



Information & Advice:
**Dealing with Money
Problems
Induction Learning Pack**

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Objectives

Part one – information giving and sign-posting

Having completed this part you will be able to:

- Look behind the presenting problem to identify a potential debt problem
- Identify the nature and extent of the debt problem
- Signpost clients to an agency where they can get the appropriate help

You will also:

- Understand the debt advice process and strategies that are available to help clients with debt problems

Part two – specific advice on debts

- Having completed this part you will also be able to:
- Advise on holding action and what to do in emergencies
- Assist with constructing an accurate financial statement
- Explain appropriate strategies/options for dealing with debts
- Conduct effective negotiation with creditors
- Advise on basic court procedures
- Make appropriate referrals of complex cases including housing repossession

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Advice for users of this pack

This pack is divided into two parts:

Part 1 Level 1: Debt information and sign-posting

Part 2 Level 2: Advice and help for people in debt

Everyone should complete Part 1. Only those people who are going to undertake advice on debt that corresponds with the Community Legal Service General Help level should complete Part 2. Discuss with your I&A manager if you are unsure about this.

I&A staff and volunteers with different levels of experience should find the pack useful in different ways.

If you are a **new volunteer** without related experience elsewhere, this pack will give you a really good introduction to helping people with debt problems.

If you are **experienced**, either because you are already giving debt advice or because you have related experience from elsewhere, you may well find this pack helps you to reinforce your understanding of some debt topics as well as your skills as an I&A worker.

How is the pack meant to be used?

The pack is meant to be used like a workbook – you work your way through it, read about each topic and do the exercises. It's your pack to use and keep.

The exercises can be broadly divided into two types:



The cat symbol indicates that you will need to find something out about your Age Concern - in this case curiosity does not kill the cat!



The pencil symbol indicates a written exercise. The answers are at the back of the pack.



Both symbols together means find something out – and make a note of it the pack!

How long will it take to complete?

As a rough guide, Part 1 will probably take you about an hour to complete and Part 2 about two hours - but you should work at your own pace and don't worry if it takes you longer than that. We recommend that you split each part up into "digestible" chunks rather than trying to cover it all at once!

Your Information and Advice Manager or other designated person will be able to guide you through and help you with any queries. You will need to put some of the things you learn into practice, so you will need to work out together how this can best be done.

You may also find the following helpful: the Age Concern Information sheet on debt for clients: [Dealing with Money Problems](#).

For those advising at general help level we recommend the CPAG handbook [Dealing with Debt](#) 6th edition to be published end of 2004.

Complete the feedback sheet at the end of part one, and discuss it with the I&A manager.

So in summary.....

- Find somewhere quiet and comfortable to sit.
- Read through the pack, seek out any documents you are directed to look at, complete the exercises and check the answers.
- Complete the feedback sheet and discuss with the I&A Manager.

DEALING WITH MONEY PROBLEMS

Induction Learning Pack

Part One

Level 1

Information and Signposting



Introduction

1 Debt in the UK

Indebtedness in the UK has reached massive proportions and is hardly ever out of the news:

Are house prices about to crash?

By Clare Francis of The Sunday Times

Experts are worried that mortgage debt is rising to a level that could derail the property market.

Some experts fear that the property market could be on the brink of a crash as many households struggle to service their debts.

Research from Capital Economics, a financial think-tank, shows that mortgage interest and capital repayments as a percentage of household income are close to a level not seen since 1990, just before the last housing-market crash.

The Sunday Times August 08, 2004

South West hit hardest as water bills rise

By Angela Jameson and Helen Nugent

HOMEOWNERS will be forced to pay more for their water next year, raising fears that low-income families and pensioners will struggle to settle their bills.

Water bills will rise by 13 per cent over the next five years, taking the average bill from £249 to £282, according to draft plans from the water regulator. But more than half the increase will be levied in the first year, with customers facing an average increase of 7 per cent, consumer groups said.

The Times August 06, 2004

Bankruptcies surge by 30% -

By PA News

The number of people going bankrupt soared by nearly 30 per cent during the second quarter of the year, Government figures showed today.

A total of 8,740 people were made bankrupt in England and Wales during the three months to the end of June, nearly 8 per cent more than during the previous quarter and 29 per cent more than during the same period of 2003.

The steep increase may have been caused by rising interest rates, making it harder for people to keep up with repayments on debts that now total more than £1 trillion.

The Prudential estimates that two million pensioners are in financial difficulty. The average annual income for retired households in UK is £14,648. The average drop in income at retirement is £4,164. The Prudential estimate that 2.8m pensioners are returning to work to meet this shortfall.¹

Being in debt is not only about not being able to pay credit and loans: In 2003 nearly 16,000 people were disconnected for arrears of gas, and in the same year, 1.2 million people were repaying a debt to a gas or electricity company.²

The Social Exclusion Unit report Action on Debt highlighted the damaging effect debt can have on not only individuals but on communities, and the public and business sectors:

“Debt is a problem when people can’t repay what they owe or when doing so causes them real hardship. The Financial Services Authority has found that 6.1 million families reported some difficulties meeting their debt repayments. Low-income groups are hit harder than any other:

¹ Reported by *Credit Action* (a national money education charity) www.creditaction.org.uk

² Social Action Plan review 2004, Ofgem

- More than half of all households with serious debt have incomes of less than £7,500 a year. They are unlikely to have savings to cushion them through a loss of income or unexpected expenses.
- Low-income groups are three times more likely than the general population to be in arrears with rent, council tax, utility bills or mortgage arrears.
- People can experience hardship when debt repayments eat up money they need for essentials like fuel, food and rent.
- Problem debt results in stress, poor health and family breakdown, and undermines efforts to reduce child poverty, health inequalities, unemployment, neighbourhood decline and homelessness.”

*Social Exclusion Unit, Office of the Deputy Prime Minister,
March 2004*

Older people and debt

Debt was once thought not to be a particular problem for older people but there can be no doubt now that older people are affected as much as anyone else. A recent study, published jointly by Age Concern and the Consumer Credit Counselling Service showed that those in their 50's not only owe more than younger people, but also that they owe more relative to their income. As Gordon Lishman, Director of Age Concern said, “Older people may have historically been reluctant to get into debt, but our research shows some of the next generation of pensioners appears to have quite different attitudes”.³ The fact that the average income for retired households, as quoted above by the Prudential, is only just over £14,000 means that those households are vulnerable to debt should an unforeseen expense occur.

Many such households have difficulty in meeting essential expenditure such as council tax, gas, water, electricity and housing costs. The just-retired may have credit commitments that are difficult to meet on a reduced pension-only income. Citizens Advice Bureaux and other advice agencies report that they are seeing a number of older people with serious debt problems.

³ Quoted in The Observer, 7 November 2004

2 Causes of debt

“While for many people borrowing is a useful way of managing their money, for others it is an expensive necessity with sometimes damaging consequences. A life change can trigger serious debt for someone who is already struggling to make ends meet.”⁴

The main causes of debt are:

- Change of circumstances leading to a drop in income, e.g. retirement, separation and divorce. Between 1998 and 2000, divorces in the 50-59 age group rose by 8.7%, and those in the 60+ age group rose by 8.9 % (www.ageconcern.org.uk).
- Living on a low income – Action on Debt confirms that people on a low income, including retired people, are three times more likely to be in arrears with essential payments such as rent, council tax and utilities.
- Over-commitment. The ready availability of credit (for some – see access to credit, below), the desirability of maintaining a “consumer lifestyle”, perhaps coupled with difficulties in understanding the true cost of credit – may lead to simply taking on more credit payments than can actually be budgeted for.

In addition, debt problems may be caused by some form of costly addictive behaviour, e.g. gambling, heavy drinking. There may be money management problems for people with poor mental health or for those with learning difficulties.



⁴ Action on Debt, ibid

3 Access to credit

Although these days it is very common to hear people say that credit is too easy to get, it is important to realise that this only applies to certain types of credit and to some people. On the whole the cheaper credit available from banks and high street lenders is available only to those who can “pass” a credit check. If you’ve ever applied for a bank loan for example, you will be familiar with the questions asked: *How long have you lived at your current address? Are you a homeowner? How long with your current employer? How long with your current bank?* The credit-granters want to lend to someone whose situation is both financially viable and sufficiently stable in order to minimise the risk of non-payment of the credit. People in this situation often find that they are being targeted for more credit and it may be tempting to become over-committed.

Did you know an extra £ 6,429.61 loan is just a phone call away?

Your current loan statement:

Your original Masterloan amount:	£ 7,000.00
Amount left to pay:	£ 6,070.39*
Example amount available to borrow:	£ 12,500.00

Dear Ms [REDACTED]

I'm pleased to tell you that you've already paid £ 1,655.94 off your Masterloan – leaving £ 6,070.39* left to pay. I'm even more pleased to tell you that because you've maintained such a good repayment record, we're able to offer you the chance to borrow up to £15,000 with just one phone call.

How have we reached that figure?

It's simple, really. You can borrow any additional amount that would take your total loan to £15,000 – what we call your “Maximum Loan Eligibility Limit.” You don't have to borrow that total figure, of course – in fact, take a look at the table below and you'll see you can borrow a substantial additional amount with manageable monthly repayments.

How much would borrowing a little extra cost me?

You originally borrowed £ 7,000.00, and have £ 6,070.39 left to pay. You could then borrow a sum of £ 12,500.00 – which would pay off your original loan and give you £ 6,429.61 to spend.

However, those whose credit score is low, either because of their personal situation or because they have existing bad debts, will not be able to get cheap loans from banks or other mainstream financial institutions. They may have to approach high cost lenders who are more prepared to take the risk. These include doorstep lenders and certain retailers who offer goods for purchase on credit.

Alternative sources of credit

There has been a recent revival of interest in credit unions, savings and loan schemes and community banks. These provide access to low cost credit to people excluded from mainstream financial institutions. There is generally a requirement to build up savings before a person can borrow.

Industry regulation

The government produced a White Paper in December 2003, with proposals for greater regulation of the credit industry and better information for borrowers. These include new rules on the form and contents of agreements, new (hopefully clearer) calculations for the interest rate on credit cards and more information about costs and charges.

Warning! Financial advice

It is illegal to give specific advice about financial products without being a qualified and licensed financial adviser. However, you can give general information concerning options that a person may have in certain situations. This may come up with older people who want to release equity in their house. Using the Age Concern Fact Sheet 12 *Raising income or capital from your home*, you can describe in general terms the kind of schemes that are on offer, but you must not give recommendations about specific products, or suggest which one may be best for your client. They should instead be referred to an Independent Financial Adviser (IFA). Similarly, people may want to know the best consolidation loan to obtain – you can go through with them the pros and cons of such a step but you must refer them to an IFA for advice about where to obtain the best deal for them.

How much do you know about credit and debt?

A light-hearted quiz to see how much you already know about debt and credit - you won't need a calculator for this.

- 1 You borrow £1000 over a period of 3 years at 20% Annual Percentage Rate (APR) interest. You pay back the loan in equal monthly instalments. How much do you pay back in total? Is it:
 - a) £1,610
 - b) £1,308
 - c) £1,231

- 2 You urgently need £300 to pay for an emergency repair to your gas boiler. You ask your neighbour who you recall is an agent for a doorstep lending agency. She tells you could borrow the £300 and make 55 weekly repayments of £9.00. You reckon this works out as:⁵
 - a) Total repayable of £495 at 177% APR
 - b) Total repayable of £400 at 45% APR
 - c) Total repayable of £495 at 33 %APR

- 3 What are *Cash Converters*? (there may be a branch in your local High Street)
 - a) Cheap community banks
 - b) Foreign currency exchange services
 - c) Credit businesses offering loans including 'pay day advance' facilities

- 4 You signed a credit agreement in a computer store last week, but have just seen a cheaper deal elsewhere
 - a) You have 21 days to change your mind
 - b) You have 7 days to change your mind
 - c) Hard luck – you're bound by it the moment you sign

⁵ Source: www.providentpersonalcredit.com

- 5 The cheapest way to pay for fuel is:
- a) Electronic pre-payment meter
 - b) Direct debit
 - c) Using your credit card
- 6 Older people cannot have their electricity disconnected.
True or false?
- 7 If you have a number of debts the best thing you can do is:
- a) Go bankrupt
 - b) Leave the country
 - c) Seek specialist advice
 - d) Take out a consolidation loan to cover the lot in one payment

The answers are on page 39 ➡

The Aims of Debt Advice

Debt advice work has three broad objectives:

- 1 To enable the client to retain the necessities of life – for example their home, a fuel supply and their liberty.
- 2 To preserve clients' rights and help them to carry out their responsibilities. In other words, to make sure that people in debt know what creditors can legally do in order to enforce their debt, and what rights and actions are available to debtors.
- 3 To enable the client to meet their liabilities, while maintaining a reasonable level of expenditure.

