





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

Author(s):
CPAG

This content was last updated:
2025-06-26

Print publication date
Feb, 2024

Print ISBN
978 1 915324 11 5

5. Committal to prison

There are situations in which magistrates acting as debt collectors must decide whether a client's non-payment is due to their wilful refusal or culpable neglect.

Although magistrates' courts have been making decisions based on their interpretation of this important phrase for many years, the two phrases are not defined in the legislation. There is little guidance on what factors should be considered when making a decision, but the client's conduct must be 'blameworthy' in some way.

The client should only be found guilty of **'wilful refusal'** if they have made a deliberate decision not to pay the amount due, even though they are able to do so – eg, on a point of principle. However, a finding of wilful refusal does not automatically justify a sentence of imprisonment; the two issues must be considered separately.

'Culpable neglect' is more difficult. It means a reckless disregard of the court order and usually involves a situation in which the client spends any available income on non-essential items rather than on paying the financial penalty. It is not sufficient for the magistrates to find that the client had available income and did not pay; they must also find out why it has not been paid. ¹ If a couple get benefits intended for both of them, the non-claimant client can be found guilty of culpable neglect if there has been a 'household' decision not to pay. ²

To prove culpable neglect, it must be shown that:

- money was available, but it was not paid to the court or local authority; *and*
- this was due to a failure which demonstrates an avoidable choice to use the money for other purposes.

Evidence in the form of a financial statement should demonstrate to the court that the client's 'choices' were impossible and that a failure to pay was not 'culpable'.

Most courts assume that if a person has ignored reminders or suspended committals, they have culpably neglected payment. This assumption should be challenged. Argue that a client:

- did not have any money available after paying for essential items; *or*
- was too stressed to be culpable; *or*
- did not understand the need to pay; *or*
- was not skilful enough to balance a very difficult budget; *or*
- was wrongly advised not to pay.

When representing a client, it is helpful to begin by presenting a financial statement and evidence about their debts and social circumstances before asking the court to make a specific decision on the question of wilfulness or culpability. After the court has decided this, you can argue about an affordable instalment arrangement, if necessary.

It is useful to obtain the court's agreement to conduct proceedings in this format because it encourages the court to think about wilfulness and because it allows you to rescue something if the initial decision is unfavourable.

¹ *R v Watford Justices ex parte Hudson*, 21 April 1999, unreported

² *R v Ramsgate Magistrates ex parte Haddow* [1992] 157 JP 545

Printed from CPAG (<https://askcpag.org.uk>). (c) Copyright CPAG 2025. All Rights Reserved.

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.