

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.

Properties

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2. Negotiating

CASHflow

Negotiation is a process of communication between the debt adviser or client and the creditor. It takes place over a period of time, after which an agreement is made that both sides find acceptable.

A decision must be made about whether it is appropriate for you to carry out the negotiation or whether the client should do it. Sometimes, it is more empowering for an adviser to support a client by providing, for example, a financial statement and some standard letters, rather than negotiating themself. In the past, creditors routinely rejected offers made by clients unless and until they were made by an advice agency, even though it was the same offer and based on identical information (but see below).

If the client has authorised you to negotiate with a creditor on their behalf, the Financial Conduct Authority (FCA) forbids creditors to refuse to do so or to contact clients directly and bypass their appointed representatives. [1] Similarly, creditors should not refuse to deal with clients attempting to negotiate their repayment arrangements. A creditor who refuses to negotiate with an adviser or a client without a justifiable reason should be challenged.

You should conduct all negotiations with the aim of resolving the debt problem and bearing in mind that the client's best interests are paramount. If the client is going to make payments, ensure they do not offer more than they can afford. [2]

Advisers are often in a powerful position with creditors because no one in the credit industry wants to be accused (particularly publicly) of acting illegally or oppressively. If a debt adviser from a well-respected local or national agency contacts a creditor to negotiate on a client's behalf, it is likely that the creditor will want to reach a settlement. In some cases, an adviser's power is increased because debt advice may lead to payment or because the creditor realises that a debt cannot profitably be pursued. This does not mean that creditors should routinely be expected to agree to every proposal that you put forward. On the other hand, if you think that the creditor is being unreasonable and/or unrealistic, consider referring the matter to a more senior person in the creditor organisation with a view to using the creditor's complaints procedure and ultimately referring the matter to the Ombudsman, if necessary. When confirming the client's financial situation to creditors, use the 'standard financial statement'. Creditors should accept figures if they are within the spending guidelines and any figures above them can be explained (see here).

You should support your arguments by referring to any relevant code of practice or section of the *FCA Handbook* (generally, the *Consumer Credit Sourcebook* – see here).

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1 *FCA Handbook*, CONC 7.12.2R and 7.12.3G

2 *FCA Handbook*, CONC 8.2.2G(2)

CASHflow

Agencies can provide assisted 'self-help' to suitable clients by using CASHflow, a self-help toolkit.

To access this (incorporating the standard financial statement - see here) go to tinyurl.com/37ejzrh6. Users of the previous site must be set up with new login details to access the current website.

A debt adviser assists the client to draw up a financial statement which is 'locked' and so cannot be changed. The toolkit includes a suite of letters that the client can use to make offers to their creditors and deal with any follow up and requests for reviews.

The financial statement is produced using standard financial statement principles (see here) and creditors have agreed to deal with offers from CASHflow-assisted self-help clients in the same way as offers from the agency itself. You should warn the client that debts may be sold on and, even though the debt purchaser should be informed of any existing payment arrangements, they may have to come to a new arrangement with the debt purchaser. [1]

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1 See also C King, 'CASHflow', *Quarterly Account* 50, IMA