Note: For the purposes of this pack we're using the term "debt advice". You will also hear the terms "Money Advice" and Debt Counselling" – they all mean the same thing.

How to Identify Debts

Even in our credit-oriented society, for many there is still a stigma involved in being in debt. This may be particularly true for older people, who grew up in a world where credit was not so prevalent and where having something on the "never-never" was to be avoided if at all possible.

Debt advice is not only about problems with credit, it's also about paying for utilities and essentials like rent, council tax, mortgages.

Some people may ask directly for help about debt, but others may be reluctant to talk about it. In either situation the following guide should help:

- Be non-judgemental. Even if it's your view that your client has obtained credit unwisely, it's important not to reveal any feelings you may have about this. You're there to help, not to allocate blame.

- If your client mentions one debt, you need to find out if they have any others. Explain that in order to help them with one debt, you would need to know about any other commitments they might have. It is quite common for individuals to be primarily concerned about the most pressing debt – even where this may not be the one with the most serious consequences for non-payment.
- Clients who ask for help about claiming benefits or who say they are having difficulty in managing on their income may have problems with debt as well.
- Consider asking people who seek help with welfare benefits or other money problems if they would like any information/advice about any problems they may have with paying for essentials, arrears of gas/electricity or council tax for example. You may want to avoid using the word “debt” itself.
- Make sure your client knows that any information they give you is confidential and (if you are going to do casework) that you would not contact creditors etc without their consent.
- Conduct interviews in private.
- Check with the I&A manager that if your Age Concern can give information or advice about debt problems that this is made clear in any publicity about the service.
- Give advice about income maximisation (*see page 54*)
- Have the Age Concern Information Sheet Dealing with Money Problems available.
- Follow the general interviewing tips contained in the Age Concern I&A Skills Induction Learning Pack.



Exercise 1

Do you think any of the following might be in need of debt information or advice? If so, give a broad indication of what any debt problems are likely to be.

- 1 Yasmin has recently separated from her husband. She's 62 and gets Category B Retirement Pension. Her husband, aged 64, is still working. She's worried about the house.
- 2 Rita is 64 and had a stroke 9 months ago. She lives with her husband, Tom, who has to help her with most things, including washing and dressing and using the toilet. They have approached Age Concern originally for welfare benefit advice.
- 3 Clarence, who has had to retire early following a "downsizing" exercise at work. He wants to know if he can claim Pension Credit.
- 4 Ly 's wife (55) died 6 months ago. He's 66 and has two children aged 15 and 19 still at home. He currently receives a full retirement pension, but he misses his late wife's earnings.
- 5 Mr and Mrs Gonsalves claimed Housing Benefit six weeks ago. They have heard nothing.

The answers are on page 41 ➡

Sign-posting

If you are not offering debt advice and/or casework to clients at your Age Concern you need to ensure that they can access a debt advice agency that will best meet their needs.

The options for obtaining debt advice are:

Free advice

- **Citizens Advice Bureaux (CABx).** Nearly every CAB will be able to offer advice and help with debt problems. Your Age Concern will probably have information on how to access the local CAB services; if for example, home visits can be made, whether they are able to attend court if necessary on someone's behalf, whether they can provide a debt casework service – and also (unfortunately) if there is a waiting list (and if so how long it is).
- **Community groups and centres.** Some community groups catering for disabled people, black and ethnic minority communities for example, may have an advice worker who can deal with debt.
- **Specialist debt advice organisations.** Examples include the National Debtline. This is a telephone service so only suitable for those comfortable with dealing with matters over the phone. Another example is the Community Money Advice Centre in Birmingham – a drop-in and casework service for local people.
- Some **Local Authorities** may be able to give advice. This is most likely to be where the debt includes rent or mortgage arrears as Local Authorities have a duty to provide this advice under housing legislation. However, some do this by funding independent advice centres.
- **The Consumer Credit Counselling Service.** This is a national charity. It offers advice by phone but also has eight centres in different parts of the country. It helps mainly with credit debts rather than problems paying rent, utilities etc.

- **Federated Credit (FCL).** This is a private company but does not charge clients. It often works together with voluntary agencies to assist clients. It's another phone service. It is most suitable for those with credit problems rather than rent/fuel/council tax arrears, as above.
- **Web-sites.** For those with access to the internet there is a good choice of helpful web-sites – for example, www.nationaldebtline.org.uk has a downloadable information pack.
- **Community Legal Service Direct (0845 345 4345).** Free phone advice on debt for those that qualify for legal aid.
- In addition to the above, make sure you are aware of all your local sources of debt advice, and the type and levels of service they offer.

For a full list with contact details see the Age Concern Information Sheet *Dealing With Money Problems*.

Fee-charging debt management companies

Recent years have seen the growth of companies which charge a fee for negotiating with lenders and setting up payment plans. In 2000, Citizens Advice produced evidence that over 20% of complaints about debt issues to CABx related to fee-charging debt management companies. As a result of this and other pressures, the Office of Fair Trading (OFT) produced a set of guidelines aimed at setting minimum standards for debt-management processes. The OFT reported in 2003 that there has been a 70% reduction of complaints.

I&A workers should still, however, be wary of referring clients to fee-charging companies. The OFT still found some problems particularly with the way such companies marketed and promoted themselves. Fees can be quite high, and can add to the burden of those already struggling on a low income.

So, before sign-posting or referring your client, check:

- Is there a charge?
- Is it face-to-face or over the phone, or on the web?
- Is there a casework service or will clients be given advice but expected to write letters and negotiate with creditors themselves?
- Is local information held about the agency in the office?
- You may also want to look at your Age Concern sign-posting or referral procedure.



Exercise 2

Decide, on the basis of the information given, where you will sign-post each of these clients:

- 1 Ruth Warner took out a loan to pay for replacement windows 3 years ago. She borrowed £5,000, but is alarmed to find in her recent statement from the lenders that, despite paying regularly, she owes a balance of £7,000 and there appear to have been some extra charges added on. You can't understand the figures either!
- 2 Mr and Mrs Giles are having problems with their council tax. There was some confusion over their Council Tax Benefit, and they have built up arrears. After talking to them you find out that they have been struggling to pay their mortgage after the recent interest rises. They also have credit cards which they pay the minimum charge on at the end of each month. They confide that they're not too good at writing letters.

- 3 Bertha Blum is 85 and has impaired mobility due to severe osteo-arthritis. She agreed to change her gas supplier following a phone call to her home, and now her old supplier says she owes them £150.
- 4 Mrs Oluwole has recently retired from the civil service. She enjoyed a good salary and although in receipt of a civil service pension she finds that she has difficulty in meeting her credit payments now that she has retired.
- 5 Mr and Mrs Patrick are in their 70s. They get Pension Credit but would like to have a bit more money for the things they enjoy like travel and eating out. They have paid up their mortgage and are wondering if it would be a good idea to release some capital or income from the house.

The answers are on page 42 🖱️

Debt Advice Checklist

This checklist can be used for dealing with either single or multiple debts. For those of you who will be giving information only on debts you can use it to explain to clients what a debt advice service will check and what they are likely to do.

- Is the client liable for the debt?
- Is the amount correct?
- Can income be maximised?
- Prioritise the debts.
- Take emergency and/or holding action.

- Decide on a strategy.
- Draw up a financial statement.
- Negotiate with creditors.

For I&A workers at General Help level, each of these stages is further explained at Part Two.

Case History

What happens when you refer a case to a money adviser?

This case history is included so that you can be aware of the sort of advice a client may receive from a specialist.

Mrs Ferreira visits Age Concern one day. She is very upset. The National Beneficial Bank has sent a solicitor's letter threatening court action over arrears on a loan she took out for double-glazing in her home. An appointment is made for her at the local Money Advice centre.

The money adviser takes the following action:

- Checks that the debt is actually owed, that the balance is correct, and confirms that this is not a secured loan for which she could lose her home.
- Finds out Mrs Ferreira's circumstances and advises on any extra benefits she may be able to claim. She could claim Council Tax Benefit.
- Finds out that she does have other debts – she got into arrears with Council Tax and is paying a large monthly amount off the arrears. She also has weekly catalogue payments.
- Writes to the solicitors explaining that the Money Advice Centre is helping and asking for action to be suspended while a strategy is worked out.
- Explains that Council Tax is the priority debt, but that Council Tax Benefit will help with her current payments.
- Helps Mrs Ferreira to clarify and record her income and expenditure.
- Draws up a financial statement that shows Mrs Ferreira has some money left over to pay her creditors.

- Decides on a strategy: a payment instalment plan.
- Offers reduced re-payments to the Council Tax department – based on what she can afford.
- An offer to the National Beneficial Bank to pay by instalments.
- Mrs Ferreira has to offer the catalogue reduced payments as well as it would not be fair or acceptable to creditors to pay one creditor in full and the others not.
- The creditors all accept the reduced payments – eventually!

High and Low Priority Debts

Debts are prioritised according to what can happen if they aren't paid. This may sound obvious but people with debt problems are sometimes panicked into paying whichever creditor is pressing them most. They may pay a credit card company threatening court action rather than their rent.

High priority debts

Non-payment of high priority debts will result in loss of home, disconnection of fuel, or in very restricted circumstances – prison.

Debt	Consequences
Mortgage arrears	Re-possession of home
Rent arrears	Eviction
Second mortgage or secured loan	Re-possession of home
Fuel	Disconnection
Council tax	Prison
Fines, maintenance	Prison
Tax, National Insurance and VAT	Goods seized without court order/prison in some cases
Telephone	Disconnection
Hire Purchase (HP) and Conditional Sale	Goods can be repossessed <i>without a court order if less than 1/3rd of the loan has been paid</i>

There is probably universal agreement that people need to keep their home, their fuel supply and their liberty. With the last two items in the table however, their may be scope for individual decision: although it is true that the phone can be disconnected, or goods on HP seized, the individual may decide that they have to relinquish their goods or allow the phone to be disconnected. But for older people, having access to a landline phone may be very important. The goods on HP might be a car, which is vital for a person with restricted mobility. For advice on dealing with these debts see Part 2.

Low priority debts

These are mainly credit debts, for example catalogues, bank loans and overdrafts, credit and store cards.

Debt	Consequences
Credit debts	County Court Judgement (CCJ) and enforcement if necessary
Water charges	County Court Judgement (CCJ) and enforcement if necessary
Social Fund loans (when a person is no longer on benefit)	CCJ and enforcement if necessary

As Social Fund loans for people on benefits are deducted directly from the benefit payment, they do not quite fit into this form of classification. There may be some opportunity to lower the rate of deduction – check welfare benefits information to find out about this.

County Court action can result in a court payment order which can be set at an instalment rate that the debtor can afford. Further enforcement action including bailiffs can only be taken if the debtor fails to pay.

There is more information on how to deal with these debts including court claims, judgement and enforcement in Part Two.

Strategies

At this level, you are not expected to work out strategies for people, but it is useful to have some idea of the advice process and the kind of solutions to their problems a client might expect. For all the debts above, whether high or low priority, you can explain that a money adviser will try to negotiate with creditors, and obtain the best possible outcome for their client.

Many people will know something about bankruptcy and may ask about this. You should refer them for specialist money advice as under sign-posting (above), but you can point out that there may be a more suitable alternative. Some of the likely strategies are:

High priority debts

High priority debts are more difficult to negotiate because of the action that can be taken against the debtor. It's unlikely that the mortgage lender will accept £1 weekly for the arrears!

