to a term of imprisonment for up to six weeks.

## Utility charges

Payment for gas and electricity are priorities because suppliers can disconnect for non-payment

of bills. This is also the case for other types of fuel, for which the supplier can withhold delivery for non-payment. Such sanctions do not apply to arrears on non-fuel items (eg, cookers or the cost of central heating installation purchased from gas and electricity suppliers), so debts for such items are not a priority.

Help with arrears may be available from one of the energy company's trust funds. Clients on a low income (eg, getting pension credit (PC)) may qualify for:

- a £150 Warm Home Discount – see [gov.uk/the-warm-home-discount-scheme](https://gov.uk/the-warm-home-discount-scheme); *and/or*
- a winter fuel payment, ranging from £250 to £600 – see [gov.uk/winter-fuel-payment](https://gov.uk/winter-fuel-payment); *and/or*
- cold weather payments of £25 – see [gov.uk/cold-weather-payment](https://gov.uk/cold-weather-payment).

If disconnection is threatened, make immediate contact with the supplier to challenge this and discuss ways of paying for the supply (see here).

Water companies cannot disconnect a water supply for non-payment and so payment for water is not a priority. You should include a realistic amount for current consumption of water, but not for arrears, in the financial statement. Help with arrears may be available from one of the water industry's trust funds, or the WaterHelp or WaterSure schemes may be able to help with high bills (see here). These schemes are designed to help people on low incomes in receipt of specified benefits who have a water meter and who have unavoidably high water use.

## TV licence

**Alert:** With effect from 23 January 2025, most clients aged 75 or over and in receipt of pension credit no longer have to provide evidence of their pension credit status to qualify for their free TV licence. This is because TV Licensing verifies their pension credit eligibility direct with the DWP when the client applies for a free licence online or over the telephone. Clients will still need to provide evidence of their entitlement where it is not possible to match TV Licensing's records with those held by the DWP. Clients should be advised to ensure that the name and address provided to TV Licensing matches that held by the DWP.

A colour TV licence costs £174.50 a year with effect from 1 April 2025. Payment plans are available to spread the cost (see [tvlicensing.co.uk](https://tvlicensing.co.uk)). <sup>1</sup> Although not a debt as such, because it is a criminal offence to use a television without a licence (for which the usual penalty is a fine), if a client either does not have but is expected to have a licence (see [tvlicensing.co.uk/check-if-you-need-one](https://tvlicensing.co.uk/check-if-you-need-one)) or is behind with a payment plan, that should be treated as a priority.

The BBC is providing increased support for clients who are struggling to pay their TV licence:

- Extending the Simple Payment Plan (SPP) to all unlicensed households to enable them to pay for their licence over 12 months (paying fortnightly or monthly).

- Arrears can be included in the plan and a limited amount carried over to the following year's licence.
- Clients must be referred for the SPP by a not-for-profit debt advice organisation and given a direct number to call and code to quote.
- If a client misses three monthly payments or six fortnightly payments, they will come off the plan, but may be invited to re-join by TV Licensing.
- Clients who have been visited for enforcement purposes or interviewed under caution and so may face prosecution may be invited to join the SPP by TV Licensing, but will need to maintain payments for a specified time to avoid prosecution.
- In partnership with StepChange, the BBC is running a pilot to ensure that anyone who is experiencing financial difficulties will have access to free, independent support.
- A two-month 'breathing space' on enforcement action for anyone in financial difficulties who agrees to a free, independent debt advice referral from TV Licensing. This mirrors the wider statutory breathing space scheme.

For further information, **advisers only** can call Freephone 0300 303 9688 or email [DebtCharitySupport@TVLicensing.co.uk](mailto:DebtCharitySupport@TVLicensing.co.uk).

Some people qualify for a concession on the cost of the TV licence – eg, clients who have sight impairments or who are living in residential care. Prior to 1 August 2020, a person aged 75 or older was entitled to a free licence. However, with effect from 1 August 2020, only people aged 75 or older in receipt of PC are entitled to a free licence. TV Licensing writes to inform anyone in receipt of PC how to claim their free licence and also explains the payment options to individuals not entitled to a free licence because they are not in receipt of PC. The 75+ Plan enables clients aged 75 or older to manage the cost of a licence by paying in weekly, fortnightly or monthly instalments.

Specialist customer service advisers can be contacted on 0300 790 6154. Information is also available at [tvlicensing.co.uk/75](http://tvlicensing.co.uk/75). Since the end of October 2021, TV Licensing has begun making 'customer care visits' to people older than 75 who are required to have a TV licence but have not yet made arrangements to do so. TV Licensing emphasises that such visits are **not** 'enforcement visits'.

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<sup>1</sup> See P Kyle, 'A simple plan', *Adviser* 185

## Tax and value added tax



These debts are a priority if the client is continuing to trade because HMRC can take control of goods from the client to cover unpaid tax without requiring a court order or could make the client bankrupt and put them out of business. If the client has ceased trading, each case must be looked at on its merits. If:

- enforcement agents are involved, see Chapter 15;
- action has been started in the magistrates' court, see Chapter 14;
- action has been started in the county court, see Chapter 11;
- emergency action is required, see here.

See also Chapter 16.

## **Hire purchase, conditional sale agreements and bills of sale**

Some hire purchase or conditional sale agreements and loans secured by a bill of sale must be treated as priority debts if they are for goods that are essential for the client (eg, a car for work in the absence of suitable public transport), because the creditor has powers to repossess the goods if payments are not kept.

## **National insurance contributions**

Class 4 NI contributions for self-employed earners are a priority because they are assessed and collected by HMRC along with unpaid income tax.

## **Tax credit overpayments**

If HMRC has notified the claimant that it is recovering an overpayment by treating it as a tax debt, <sup>1</sup> these debts are a priority. That is because, in addition to being able to recover an overpayment from an ongoing tax credit award or through amending the client's pay as you earn code, or directly from their bank account without a court order in some circumstances, HMRC can use enforcement agents to take control of the client's goods without a court order and those enforcement agents can apply to the court for a warrant to use reasonable force to enter the client's premises. Although the client could even be imprisoned for non-payment, it does not appear to be HMRC policy to pursue such debts in the magistrates' court, where it would have to establish the client's non-payment was due to 'wilful refusal or culpable neglect' before committal could be considered (see here). <sup>2</sup>

**1** s29(3) TCA 2002

**2** See 'Q&A', *Quarterly Account* 54, IMA, pp26-27. See also 'Tax credits debts', G O'Malley, *Adviser* online, 5 February 2020.

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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.