- Draw up a financial statement or budget with the client and see what (if anything) is left over to pay off these arrears.
- Try to see if the client can maximise their income in any way.
- Make sure the client can actually afford to maintain *current* repayments.
- It is possible that the client is servicing credit repayments at the expense of priorities like council tax – so lower credit payments could free-up money for high priority debts.
- Negotiate priority re-payments first – the low priority creditors get what's left over.
- Consider any court applications the debtor could take e.g. more time to pay (a Time Order – see Part Two) – or even bankruptcy – in limited circumstances.

Low priority debts

- Draw up a financial statement as above.
- Income maximisation – as above.
- Interest stopped from continuing to accrue.
- An instalment payment arrangement that the client can afford.
- Pro-rata payments for those with multiple debts: this means that the largest creditor gets the largest payment. This is further explained in Part Two.
- Token payments of e.g. £1 a week if the client is on a very low income.
- A suspension of payment if the difficulty is only temporary.
- The debt is written off – possible but usually where there is little or no prospect of recovery.
- Court action that the debtor can take: for more time to pay or for reduced payments to be distributed to their creditors.
- Bankruptcy – in limited circumstances only.



Exercise 3

Decide on likely strategies for the following, identify any priority debts, and sign-post as appropriate:

- 1 Mr Mankelow has been housebound with chronic arthritis for 5 years. He is 69 years old and is also being treated for depression. He gets Guaranteed Pension Credit. He has been struggling for the last few years to pay off a loan from a bank, and a Marks and Spencer charge card bill. He has phoned Age Concern because he has received a court claim form from Marks and Spencer's. He owes them £125.

- 2 You will remember Mr and Mrs Giles (70+) from Exercise 2. Now identify their priority debts: They are having problems with their council tax. There was some confusion over their Council Tax Benefit, and they have built up arrears. After talking to them you find out that they have been struggling to pay their mortgage after the recent interest rises. They also have credit cards on which they pay the minimum charge at the end of each month. They confide that they're not too good at writing letters.

- 3 Mrs Thomas phones, saying her husband aged 64 has had an operation and is off sick from work. He only gets half-pay from work and they've had to stop paying their credit and store cards. He is getting better and they think he'll be back at work in about 6 weeks.

- 4 You have been helping Mrs Cheung with her claim for Guaranteed Pension Credit. One day she reluctantly tells you that she was fined some time ago for a driving offence – was paying it by instalments but has recently been unable to pay.

The answers are on page 44 ➡

Debt collection letters and forms

People will contact you about their debts at any stage in the process. They may come at the first realisation of difficulty, with the first arrears letter, a Notice of Seeking Possession, a County Court Claim Form or a bailiff's letter.

So even if you are not giving debt advice but sign-posting clients for help, you will benefit from recognition of forms, being able to explain to people what they are and how urgently they need to act.



Exercise 4

Identify the following. State how urgent you think each document is.

The answers are on page 46 ➡

1 Default notice

2 Order to attend Court for questioning

3 Warrant of execution

4 County Court claim form

5 Default judgement in the County Court

6 Pre legal notice from FNB

You have now completed Part 1 – Information and Sign-posting

Please complete the feedback sheet on the following page and discuss it with the person guiding you through the pack.

Only continue to Part 2 if you will be giving advice and/or doing casework on debt problems.

Dealing with Money Problems Induction Learning Pack

Feedback sheet

Part 1

Please complete the following statements in whatever way you feel is most appropriate for you.

Working through the pack made me feel...

I liked...

I was surprised by...

I'll use...

Feedback sheet (continued)

Now I can...

I didn't like...

I want to know more about...

I should like some more training about...

I'd also like to say...

Answers to Exercises

Part One

Answer to Quiz on Page 11

- 1 You borrow £1000 over a period of 3 years at 20% Annual Percentage Rate (APR) interest. You pay back the loan in equal monthly instalments. How much do you pay back in total? Is it:
- a) £1,610
 - b) £1,308
 - c) £1,231

Answer: b) £1,308. *This may be less than you thought, because APR is a complex way of expressing loan interest. The benefit of APR is that all consumer credit loans have to quote it, and it makes it easier to identify 'best buys'.*

- 2 You urgently need £300 to pay for an emergency repair to your gas boiler. You ask your neighbour who you recall is an agent for a doorstep lending agency. She tells you could borrow the £300 and make 55 weekly repayments of £9.00. You reckon this works out as:⁶
- a) Total repayable of £495 at 177% APR
 - b) Total repayable of £400 at 45% APR
 - c) Total repayable of £495 at 33 %APR

Answer: a) £495 at 177% APR. This may be a higher APR than you thought – that's because of the way APR is calculated and how it treats interest in relation to the outstanding balance.

- 3 What are Cash Converters? (there may be a branch in your local High Street)
- a) Cheap community banks
 - b) Foreign currency exchange services
 - c) Credit businesses offering loans including 'pay day advance' facilities

⁶ Source: www.providentpersonalcredit.com

Answer: c) They are credit businesses, which offer loans including 'Pay day advance' facilities – they will pay out on a post-dated cheque – for a fee!

4 You signed a credit agreement in a computer store last week, but have just seen a cheaper deal elsewhere

- a) You have 21 days to change your mind
- b) You have 7 days to change your mind
- c) Hard luck – you're bound by it the moment you sign

Answer: c) Hard luck – you can only change your mind if you have signed the agreement "off trade premises" – usually at home.

5 The cheapest way to pay for fuel is:

- a) Electronic pre-payment meter
- b) Direct debit
- c) Using your credit card

Answer: b) Direct debit

6 Older people cannot have their electricity disconnected. True or false?

Answer: False – although there is protection during the winter months – see section on fuel below.

7 If you have a number of debts the best thing you can do is:

- a Go bankrupt
- b Leave the country
- c Seek specialist advice
- d Take out a consolidation loan to cover the lot in one payment

Answer: c Seek specialist advice

Exercise 1

Do you think any of the following might be in need of debt information or advice? If so, give a broad indication of what any debt problems are likely to be.

- 1 Yasmin has recently separated from her husband. She's 62 and gets Category B Retirement Pension. Her husband, aged 64, was still working. She's worried about the house.

Answer: *If she's a homeowner then she may have problems paying the mortgage – if a tenant the rent may be a problem. Without her husband's income there may be difficulties paying for fuel, council tax, credit cards, loans or other credit. She will of course also need income maximisation /benefit advice.*

- 2 Rita is 64 and had a stroke 9 months ago. She lives with her husband, Tom, who has to help her with most things including washing, dressing and using the toilet. They have approached Age Concern originally for welfare benefit advice.

Answer: *Perhaps Tom has had to give up work to look after her. The subsequent drop in income would have led to difficulties in keeping up essential payments for housing, fuel, Council Tax and the telephone. They may also have credit debts. They will probably be entitled to Attendance Allowance and Carer's Allowance.*

- 3 Clarence, who has had to retire early following a “downsizing” exercise at work. He wants to know if he can claim Pension Credit.

Answer: *Clarence is presumably facing a considerable drop in income. He may need advice on essentials and credit commitments as for Tom and Rita above.*

- 4 Ly's wife (55) died 6 months ago. He's 66 and has two children aged 15 and 19 still at home. He currently receives a full retirement pension, but he misses his late wife's earnings.

Answer: *Ly is also facing a drop in income and may need advice about any arrears that have built up in the six months since his wife's death.*

- 5 Mr and Mrs Gonsalves claimed Housing Benefit six weeks ago. They have heard nothing.

Answer: *They are likely to have rent arrears – or they may have borrowed from elsewhere to keep up their payments.*

Exercise 2

Decide, on the basis of the information given, where you will signpost each of these clients:

- 1 Ruth Warner took out a loan to pay for replacement windows 3 years ago. She borrowed £5,000, but is alarmed to find in her recent statement from the lenders that, despite paying regularly, she owes a balance of £7,000 and there appear to have been some extra charges added on. You can't understand the figures either!

Answer: *This is quite a common type of enquiry. Many people simply don't realise the total cost of borrowing. The extra charges may be because, although paying regularly, perhaps she made a late payment. Whatever the reason you need to find someone who can explain it to her. The most suitable agency is either the CAB or local advice centre.*

- 2 Mr and Mrs Giles are having problems with their council tax. There was some confusion over their Council Tax Benefit, and they have built up arrears. After talking to them you find out that they have been struggling to pay their mortgage after the recent interest rises. They also have credit cards, which they cannot pay off at the end of each month. They confide that they're not too good at writing letters.

Answer: *Your Age Concern may have a Welfare Rights Adviser; but it may be best to refer Mr and Mrs Giles to a CAB or other local advice centre, if they provide a casework service which would deal with the debts as well as the benefits issues.*

- 3 Bertha Blum is 85 and has impaired mobility due to severe osteo-arthritis. She agreed to change her gas supplier following a phone call to her home, and now her old supplier says she owes them £150.

Answer: *It is possible that although not offering a full debt advice service, your Age Concern may have developed some expertise in this area as it is quite a common problem. Otherwise, a CAB or other advice centre is the best option but check if the problem can be managed over the phone (will it be necessary to see documents for example?), if not will the agency be able to do a home visit?*

- 4 Mrs Olewole has recently retired from the civil service. She enjoyed a good salary and although in receipt of a civil service pension she finds that she has difficulty in meeting her credit payments now that she has retired.

Answer: *Provided that Mrs Olewole is happy with telephone advice and/ or an information pack – she could contact the National Debtline by phone or obtain information from its web-site.*

- 5 Mr and Mrs Patrick are in their 70s. They get Pension Credit but would like to have a bit more money for the things they enjoy like travel and eating out. They have paid up their mortgage and are wondering if it would be a good idea to release some capital or income from the house.

Answer: *You can offer them the Age Concern Factsheet 12 “Raising Income Or Capital On Your House”, but for further advice refer them to an Independent Financial Adviser.*

Don't forget benefit checks for all the above!

Exercise 3

Decide on likely strategies for the following, identify any priority debts, and sign-post as appropriate:

- 1 Mr Mankelow has been housebound with chronic arthritis for 5 years. He is 69 years old and is also being treated for depression. He gets Guaranteed Pension Credit. He has been struggling for the last few years to pay off a loan from a bank, and a Marks and Spencer charge card bill. He has phoned Age Concern because he has received a court claim form from Marks and Spencer's. He owes them £125.

Answer: *It is possible that given Mr Mankelow's ill-health and prospects, plus the small amount owed, that M&S and possibly also the bank might agree to write off this debt. However, it would be unwise to assure him that the debts will be written-off as this can never be guaranteed. You **can** tell him that an Money Adviser will help him to negotiate small repayments on both this and the bank loan. He has no high priority debts. Refer to a CAB – but check they do home visits – or whether it can all be dealt with by phone.*

- 2 Mr and Mrs Giles (70+) are having problems with their council tax. There was some confusion over their Council Tax Benefit, and they have built up arrears. After talking to them you find out that they have been struggling to pay their mortgage after the recent interest rises. They also have credit cards, which they pay the minimum charge on the end of each month. They confide that they're not too good at writing letters.

Answer: *Mr and Mrs Giles have two priority debts: council tax and their mortgage. A likely strategy is that the Money Adviser, having checked that Council Tax Benefit is correct and investigated any further means of income maximisation, will try to negotiate affordable instalment payments to pay off these arrears. This will most likely mean that they cannot afford to keep their credit cards and they will have to be cut up and returned to the lender. The Money Adviser will negotiate lower instalments with the credit card lenders and ask them to freeze interest. As in Exercise 2, they are best referred to a CAB or other debt Advice agency that can carry out casework.*

- 3 Mrs Thomas phones saying her husband aged 64 had an operation and is off sick from work. He only gets half-pay from work and they've had to stop paying their credit and store cards. He is getting better and they think he'll be back at work in about 6 weeks.

Answer: *This sounds like a temporary difficulty. You should check to see whether Mr. Thomas has any payment protection insurance. If not, it is likely that creditors will accept reduced repayment while Mr Thomas is off sick – or possibly even a temporary suspension – although interest could continue to mount so it's probably best to pay something off. Mrs Thomas could be referred to the National Debtline – or to a CAB or other advice centre if they prefer face-to-face advice and need casework help. They have no high priority debts.*

- 4 You have been helping Mrs Cheung with her claim for Guaranteed Pension Credit. One day she reluctantly tells you that she was fined some time ago for a driving offence – was paying it by instalment but has recently been unable to pay.

Answer: *This is a high priority debt as unpaid fines can lead to imprisonment. She should be able to make an arrangement to pay by reduced instalments. She needs advice fairly urgently – a CAB or other advice centre would be best.*

Don't forget benefit checks!

Exercise 4

Identify the following:

- 1 This is a default notice, which has to be sent by creditors before they can take legal action. It is not particularly urgent – but means that the client should now take some action to deal with the debt.
- 2 This is an order to attend for questioning which creditors can send out to anyone who has a County Court Judgement in order to find out more about their financial position with a view to deciding what enforcement action to take should the debtor fail to pay or keep to their instalments. As it states that the person can be imprisoned if they don't complete the form, this is very urgent and the person should be helped to get advice right away.
- 3 This tells the debtor that the creditors have decided to instruct bailiffs to seize goods to the value of the debt. The person needs urgent advice about what to do.
- 4 This is a County Court claim form – formerly known as a summons. If it's more than 14 days since the claim was served, the matter is fairly urgent, as the creditor may have obtained judgement. If judgement has yet to be obtained the debtor can fill in the forms and make an offer to pay. If judgement has been entered the debtor can still apply to pay by instalments, based on what they can afford.
- 5 This states that the creditors have been given judgement in default. This means that the debtor did not respond when they were sent the court claim form (summons) – or possibly that they didn't receive it. If it's within 14 days of receipt (taken as the second day after posting), the debtor could apply to make payment by instalment without incurring any extra costs for their application. In any case, it is something that needs to be dealt with urgently as the creditors could now take action to enforce the judgement. This could include bailiffs, or a charge on the home for homeowners.
- 6 This is a letter sent by the First National Bank stating that they intend to take legal action. It is not a court document. As above, the client should take action to deal with the debt.

DEALING WITH MONEY PROBLEMS

Induction Learning Pack

Part Two

**Level 2:
General Help**



Giving Debt Advice

This part of the pack is for those of you who give advice to clients about how they can deal with their debt problems. You may also write letters and make phone calls on clients' behalf. You should probably refer more complex cases, including where the client needs court representation.



Make sure you are clear about the level of advice you are expected to give: ask your I&A manager.

Debt Advice Checklist

- Is the client liable for the debt?
- Is the amount correct?
- Can income be maximised?
- Prioritise the debts.
- Take emergency and/or holding action.
- Decide on a strategy.
- Draw up a financial statement.
- Negotiate with creditors.

This is the checklist we saw in Part One. It will be the framework for the rest of this section.

Does the person have to pay?

With any debt the first thing is to make sure that the person has to pay. As a general rule, a person is not liable unless they have signed something to that effect. The main exception to this rule is for fuel - the person's name may not be on the bill, but if they have lived in the property and used the fuel, they will be held liable for payment. Married couples and heterosexual couples living together are also jointly liable for Council Tax payments - even if the bill is in only one name.

These are some of the things you should check:

Joint and several liability

Where more than one borrower signs a credit agreement, or in the case of a joint mortgage, for example, each individual borrower is liable for the whole amount – not just a proportion.

Husbands and wives

Married (and un-married) couples are not liable for each other's debts – unless they have signed a joint agreement.

Guarantors

Older people sometimes act as guarantors on a loan agreement, often for their children. This means that if their son or daughter can't pay, they will be legally liable.

Dispute over faulty goods and services

If someone has stopped paying a credit agreement or refused to pay a bill because they allege faulty goods or services, you should refer the person to either a consumer advice centre, the CAB or their local trading standards department at the local authority.

Incorrect loan agreements

There are rules about the content and form of credit agreements. If you think that your client's agreement may be wrong, or if s/he never had one, you should refer them for further advice from the trading standards department of your local council as they are responsible for seeing that the law is enforced

Unlicensed money lenders – loan sharks

Anyone lending money as part of a business must have a licence to do so - if they haven't then the contract is void and the debtor doesn't have to pay back the money. Refer to Trading Standards as above.

Extortionate interest rates

The law does give the courts the power to reduce "extortionate" rates of interest. The courts have not tended to use their powers very widely, but the government White Paper on consumer credit published in December 2003 proposes changes in this area. If you think your client's loan is extortionate – discuss with your Trading Standards Department.

Time limits

Most debts expire after 6 years (mortgages = 12 years) from the date of last contact, or payment was made by the debtor, or someone acting on their behalf. Don't contact the lenders for your client if there is a possibility that the six years is nearly up. If in doubt about this, refer for further advice.

Death

An individual's debts normally die with them. Outstanding debts are repayable from the deceased's estate, but partners, next of kin or anyone administering the deceased's affairs are not liable to pay any debts out of their own pockets. Money Advisers do come across creditors attempting to obtain payment from next of kin in this way.

Insurance

Check to see if the loan is covered by insurance for sickness, redundancy etc. but note that most loan insurance agreements have quite limiting conditions under which a person can claim – including time limits.



Exercise 1

In this exercise, you need to think about what you would do if dealing with the enquiry. As this part of the pack is aimed at I&A workers working at General Help level, that could involve sign-posting the client to another organisation, or it might involve you in taking some action on the client's behalf.

- 1 Mr and Mrs Abdi's son took out a loan to finance his post-graduate studies. Mr Abdi agreed to be the guarantor. Now their son is in arrears with the repayments and the creditors have written to Mr and Mrs Abdi saying their house is at risk if the loan isn't paid. They are very concerned.
- 2 Mr Lyon's wife has left him. She had a number of store cards and the bills still arrive at the old address. Mr Lyon wants to know what he should do.
- 3 Mrs Lord hasn't heard from Freemans Catalogue company for some years. She thinks she still owes them some money and this is worrying her. What should she do?
- 4 Freddy Miles says he owes £150 to one of his neighbours. He can't pay it back. He is worried that this might be a criminal offence.
- 5 Marcia Thomas bought a new fridge-freezer a month ago but it's never worked properly. She has tried to get the shop to replace the item but they have refused saying it only needs a repair. She's stopped paying the loan repayments. She wants to know what else she can do.

The answers are on page 95 ➡

Income maximisation

Always check benefit entitlement for clients who have debt problems. Particularly benefits such as Pension Credit, Housing and Council Tax Benefit, Attendance Allowance, Disability Living Allowance, and Carer's Allowance. Could the client qualify for a Council Tax discount and/or the Disability Reduction Scheme for Council Tax?

This is about *increasing income* coming into the home – not cutting down expenditure – that's dealt with under financial statements on page 57.

Other ideas for increasing income are:

- Check that the tax code is correct (Factsheet 15).
- Help from charities or benevolent funds (*see Helping Clients to Apply for Charitable Payments Induction Learning Pack*).
- If the person has grown up children living with them are they paying enough towards household expenses?
- Full or part time work, self employment, participation on public bodies/committees where a fee is paid.
- Pursuing a hobby or interest that may result in goods for sale
- Selling goods – car boot/garage sale?
- Cashing in insurance policies – but beware! Refer for qualified financial advice if this looks like an option.
- Home income plans - need qualified advice to find the best deals. *See Factsheet 12 Raising Income or capital from your home.*

Clearly some of the above are not things that I&A workers can recommend to their clients, but rather options that an individual might choose to consider. It is fine to suggest that income tax should be checked, but it could be offensive to suggest to a person that they should sell their belongings.

Other financial help available includes:

- Assistance from councils with repairs and improvements to the home
- Disabled facilities grants
- Grants for energy efficiency
- Free TV licence for those 75 and over

Holding action and emergencies

It was noted in Part One that people often leave it rather late to seek help. You may have to contact creditors and ask them to delay any further action while you assess the situation and work out what to do.

You can write to consumer debt creditors asking them to hold further collection action - a copy of a holding letter is at the end of Part Two.

For fuel debts you should phone the relevant company and ask them to hold any further action until you can work out how much the client can pay off their arrears. They will usually hold further action for up to 21 days – also note the code of practice regarding disconnection of fuel for older people (see section under fuel below).

For other emergencies such as bailiffs it's probably best to phone and ask for a suspension of any further action while you help the client to resolve their difficulties. See more on bailiffs in court claims and enforcement – below.



Exercise 2

Holding Action and Emergencies Quiz

Again, you need to think about what you would do if dealing with the enquiry. You may want to choose more than one option.

- 1 James has a letter from Southern Electricity to say they're coming round to disconnect him tomorrow.

Would you

- a) Write to ask them to hold action
- b) Phone them
- c) Offer them £10 weekly (seems reasonable) off the arrears?

- 2 Sevda has a letter from solicitors acting for VISA to say they will commence proceedings if she doesn't pay what she owes - £3,000. She's absolutely distraught, as she doesn't have that amount of money.

Would you

- a) Explain that she may be able to negotiate an instalment arrangement with them based on her financial statement
- b) Phone VISA immediately
- c) Write a holding letter?

- 3 Mr Morgan is worried about loan sharks. They have threatened to do him serious injury unless he pays up.

Would you

- a) Phone the loan sharks
- b) Suggest he contacts trading standards as he pay not be legally obliged to pay
- c) Suggest he goes into hiding or leaves the country
- d) Speak to the police on his behalf?

- 4 Mr Beale has a court hearing for repossession of his home in two days time.

Would you

- a) Phone the court
- b) Phone the lenders
- c) Phone a Money Advice agency to see if they can fit in an urgent appointment
- d) Advise him about what may happen in court and what he may be able to do to keep his home?

The answers are on page 96 🖱️

Financial statements

You will need to work out with your client exactly how much they have coming in and exactly how much they spend. This is a very sensitive area. It's particularly important not to be judgemental about spending, for the simple reason that the average person will not reveal their true spending if they think they're going to be told off about it. And if they don't reveal their true spending you will not be able to help them to make a realistic offer to creditors to pay off their debts.

When we looked at the causes of debt we saw that spending too much is only one factor that creates debt – simply living on a low income and/or facing an unforeseen change of circumstances is more likely to be the reason for your client's difficulties.

Money management

Your client may have got into difficulties because they have problems with managing their money. This may be because they have just got into a muddle – a little bit of help and advice will serve them well – or it may be because they lack the skills to manage their money.

Perhaps they were once coping well but now some of the problems associated with old age are affecting them: memory loss for example or in more extreme cases the onset of dementia. You should be alert to these latter cases. Ordinary debt advice will not be appropriate: they will need additional support. Discuss with your I&A Manager.

Constructing a financial statement

There are three stages to constructing a financial statement:

- 1 The first stage is that the client must - with your help if necessary - write down their income and all their expenditure. There are some tips below to help with this.
- 2 The second stage is to consider whether any reductions can be made.
- 3 The third stage is to draw up a financial statement to send to creditors.

First stage - Checking income

Record all income that the client has coming in. Include Attendance Allowance or Disability Living Allowance but as these are to pay for expenses arising from disability needs they do not have to be used to pay off debts unless the client expressly wishes to do so.

Financial statements are usually expressed as monthly statements of income and expenditure. Make sure you convert weekly to monthly correctly by multiplying by 52 and dividing by 12.

Expenditure

The main points to remember are:

- Include everything
- Tell the client not to be tempted at this stage to under-estimate their spending – the object of the exercise is to assess the true spending

- Don't forget one-off payments like insurance or car tax
- Convert weekly to monthly as above
- Record credit payments and any arrears payments separately
- Include an amount for unforeseen emergencies e.g. essential repairs
- Do not send this document to creditors, this is simply to ensure that your client understands where their money is going



Find out if your Age Concern uses standard expenditure and financial statement forms

Second stage - Reducing expenditure

This is not always necessary – the difficulty may be caused by poor organisation or income may have been increased following your intervention.

Many people who are spending more than they have coming in will realise, once they have gone through how much they spend, that they have to cut back. But note the following:

- People may be tempted to make unrealistic promises – e.g. stopping smoking or drinking.
- Many people facing a reduced income or who are on a low income will already have made economies.
- People's ideas of what constitutes essential and non-essential expenditure differ.
- You cannot tell people – especially older people who have much experience of life – and made it this far after all – that they mustn't spend their money on this or that. In any case – you wouldn't be able to enforce your recommendations!
- What you can do is tell them the consequences of being unable to pay their creditors.- and what creditors will and won't accept.

Third stage - A financial statement for creditors

Creditors want to be satisfied that the debtor is making an effort to pay off their debts. If they don't accept the financial statement they have the right to take court action. It's largely a matter of balance: if the debt is very large and the repayment offer very small, the creditor is likely to take exception to a financial statement showing a large proportion of the spending goes on alcohol and cigarettes. But most creditors will accept that it is unrealistic to expect debtors to give up all smoking and drinking altogether. Always explain if your client's spending in a particular area is unusually high – for example fuel costs may be higher for older people or a housebound person, and there may be particular costs associated with disability.

The financial statement should include income, expenditure and a list of all debts with offers to pay. Offers of payment depend on whether the debt is a priority debt or a non priority debt, (which you will find out about below) and how much the client can afford to repay.

Nil offers

You may find that there is no income available to pay credit debts. If it is a short-term situation you should write to the creditor to ask them if they will accept that your client can make no payment until matters improve. If it's a longer term problem you should still write to creditors to ask them to accept no payment (or a write-off as above) – but be aware that it is likely they will take court action – (*see Court claims, judgement and enforcement on page 78*).

There is an example of a financial statement at the end of this section.

The common financial statement

The British Bankers Association (BBA), the Money Advice Trust (MAT) and advice network organisations, have agreed that certain trigger figures can be applied to discretionary spending items like housekeeping and repairs and maintenance.

BBA members have agreed that where the repayment offer comes in on the prescribed BBA/MAT form and where expenditure in the discretionary categories does not exceed the trigger figures, they will accept these figures without further query.

For more information about this visit the MAT web-site
www.moneyadvice Trust.org



Check whether your Age Concern uses the BBA/MAT common financial statement.

High Priority Debts



See Debt Advice Handbook for more information about how to deal with high priority debts.

In this pack we will focus on three types of high priority debts: housing, fuel and council tax.

Priority Debt - Housing

Mortgage arrears

A mortgage is a loan taken out to buy a property but may also be used to describe a second loan taken out for other purposes - but where the home is at risk if loan payments are not kept up.

Secured loans

Secured loans or second mortgages are usually at higher interest rates over shorter terms. A second secured loan can often be the main problem for a client in difficulties and trying to prevent repossession by the lender.

Advice

Consider the strategies for high priority debts (*see Part One page 23*).

- Is the client in arrears because s/he has prioritised paying off credit cards or unsecured loans?
- Has the client claimed all the benefits/tax credits to which they are entitled? Is there any other way they can maximise their income?
- Has the client a mortgage instalment protection plan?
- Try to negotiate monthly repayments that your client can afford – based on their financial statement.
- If there is equity in the property it may be an option to sell and 'buy down'.
- Some local authorities/housing associations run a scheme where they will buy the property and rent it to the occupier.
- A second mortgage could be a 'regulated agreement' under the Consumer Credit Act 1974. This means that gives the borrower certain rights and is dealt with slightly differently in the courts.
- Refer for specialist debt advice if your client is threatened with possession proceedings.

Possession proceedings

Even if you are going to be referring your client for specialist advice if they are threatened with possession, it is useful to have an idea about what can happen in court and be able to offer some information to your client about what can happen during the proceedings.

If the arrears repayment cannot be negotiated or if the borrower has defaulted on any arrangement, the lender can enforce their security by seeking vacant possession of the property, normally through the County Court.

At the County Court hearing, the District Judge can:

- Dismiss the action if all arrears have been paid before the hearing date.
- Adjourn the action and issue 'Directions', i.e. the lender is not granted possession but conditions may be imposed, for example a schedule of arrears payments may be asked for or time may be allowed for more information to be made available.
- Grant a Suspended Possession Order, which means that the lender cannot take over the property as long as the borrower keeps to the terms of the Order.
- Make a Possession Order. The lender is granted vacant possession and can usually seek a warrant to evict in 28 days.

Whatever stage proceedings have reached – it may still not be too late to get advice, so you should refer your client – taking into account the urgency of the situation. If the client already has a suspended possession order and is having difficulty keeping up the repayments it may be possible to apply to the court for the instalments to be reduced.

Mortgage shortfall debt

If a home is repossessed and sold by the lender, the sale price may fail to cover the full amount of the outstanding mortgage, leaving a shortfall, which will have to be repaid by the borrower.

Some people are contacted “out of the blue” many years after the repossession of their home. The debt is no longer high priority and negotiations can take place as for consumer credit. Many lenders will accept a small proportion of the amount owed in “full and final settlement”.

Lenders have 6 years in which to collect the interest on the shortfall and 12 years for the capital. This limitation period runs from when the last contact or acknowledgement of the debt by the borrower or those acting on his/her behalf took place. I&A workers should take care therefore not to acknowledge the debt if the time limits have expired or will shortly do so.

Note that the limitation period is normally 12 years as lenders will pay off all the outstanding interest with the proceeds from the sale.

Citizens Advice and others mounted a campaign for this period to be reduced to 6 years. Lenders who belong to the Council of Mortgage Lenders have agreed a voluntary code of practice not to make first contact with borrowers after 11 February 2000, if it is more than 6 years from the date of sale of the property.

Rent Arrears

Advice on what to do about rent arrears is determined by the type of tenancy a client has. Most Local Authority (LA) and Housing Association (HA) tenants will be better able to negotiate low instalments on rent arrears than those in the private sector.

Advice

Consider the strategies for high priority debts (*see Part One page 23*).

- Income maximisation – in particular Housing Benefit.
- Work out financial statement.
- Is the client prioritising credit repayments?
- Is the amount correct?
- Check what stage the proceedings have reached: for LA or HA tenants if it's an arrears letter or a notice of seeking possession (often referred to as a 'NSP') you should contact the housing officer, explain circumstances, and make an arrangement to repay the arrears by instalments.
- Refer for specialist advice tenants who are facing possession or eviction.
- Private sector clients – always try to negotiate affordable repayments with the landlord, but for many private sector tenants eviction (which must still take place via the courts) will be automatic if they have eight weeks or more rent arrears. Refer the client for specialist advice, using the list in Age Concern Information Sheet 'Advising Older People With Debt Problems'.



Exercise 3

The following have all contacted Age Concern for advice about their debts:

- 1 Mr Craig borrowed £5,000 to pay for a new kitchen. Now he's having problems with his repayments. What's one of the first things you should check about the loan?

- 2 Mr and Mrs Abrahams haven't paid the rent on their council flat for 6 weeks.
 - a) What questions do you need to ask?
 - b) What advice will you give?

- 3 Mr Ntenda has a Suspended Possession Order and has to pay £75 monthly for his mortgage arrears. He says he can't keep up the repayments. Is there anything he can do?

The answers are on page 98 ➡

Priority Debt - Fuel

With fuel debts there are usually two problems:

- 1 How to deal with arrears
- 2 How to manage to pay for ongoing supply

If the client has a bill they cannot pay, or if, on going through their budget, fuel seems to be taking an enormous chunk out of their income, you will have to consider both of the above questions.

Advice

Follow the general advice for dealing with High Priority debts in Part One on page 23.

Get a breathing space

If it's a red bill or a disconnection notice, contact will have to be made immediately to get the fuel company to hold any further action while the matter is being sorted out. If an I&A worker makes this call it is quite likely that most fuel companies will agree to a 14 or 21 day hold.

You may need this breathing space while you work out with the person how they can pay this bill and also what methods of future payment are going to be best for them. In practice however, there will probably be a very limited range of choices. *See methods of payment below.*

There may be a couple of other things you could do:

Check how much is owed and who is liable to pay

Make sure that the bill isn't an over-estimate. The meter can be read by the consumer and the correct reading supplied to the fuel company.

Note that some large bills can be caused because the client has paid a series of low estimates, and now that the meter has been read, it shows the actual level of consumption, perhaps over a long period.

If this is the case it may be possible to get an extended repayment time from the supplier. In these circumstances, and where there has been a price increase, it could be argued that some of the fuel has been consumed at a time before the increase, therefore a rebate should be worked out based on consumption averages.

- **Is the bill unusually high?**

Discuss consumption with the person. Has their usage increased in any way? *See also faulty immersion heaters, below.* Consider the possibility of a faulty meter. This is not the most likely answer, although it does happen. A test can be arranged with the fuel company or Department of Energy, but the customer will have to pay if the meter turns out to be OK. Make sure that further collection action is suspended while this is going on as it can be a fairly lengthy process.

- **Is the bill always very high?**

Discuss consumption with the person. Take into account any special needs they might have for extra heating, hot water etc. People at home all day will need to use their heating more than people out at work. Make sure that people at risk don't cut down on their heating. Concentrate instead on energy saving methods you can think of, for example, insulation (including free insulation schemes), simple draught proofing methods, cheaper ways of providing heat (if that's an option). Consider the possibility of faulty or old appliances not working at their optimum efficiency. Make sure the person understands roughly how expensive a particular appliance is to run. If the person has just been re-housed, do they know how to work the central heating system? Do they leave the hot water immersion heater on all day? The latter is probably only worth doing in very large families with a fairly constant use of hot water. Is the hot water thermostat on too high or has it stopped working, so that the water comes out scalding from the tap?

See Factsheet 1 'Help With Heating' to help the client get energy advice.

Payment Options - arrears and future payment methods

Dealing with the arrears will be bound up with how the person is going to pay in the future.

In the great majority of cases there will be 4 options available:

Fuel direct for people on Guarantee Pension Credit

An amount towards the arrears plus an estimated sum for the current consumption will be deducted from the person's benefit. An application for Fuel Direct will have the effect of stopping any disconnection action, and may be the only way in which someone can save their fuel supply. A person already on Fuel Direct may have problems because the deductions are not leaving them enough to live on. It may be possible to query the figures the fuel companies are using to estimate consumption.

Budget or key meters

The person buys an amount of fuel by charging up a key card from a machine. The machine is sometimes sited outside the fuel companies' showrooms, or at the post office, in garages or at other locations. The card is then inserted into the meter. As a form of prepayment this is often the fuel companies preferred option, and again may be the only means by which disconnection can be prevented. This is not suitable for older people whose mobility is restricted and who would have difficulty in getting to a machine. There is also the risk of self-disconnection, as the client may simply not use the fuel or not have the money to charge the key. It is also the most expensive method.

Monthly budget scheme

Fuel consumption is estimated and a payment made every month. Arrears can be added on and spread out over 12 months. A review will be held every year.

There are disadvantages (and some possible benefits) with all of these options and you should be careful to discuss with the person what they think is best for them. Be prepared to make those points to the fuel companies.

If the person wants to carry on with quarterly bills and is perhaps just experiencing a temporary difficulty, they will have to negotiate a rate of repayment with the fuel company. They may be able to pay the bill by making weekly payments.

Savings stamps and Paypoint

People can buy stamps at customer service centres and at some Post Offices. A major disadvantage is that the supplier is not paid until the consumer uses the stamps, so that if a person loses the stamps they must bear the loss.

Paypoint is a national bill payment network, enabling people to pay their bills weekly, fortnightly, monthly or quarterly.

Codes of Practice

Between October and April the fuel companies have agreed not to disconnect households composed solely of older people.

Licence conditions

The fuel companies now have conditions written into their licences stating that they must take the customer's ability to pay when arrears payments are being arranged.

Switching Supplier

It may be possible to reduce fuel costs by changing to another supplier. There are a number of internet sites that will do the calculation and select the cheapest option, e.g. www.uswitch.com or www.compare-online.co.uk.

Note that independent and impartial advice should always be given – clients should not be automatically directed towards any one company as it may not be the best for them. This also applies where Age Concern has entered into a relationship with a particular supplier.

Complaints

- Try to find out what local collection policies and procedures are
- Find out who deals with complaints locally
- Consider a referral to OFGEM in the case of unreasonable behaviour: OFGEM The Office of the Gas and Electricity regulator
0845 906 0708 www.energywatch.org.uk



Exercise 4

What fuel payment methods would you advise for the following - they are all having problems paying their quarterly bill:

- 1 Mr and Mrs Deria who enjoy a weekly trip to their local town centre?
- 2 Miss Street (aged 63) who looks after her frail mother aged 90?
- 3 Fred Carew who is getting a bit forgetful?
- 4 Mr and Mrs Murphy who get Guarantee Pension Credit?
- 5 Mrs Michaels who is always very worried about spending too much.

The answers are on page 99 ➡

Priority Debt - Council Tax

Why it is a priority

Paying council tax is a priority because there is a remote possibility of imprisonment for default. After the local authority obtains a liability order in the Magistrates Court, the money can be deducted in the following ways:

- An attachment of earnings order.
- Seizure of goods by bailiffs.
- Deductions from Guaranteed Pension Credit.
- Imprisonment, but only in cases of "wilful refusal or culpable neglect to pay".

Advice

Follow the general advice on high priority debts in Part One.

- Check the bill. Is it correct? Remember, married couples and heterosexual couples living together are also jointly liable for Council Tax payments - even if the bill is in only one name.
- Has council tax benefit been applied for? Has it been calculated correctly?
- Can the client get a reduction for people with a disability?
- Does second adult rebate apply?
- Check for changes of circumstance.
- Can the client get the reduction for people living on their own?
- Council tax can be paid in ten monthly instalments; or fortnightly or half-yearly. Try to negotiate small repayments with the council tax department. Send them a financial statement and a list of any other debts.
- See also advice under *bailiffs* in the section on court procedures on page 80.
- Refer for specialist advice if your client is at risk of imprisonment.

Consumer credit

Consumer credit includes bank loans, credit cards, store cards, catalogues and overdrafts. It also includes door-step lending such as that carried out by one of the country's fastest growing companies: Provident Personal Credit.

They are low priority because the creditor has no security on their debt and must take action in the County Court, which will give the borrower the opportunity to pay at an instalment rate that they can afford. Because of this they will normally agree to negotiate reduced payments without going to court.

Advice

Consider the strategies for low priority debts (*see Part One page 23*).

- **Check that the debt is owed by your client and that the amount is correct.**
- **Urgent action:** court action/bailiffs threatened (*see section on courts*).
- **Holding action:** send holding letters if more time/information is needed.
- **Start negotiations:** draw-up a financial statement. Write to creditors with an offer or request for write-off/temporary suspension.
- **Court action:** if the matter has already gone to court, take appropriate action through the courts (*see court claims and enforcement below*).
- **Re-financing:** for some individuals the option of borrowing at a lower cost, to pay off high interest credit card or store card debts, may be a sensible solution. These individuals must have access to cheaper credit, and their general financial situation needs to be stable, so that they do not need to start using their cards again to pay for goods.

- **Hire Purchase (HP) and Overdrafts:** as we saw above in *prioritising debts* (see page 21) creditors can possess the goods that are on HP (although they will need to obtain a Court Order if the client has paid back more than 1/3rd of the loan). You need to discuss with the client if they want to keep the goods and if they do the creditors will want to be treated as a priority creditor and receive higher instalments.

Overdrafts (particularly if unauthorised) are difficult because they eat into a person's income and reduce whatever they have going into their bank account. They should be dealt with as soon as possible – options may include negotiating for the amount to be converted into a loan. Alternatively, the client can abandon that bank account, having opened another basic account into which their income can be paid, then negotiating with the first bank to pay the overdraft off.

Negotiating

See the *Advice Skills Induction Pack Module Two* for general tips on negotiating:

- Creditors want the full picture and will respond more favourably if they get it.
- Creditors will be mainly influenced by whether it's worth their while to pursue the person in debt. Make sure you have the full facts if you're acting on behalf of someone.
- Creditors have a write-off budget, but may be unwilling to respond to demands to write-off debts. It's usually better to use some other form of words such as "exercise your discretion not to collect in this case".
- Sometimes creditors will make moral judgments and pursue people more assiduously if they think they've just misused credit. Make sure the creditor knows what the problem is, if it's one that's likely to make them treat the person sympathetically.

- Use the generally agreed methods of operating between the mainstream credit industry and money advice practitioners. One important tip is to make offers of repayment on a pro rata basis – *see below for calculation details.*
- Make sure you and the client fully understand what the creditor can legally do – sometimes letters and statements from creditors can be quite misleading.
- Harassment is illegal. Amongst other things, creditors must not make threats publicly calculated to distress or alarm the person, pretend to be acting in an official capacity or issue documents purporting to be of an official nature. If you feel harassment may be taking place you should discuss with your trading standards department.

Regulated Credit Agreements

The Consumer Credit Act 1974 gives people certain rights and protection if they have a credit or hire agreement that is regulated by the Act.

An agreement is regulated if:

- it is for **credit** under £25,000
- the borrower is an individual i.e. not a business
- it is not an exempt agreement

Exempt agreements include:

- Mortgages or loans to buy land or property - second mortgages or secured loans for improvements etc. are, however, NOT exempt.
- Hiring agreements for essential services – e.g. gas, electricity.
- Weekly or monthly trade credit - where the bill has to be paid in full at the end of the week or month – e.g. American Express charge cards.
- Short repayment loans - where there are less than 4 instalments, and the whole is repayable within 12 months.

- Low cost credit – e.g. loans from a credit union. This does not include situations where the creditor has a connection with the trader supplying the goods.
- Regulated **hire** agreements must, in addition, be for more than 3 months, and payments must not exceed the upper limit.

Rights and protection conferred by a regulated agreement include:

- The agreement will be invalid unless it contains certain specified information i.e. the APR, cancellation rights and the amounts of each payment; the borrower must have a copy of the agreement, and it must be signed according to certain rules.
- If the person gets into arrears, they must be sent a default notice, again containing certain specified information.
- There is a right to a rebate of credit charges in the event of an early settlement.
- There is a duty to give information - i.e. regular statements, or if the borrower asks for particular information.
- A borrower in arrears can apply for a Time Order - see section on Debt and the Courts.

The government White Paper issued in December 2003, seeks to make amendments to this Act

Strategies

See Part One, page 23 for a list of possible strategies.

Pro-rata distribution

One very common solution for those with multiple credit debts is to draw up a pro-rata payment programme:

If there is any money left to pay credit debts after priority debts have been dealt with, it is divided up fairly between creditors. Pro rata distribution is only applied to credit debts. This is also the way District Judges deal with repayments when there are a number of debts.

This is how it works:

Mr Peters has £40 monthly left over to meet his credit repayments.

He owes a total of £1,950 to 4 companies:

- Catalogue 1 £450
- Catalogue 2 £200
- Loan company £600
- Store card £700

This is how the money will be apportioned - using the formula as follows:

$$\frac{\text{individual debt} \times \text{available income}}{\text{total debts}}$$

(Individual debt multiplied by the available income,
divided by the total debts)

Mr Peters will therefore make the following monthly payments to his creditors:

- Catalogue 1 £ 9.23 ($£450 \times £40 \div £1950$)
- Catalogue 2 £ 4.10 ($£200 \times £40 \div £1950$)
- Loan company £12.31 ($£600 \times £40 \div £1950$)
- Store card £14.36 ($£700 \times £40 \div £1950$)

We will look at some other strategies under *Court claims, judgement and enforcement* next.



Exercise 5

Advise the following:

- 1 Mr and Mrs Scotford have contacted you because they keep getting phone calls from a loan company about their payments. They couldn't pay last month because they gave some money to their son – he was about to be evicted from his flat.
- 2 Mrs Ladejobi bought a caravan on credit. She has had problems keeping up with the repayments and now she has received a letter saying they are going to come and take the caravan away. She wants to know if they can do that.
- 3 Mr Law has just retired, and although his wife is still working, their income is reduced. They cannot keep up the repayments on their credit and store cards. They do not have any court judgements.

They owe:

B&Q	£150
John Lewis	£300
Dixons	£400

They have £25 monthly to meet their debts. Work out a pro-rata offer.

The answers are on page 100 ➡

Court claims, judgement and enforcement

For examples of all court forms see www.courtservice.gov.uk.

Claims in the County Court

It may reassure clients facing county court action if you tell them that attendance at the court is rarely required. A straightforward claim by a creditor for money owed is usually dealt with by court staff entirely on paper. Even if the client has to attend court it will be in the District Judge's private rooms or chambers.

Reply to the claim form (Form N1)

The defendant's reply must be sent within 14 days - otherwise judgement may be entered without further notice. The client can offer to pay the full amount or:

- **Offer to pay by instalments (Form 9 A – included in claim pack)**

The debtor can make an offer to pay by instalments and must complete the financial statement on Form 9A. This form is then sent to the creditors who will inform the court if it acceptable or not. If it is, the court will send out a judgement (N30) form to the debtor with details of what and how to pay. If the creditor does not agree to the offer the court will set a rate of payment – or there may have to be a hearing in front of a District Judge.

- **Dispute the claim and/or counterclaim (Form 9B – included in claim pack)**

Refer for specialist advice.

Judgement

This may be for the whole amount, or for instalment payments. This may be the first time the client has sought advice. The important thing is to make her/him aware that they can apply to vary the judgement.

After judgement

Instalment Order is Too High

If the instalment order fixed by court staff is too high - apply for it to be re-determined within 14 days of receiving the judgement. There is no fee for this application, which can be made on Form N244.

Outside this time limit, an application to vary the rate of instalments must be made on Form N245. The fee is £30. If your client is on benefits, s/he can apply for this fee to be waived or reduced (see '*Fees exemption or remission*', below). If the creditor does not object, the court officer will make an order for the revised rate of payment applied for.

If the creditor does not accept the revised offer the court officer will fix the rate and make a new order. If there is no available income to make an offer, application could be made for a general stay of the judgement - see *Debt Advice Handbook* for details or refer for specialist advice.

Judgement Entered in Default

(because the client did not reply to the claim form)

Apply for judgement to be set aside if the client genuinely did not receive the form – this can be hard to establish. There is little point in doing this if the client agrees that the debt is owed and will need to repay by instalments in any event. However, this application must be made in writing or in writing or on form N244. Otherwise apply on Form N245 for an instalment order.

Dealing with Enforcement Proceedings in the County Court

If the defendant fails to pay the creditor can take certain steps to get their money, called "enforcement".

Bailiffs' Warrants (Warrants of Execution)

The creditor can apply for court bailiffs to seize goods and sell them to repay the debt. The defendant will also have to pay the bailiffs costs.

The main reason creditors use bailiffs is in the hope that after receiving notification, the debtor will find the money somehow and pay up, because of the bailiffs' reputation. But, in fact, county court bailiffs are not very effective: recent research in London showed that only 0.2% of warrants lead to seizure of goods. Householders are not legally obliged to let county court bailiffs in and bailiffs are not allowed to force entry. If the householder does let them in, bailiffs usually make a list of eligible goods and take what is known as "walking possession". When they return to actually remove the goods they are legally entitled to enter - by force if necessary.

Certain goods are exempted: tools, books and other equipment necessary for the debtor's employment/business and "such clothing, bedding, furniture and household equipment and provisions to satisfy basic domestic needs of the debtor and his/her family" (S15 Court and Legal Services Act 1990).

What to Do

The warrant of execution can be suspended on Form 245, and replaced with an order to pay by instalments. Advise your client not to let the bailiffs in - unless they have "walking possession".

Attachment of Earnings

The creditor can apply for deductions from earnings (and also occupational pensions).

What to do

Seek specialist advice if your client receives a Notice of Application for Attachment of earnings (Form N55).

Warning! If the person in debt fails to respond to the application they risk imprisonment for contempt of court.

Third Party Debt Orders

The defendant's bank account is frozen and all funds up to the value of the debt are confiscated and paid into court. This is rarely used against the debtor with limited or average means. If this happens to your client, refer for further advice.

Charging Orders

If your client owns their own home and fails to pay instalments after a judgement, the creditor can apply for the debt to be secured on the property (Form N379). This means that when the debtor sells her/his house, the creditor is entitled to recover their debt from the proceeds of sale.

The creditor can also sometimes actually enforce the sale of the property (Order for Sale).

Refer your client for specialist help if the creditor makes a charging order application.

Orders to Obtain Information from Judgement Debtors

Your client may be asked to attend court (Form N316) for questioning. Creditors apply for this in order to find out about the defendant's means. The defendant will be asked questions about their income, bank account etc. Failure to attend will result in an order to attend being issued (Form N39), failure to respond to this is contempt of court and the person may be sent to prison. Refer anyone in that situation for further advice.

What to do

Help the client to assemble all the information they will need, and draw up a financial statement – and an offer to pay if that is possible. If your client is housebound or unable to get to the court you should inform the court.

Fees – exemption and remission

People are automatically exempt from court fees if they can prove they are in receipt of:

- Guarantee Pension Credit
- Income Support/Job Seekers Allowance (Income Based)
- Working Tax Credit (certain cases)

Others may apply for remission on grounds of hardship. This is discretionary and court officers are told to base their decision on income support levels but taking into consideration items of general expenditure. A person may therefore have an income in excess of income support levels but still be entitled to remission. Apply on form Ex 160.

Strategies: Court orders debtors can apply for

Administration Orders

If the person in debt has:

- A County Court judgement
- Two or more debts totalling less than £5,000

they can apply for an Administration Order. This means that any money the person has left over to pay their credit debts can be apportioned to their creditors by court staff. While the Order is in force the creditors cannot take any further action against the person. Using the *composition* procedure (by which a person agrees to pay off the debt at a rate of so many pence in the £) the applicant can have part of the debt written off.

See the *Debt Advice Handbook* for more information.

Time Orders

The person in debt can apply for a Time Order to allow more time to pay. This can only be used where the credit agreement is regulated under the Consumer Credit Act and a Default Notice has been issued calling in the whole debt or where the creditor is seeking

possession of goods or property. There is a fee but this can be waived in cases of financial hardship. The court can re-schedule the debt and reduce the rate of interest.

If you think your client could apply for a Time Order – refer them for further advice.

Individual Voluntary Arrangements and Bankruptcy

Debtor applications for bankruptcy

The whole area of bankruptcy is complex and you should refer anyone considering bankruptcy for specialist advice. The debtor must pay a fee and a deposit for a bankruptcy petition. The fee is £140 and the deposit is £310. People on low incomes can get help with the fee, but not with the deposit.

Individual voluntary arrangements (IVA)

An insolvency practitioner will, for a fee, set up arrangements with creditors for payment of the debts. The creditors are bound by the arrangement and part of the debt can be written off. Apart from being expensive, IVAs mean that the debtor's home and assets may still be at risk. They may be useful however for clients with fairly high levels of credit debt, a reasonable level of income, and good prospects of being able to keep to a repayment arrangement.

Creditor applications for bankruptcy - Statutory Demands

Bankruptcy proceedings brought by a creditor commence with the issue of a Statutory Demand on Form 6.1. Some creditors may use this form as a "frightener" and have no real intention of proceeding with bankruptcy.

Contact the creditor or the creditor's solicitors and explain your clients circumstances. It may not be too late to negotiate an offer of repayment especially if there are no assets, so that it is not worth the creditors time and expense to continue with the bankruptcy. If the creditor persists, refer clients for specialist advice.



Exercise 6 - County Court Quiz

- 1 You can be put in prison for owing money on your credit card.
TRUE/FALSE
- 2 Once someone has received a claim from the court, s/he will have to attend a hearing. TRUE/FALSE
- 3 Chris owes £7000 on a personal loan he took out 2 years ago. He will be sued in the:
a) High Court? b) County Court? c) Magistrates Court
d) Royal Court?
- 4 Once the court has made an order for payment of a debt, it must be paid, in full, within 28 days? TRUE/FALSE
- 5 Farida owns her home. She's in debt with her Capital One Visa card for £2000. Capital One have been to court and obtained judgement against her. Can they?
a) Have the debt deducted from her earnings?
b) Send in the bailiffs?
c) Take action to force her to sell her home?
- 6 Creditors must have a court judgement before they can use Bailiffs. TRUE/FALSE
- 7 Bailiffs can force an entry into the home. TRUE/FALSE
- 8 Third party orders are:
a) Seizure of goods? b) Deductions from wages/earnings?
c) Seizure of bank account?
- 9 The court has the power to reduce a person's debt
TRUE/FALSE
- 10 A person can only apply to be made bankrupt if they have £310.
TRUE/FALSE

The answers are on page 101 🖱

Magistrates Court

Arrears of fines

If your client has arrears on an order from the Magistrates Court they can normally apply for a means enquiry, at which magistrates will ask for information concerning the debtor's income and expenditure. The magistrates may be able to remit (*cancel*) a fine in full or in part.

Bailiffs

Bailiffs acting for the Magistrates court will be from a private company and may be more persistent than county court bailiffs. Apply to the court for instalments to be reduced.

Like County Court bailiffs, bailiffs taking goods following an order in the Magistrates Court do not have the right to force entry and are restricted in what they can seize.

Deductions from benefits

Following a means enquiry the court can apply to have an amount deducted from the debtor's Guarantee Pension Credit, Income Support or Job Seeker's Allowance (Income based). If this would cause hardship you should refer for further advice.

Imprisonment

The magistrates court can only issue a warrant to imprison someone in the following circumstances:

- Instead of issuing a distress warrant (this authorises seizure of goods)
- Where a distress warrant is returned to the court by the bailiffs because there were insufficient goods to cover the amount owing – it is arguable that this should not include cases where the warrant has been returned because the bailiffs have been unable to gain entry.

- A means enquiry must have taken place – the court must decide if the failure to pay is due to “wilful refusal” or “culpable neglect”, and must also ensure that they have considered all other methods of obtaining payment.
- Contempt of court, e.g. failing to attend a hearing.

People facing a warrant for imprisonment should be referred for legal advice and consider representation by a solicitor.

NOTE: The fine is wiped out following the period of imprisonment.

Council Tax

Council Tax arrears are treated differently from the above, because, after the magistrates have made a liability order, all enforcement procedures are solely in the hands of the local authority (*see section on Council Tax*).

If, however, bailiffs fail to seize goods, the case may be referred back to the Magistrates Court and a **means enquiry** will be held. The magistrates have the power to remit the charge (or to send to prison in cases of “wilful refusal” or “culpable neglect”). Refer your client for specialist advice as above, if they are in these circumstances.



Exercise 7

This is a final “round-up” exercise:

What advice can you give these people who have all phoned Age Concern? Say whether you would deal with the case yourself or if you would refer it to another agency or specialist in your Age Concern:

- 1 The bank say that I owe all the money on the loan even though I took it out with my ex-husband. I don't think that's right.
- 2 I've had a letter to say the bailiffs are coming round next week because I haven't paid up after the catalogue took me to court. I don't know what to do.
- 3 They repossessed our house 4 years ago – we didn't hear anything from them but today we got a letter to say we owe £20,000!
- 4 I've tried to negotiate with the housing officer but she just won't listen. My husband's in hospital, he's just had an operation, he usually deals with everything.
- 5 The building society is taking us to court next week even though we've got an agreement to pay off the arrears. Are they allowed to do that? I'm really worried we might lose the house.
- 6 We're getting Pension Credit and I thought the water rates were being paid for us. This morning I got a letter from Anglia Water to say they are going to take me to court. This is the first I've heard from them. Can they cut us off?

The answers are on page 103 ➡

Dealing with Money Problems Induction Learning Pack

Feedback sheet

Part 2

Please complete the following statements in whatever way you feel is most appropriate for you.

Working through the pack made me feel...

I liked...

I was surprised by...

I'll use...

Feedback sheet (continued)

Now I can...

I didn't like...

I want to know more about...

I should like some more training about...

I'd also like to say...

Sources of further information

Age Concern Factsheets

These form the core information resource for Age Concerns. There should be a full set of Factsheets and these should be kept up-to-date. The other resources listed below should be seen as in addition to, rather than instead of, the Factsheets. The Factsheet order line for Age Concerns (not the public) is 0800 783 6143.

Local information

Details of local services and policies affecting older people and their carers compiled and kept up to date by your Age Concern.

National information resources - for older people

- Citizens Advice – free information for the public on a wide range of topics www.adviceguide.org.uk
- Community Legal Service Direct – free information, help and advice (if eligible for legal aid) 0845 345 4345 and at www.clsdirect.org.uk
- Older people can access specialist debt advice at www.nationaldebtline.org.uk
- Older people can access advice on housing at <http://england.shelter.org.uk/home/index.cfm>
- OFGEM The Office of the Gas and Electricity regulator 0845 906 0708 www.energywatch.org.uk

National information resources – for I&A staff

- I&A staff can find out more about good practice in Money Advice at www.moneyadvicetrust.org
- For examples of all court forms visit www.courtservice.gov.uk

Answers to Exercises

Part Two

Exercise 1

- 1 Mr and Mrs Abdi's son, took out a loan to finance his post-graduate studies. Mr Abdi agreed to be the guarantor. Now their son is in arrears with the repayments and the creditors have written to Mr and Mrs Abdi saying their house is at risk if the loan isn't paid. They are very concerned.

Answer: *It would seem that Mr Abdi has agreed to put up his house as security for the loan. The Abdi's should be referred for specialist advice.*

- 2 Mr Lyon's wife has left him. She had a number of store cards and the bills still arrive at the old address. Mr Lyon wants to know what he should do.

Answer: *Mr Lyon is not liable to pay – unless any of them are joint cards. It rather depends on what sort of terms he is on with his ex-wife – he can send them on to her, send them back to the lender – or give the lender her new address.*

- 3 Mrs Lord hasn't heard from Freemans Catalogue company for some years. She thinks she still owes them some money and this is worrying her. What should she do?

Answer: *It may be that six years has elapsed since Mrs Lord contacted the lenders or made any payments. However, she is worried about this and some people are unhappy about leaving such a matter. Only contact the creditors once you have explained the six year rule to her and she still wants to go ahead. You also need to know if Freemans obtained a county court judgement against her as there is no time limit for enforcement.*

- 4 Freddy Miles says he owes £150 to one of his neighbours. He can't pay it back.

Answer: *If it is genuinely a loan between individuals there is no criminal offence here – but you might want to gently investigate as to whether this is really a "neighbour" – or is it a loan shark? People are understandably reluctant to state that they have borrowed money from illegal moneylenders. If such is the case, you should suggest contacting trading standards.*

- 5 Marcia Thomas bought a new fridge-freezer a month ago but it's never worked properly. She has tried to get the shop to replace the item but they have refused saying it only needs a repair. She's stopped paying the loan repayments. She wants to know what else she can do.

Answer: *Marcia not only has a fridge-freezer that doesn't work she is now also in arrears with her payments. She should recommence paying and you can either advise her how to deal with a faulty goods complaint (see Information Sheet IS/11 'Consumer Advice') or refer her to the Trading Standards department of your local authority or for Consumer Advice.*

Exercise 2 - Holding Action and Emergencies Quiz

- 1 James has a letter from Southern Electricity to say they're coming round to disconnect him tomorrow.

Would you

- a) Write to ask them to hold action
- b) Phone them
- c) Offer them £10 weekly (seems reasonable) off the arrears?

Answer: *b) Phone them and ask them to hold any further action.*

- 2 Sevda has a letter from solicitors acting for VISA to say they will commence proceedings if she doesn't pay what she owes - £3,000. She's absolutely distraught, as she doesn't have that amount of money.

Would you

- a) Explain that she may be able to negotiate an instalment arrangement with them based on her financial statement
- b) Phone VISA immediately
- c) Write a holding letter?

Answer: *a) and c)*

- 3 Mr Morgan is worried about loan sharks. They have threatened to do him serious injury unless he pays up.

Would you

- a) Phone the loan sharks
- b) Suggest he contacts trading standards as he pay not be legally obliged to pay
- c) Suggest he goes into hiding or leaves the country
- d) Speak to the police on his behalf?

Answer: b) Suggest he contacts trading standards.

You may also suggest Mr. Morgan speaks to the police if he is concerned about the threats.

- 4 Mr Beale has a court hearing for repossession of his home in two days time.

Will you

- a) Phone the court
- b) Phone the lenders
- c) Phone an advice agency to see if they can fit in an urgent appointment
- d) Advise him about what may happen in court and what he may be able to do to keep his home?

Answer: c) Phone an advice agency

d) Advise him about what may happen in court

Exercise 3

The following have all contacted Age Concern for advice about their debts:

- 1 Mr Craig borrowed £5,000 to pay for a new kitchen. Now he's having problems with his repayments. What's one of the first things you should ascertain about the loan?

Answer: You should check whether it is a secured loan or not.

2 Mr and Mrs Abrahams haven't paid the rent on their council flat for 6 weeks.

- a) What questions do you need to ask?
- b) What advice will you give?

Answer:

a) *Your questions should include:*

- What action has been taken by the Council so far?
- Have they claimed Housing Benefit? If so, is there a delay in payment – is the amount correct, are they left with having to make up a shortfall?
- What has caused the problem?
- You also need more information about them – their income, their household composition.

b) *Advice:*

- Maximise their income if possible.
- Draw up a financial statement and prioritise rent arrears.
- Reduce credit payments if necessary.
- Make an offer to pay off the arrears.

3 Mr Ntenda has a Suspended Possession Order and has to pay £75 monthly for his mortgage arrears. He says he can't keep up the repayments. Is there anything he can do?

Answer: *He can apply to the court for a reduction in the instalments. You may need to refer him for specialist debt advice.*

Exercise 4

What fuel payment methods would you advise for the following:

1 Mr and Mrs Deria who enjoy a weekly trip to their local town centre?

Answer: *As they are mobile they may be able to buy stamps, they could use Paypoint, or have a key/card meter.*

- 2 Miss Street (aged 63) who looks after her frail mother aged 90?

Answer: *Miss Street may have problems leaving her mother alone in the house so, if she has a bank account, a monthly budget scheme may be best.*

- 3 Fred Carew who is getting a bit forgetful?

Answer: *If he has a bank account the monthly budget scheme by direct debit would be most suitable.*

- 4 Mr and Mrs Murphy who get Guaranteed Pension Credit?

Answer: *They could have fuel direct, a key/card meter or if they can negotiate the payment of this bill – pay for future bills by savings stamps or Paypoint.*

- 5 Mrs Michaels who is always very worried about spending too much money.

Answer: *A key/card meter may be inadvisable as Mrs Michaels may be tempted to economise and end up not adequately heating her home. Budget scheme or Paypoint would be preferable.*

Exercise 5

Advise the following:

- 1 Mr and Mrs Scotford have contacted you because they keep getting phone calls from a loan company about their payments. They couldn't pay last month because they gave some money to their son – he was about to be evicted from his flat.

Answer: *This might be harassment – but you would need to know more: what time do the company ring and how many times a day? You need to advise them about how they can pay off the arrears to the loan company – it seems that it was a short-term problem, so they need to make an offer to pay off the arrears. Their son may need some debt advice too!*

- 2 Mrs Ladejobi bought a caravan on credit. She has had problems keeping up with the repayments and now she has received a letter saying they are going to come and take the caravan away. She wants to know if they can do that.

Answer: *You need to find out if this is Hire Purchase (HP). If it is and she has paid less than 1/3rd then the company can seize the goods without a court judgement.*

Does she have other debts? Can her income be maximised? What is her income and expenditure? What sort of offer could she make to the HP company? How much does she need/want to keep the caravan?

- 3 Mr Law has just retired, and although his wife is still working, their income is reduced. They cannot keep up the repayments on their credit and store cards. They do not have any court judgements.

They owe:

B&Q	£150
John Lewis	£300
Dixons	£400

They have £25 monthly to meet their debts. Work out a pro-rata offer.

Answer: They owe £850 in total and they have £25 monthly available income to pay off their debts. The formula is: debt x available income ÷ total debts.

- 1 B&Q: $£150 \times £25 \div £850 = £4.41$
- 2 John Lewis: $£300 \times £25 \div £850 = £8.82$
- 3 Dixons: $£400 \times £25 \div £850 = £11.76$

Exercise 6 - County Court Quiz

- 1 You can be put in prison for owing money on your credit card.

Answer: *FALSE – you can only be imprisoned for contempt of Court for failing to attend a court hearing about a credit card debt.*

- 2 Once someone has received a claim from the court, s/he will have to attend a hearing.

Answer: *FALSE – you may well be able to deal with the whole matter by post as long as both sides agree.*

- 3 Chris owes £7000 on a personal loan he took out 2 years ago. He will be sued in the:

Answer: *b) County Court*

- 4 Once the court has made an order for payment of a debt, it must be paid, in full, within 28 days?

Answer: *FALSE – The Court can be asked to make a payment by instalments based on what the debtor can afford, even if the initial order requires payment in full within 28 days.*

- 5 Farida owns her home. She's in debt with her Capital One Visa card for £2000. Capital One have been to court and obtained judgement against her. Can they?

- a) Have the debt deducted from her earnings?
- b) Send in the bailiffs?
- c) Take action to force her to sell her home?

Answer: *They could do a, b or c, although a or b are the most likely. The creditor could obtain a charging order and ask the Court to make an order for sale of the property. Whatever the creditor has asked the Court, Farida can ask to make repayments by instalments, based on what she can afford.*

- 6 Creditors must have a court judgement before they can use Bailiffs.

Answer: *TRUE in most cases, although it is worth noting that creditors can use Bailiffs to seize goods on HP if they are on public property and less than 1/3rd of the purchase price has been paid. This tends to be restricted to high value motor vehicles.*

7 Bailiffs can force an entry into the home.

Answer: *FALSE if they have not previously gained entry; but TRUE if they have gained entry on a previous occasion to make a list of the goods they intend to seize (walking possession).*

8 Third party orders are:

- a) Seizure of goods?
- b) Deductions from wages/earnings?
- c) Seizure of bank account?

Answer: *c) Seizure of bank account*

9 The court has the power to reduce a person's debt.

Answer: *Yes, under an Administration Order, the Court can order less than the full amount of the debt may be paid*

10 A person can only apply to be made bankrupt if they have £310.

Answer: *TRUE – the debtor needs the money in cash as a deposit on the Trustee in Bankruptcy's fees.*

Exercise 7

What advice can you give the following? Say whether you would deal with the case yourself or if you would refer it to another agency or specialist in your Age Concern:

1 The bank say that I owe all the money on the loan even though I took it out with my ex-husband. I don't think that's right.

Answer: You have to explain joint and several liability: both people are liable for the whole amount. The lender can choose who to pursue. Offer debt advice or refer – according to your Age Concern's policy.

- 2 I've had a letter to say the bailiffs are coming round next week because I haven't paid up after the catalogue took me to court. I don't know what to do.

Answer: *Check whether the bailiffs have been before and taken "walking possession". If so, the client must let them in or they can force entry. But if this is they have not previously been allowed in they cannot force entry so your advice would be not to let them in. However, they need to make an offer of payment so they should complete Form N245. Do they have other debts? Offer debt advice or refer, as above.*

- 3 They repossessed our house 4 years ago – we didn't hear anything from them but today we got a letter to say we owe £20,000!

Answer: *The house was repossessed and sold, but the sale price was £20,000 less than the outstanding mortgage debt. This is not a priority debt, and the lenders may accept a low offer. However, there may be some things that need to be checked about the circumstances of the sale and why so much is outstanding – is the figure correct? It would be best to refer this to a specialist Money Adviser.*

- 4 I've tried to negotiate with the housing officer but she just won't listen. My husband's in hospital, he's just had an operation, he usually deals with everything.

Answer: *This client needs an agency to intervene on her behalf, as she has been unable to negotiate with the Housing Officer. You would need to go through all the stages of the Debt Advice checklist in order to assist.*

- 5 The building society is taking us to court next week even though we've got an agreement to pay off the arrears. Are they allowed to do that? I'm really worried we might lose the house.

Answer: *The building society probably want to get a suspended possession order so that if the arrears payments stop it will be easier for them to get an outright possession order from the courts.*

You will probably need to refer this to a specialist debt agency, as there is a risk of possession. The Money Adviser may be able to argue successfully that this case need never have been brought to Court, as there was an existing agreement.

- 6 We're getting Pension Credit and I thought the water rates were being paid for us. This morning I got a letter from Anglia Water to say they are going to take me to court. This is the first I've heard from them. Can they cut us off?

Answer: *People cannot get help from the benefits system for water charges. Water supplies for domestic use can no longer be cut off. The water company must take action in the County Court for payment. You will need to go through all the stages of the debt advice checklist in order to assist. Your clients say that they have not heard anything about this before getting the claim form. Of course Anglia Water should have sent them a "red" bill, a letter demanding payment and a letter saying they were going to court. However, there is little to be gained by pursuing this approach: if the clients owe the money it would be better to offer them debt advice.*

NB: *Anglia Water have a charitable payments fund. Could your clients be eligible? See Charitable Payments Induction Pack !*

Sample standard letters

1 Holding letter

Dear Sir/Madam

Re **Client's name – reference number**

I am writing to let you know that Age Concern X is helping the above who is/are experiencing financial difficulties and cannot afford to pay the agreed amounts to their creditors.

I am in the process of working out their income and expenditure in order to make realistic offers to all creditors. In the meantime I would be grateful if you would hold any further action and freeze any interest that is continuing to accrue on his/her/their account.

Would you please also inform me of the up to date balance on XXXX's account – *if needed*.

I enclose XXXXX 's signed authority for the disclosure of information. I will be contacting you with more detailed information as soon as possible.

2 Offer letter

Dear Sir/ Madam

Re **Client's name – reference number**

I am writing further to my previous letter of I have now completed statement of income and expenditure for the above-named, a copy of which is enclosed. As you can see, he/she/they have £..... per week/month left for his/her/their creditors.

Please would you therefore accept a reduced payment of £..... per week/month and suspend further interest.

I look forward to hearing from you as soon as possible.

3 Nil offer letter

Dear Sir/Madam

Re Client's name – reference number

I refer to our previous correspondence dated I have now completed a statement of income and expenditure for the above, a copy of which is enclosed. As you can see he/she/they have no money left for creditors.

I have also attached overleaf details of his/her/their personal circumstances. In view of his/her/their situation I am asking all his/her/their creditors if they would consider not collecting their debts.

Please let me know your decision as soon as possible.

Financial Statement

Name:

Address:

Number of people in household:

1 Income	
Wages/salary	
Benefits	
Pension	
Private pension	
Other	
Total income	A

2 Expenditure	
Mortgage	
Second mortgage/secured loan	
Rent	
Council tax	
Ground rent/service charge	
Buildings/contents insurance	
Life insurance	
Pension contribution	
Fuel	
Water charges	
Housekeeping	
TV licence	
Fines	
Maintenance	
Travel	
Clothing	
Prescriptions	
Disability/mobility expenses	
Contingencies/emergencies	
Other	
1.	
2.	
3.	
Total income	B

3 Money for all creditors	
Total income	A
Take away	
Total expenditure	B
=	
Money for creditors	C

4 Priority Debts	Balance owed	Monthly offer or payment
Mortgage arrears		
Second mortgage arrears		
Rent arrears		
Council tax arrears		
Water charges arrears		
Fuel arrears		
Fine arrears		
Maintenance arrears		
Other		
Total priority debts repayments	D	

5 Money for credit debts	
Total money for creditors Take away	<input type="text" value="C"/>
Total Priority debts repayment =	<input type="text" value="D"/>
Money for credit debts	<input type="text" value="E"/>

6 Credit debt repayments		
Creditor	Balance owed	Monthly repayment offer
1.		
2.		
3.		
4.		
5.		
6.		
Total owed: _____		Total Repayments: _____ <input type="text" value="E"/>

This is an accurate record of my financial position.

Signed: Date: