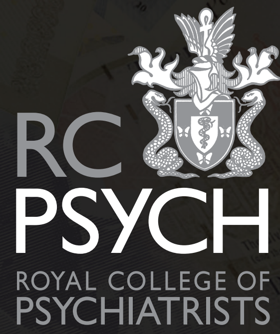
Lending, debt collection and mental health:

ten steps for treating potentially vulnerable customers fairly

A briefing for lenders, creditors and debt collectors

April 2014



MONEY ADVICE TRUST

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* The interpretation of this work is that of the authors of this briefing, and the statements contained in this report do not reflect those of the people named above, or any other organisation named in this briefing.

Foreword

The Royal College of Psychiatrists has a long and distinguished record of research into, and guidance on, topics related to mental health and the challenges that mental health conditions can create. Consequently, in 2010, the credit industry welcomed the publication of the College's innovative and timely research study with the Money Advice Trust into the ways in which frontline creditor staff worked with customers in financial difficulty who may have a mental health problem.

Four years on, mental health is no longer a taboo subject for conversation and debate among financial service providers. Instead, it has not only become widely discussed in creditor circles, but has been a focus for concrete and practical action among many credit providers. This has seen many initiatives being introduced – some of which feature as case-studies in this report – as well as a mental health training and intervention programme run by the College and Money Advice Trust which over 2000 frontline creditor staff have benefited from.

To reflect this progress, the credit industry, advice sector and the Royal College of Psychiatrists and Money Advice Trust have again worked together to produce an updated and significantly revised version of our original 2010 report. Containing completely new material, and comprehensively rewritten throughout, this document allows us to share the learning accrued in the last four years about working effectively with customers with mental health problems, to recognise the positive action that many creditors have taken, and to further encourage the dissemination and implementation of good practice across the credit industry.

We recognise however that mental health is not a 'job done' – it should continue to be everyone's business across the credit industry and its partners in the advice sector. New issues have emerged (and will continue to emerge) and this report addresses some of these, including both collections and lending practice. Furthermore, as we move into an era where increasing attention will be paid to consumer vulnerability, almost everything that has been learnt about working with customers with mental health problems can be used to help meet this challenge.

We therefore look forward to a continuing working relationship between the credit industry, the advice sector and the Royal College of Psychiatrists and the Money Advice Trust. One based on respective experience, evidence and a collective wish to do what is right for the customer, and where 'recovery' can have a meaning in both commercial and personal health terms.

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csa
voice of the collections industry

Executive summary: 10 steps for every creditor

1 Responsible lending
Pages 9–11

Double-check that you are complying with industry guidance on mental capacity – there is evidence that it is being misinterpreted

WHY IS THIS IMPORTANT? Research by Mind and RCPsych with customers living with mental health problems, found that 1-in-3 participants who applied for a loan in the last 12 months reported feeling unable (and potentially unsupported) to make a reasonable decision about the loan due to the effect of their mental health problems.

ACTION: Read our checklist – many lenders, in good faith, believe they are compliant, when in fact they may not be.

GOOD PRACTICE:
Barclaycard (Case Study 1).

2 Organisational policy
Pages 12–15

Develop, write and share a mental health policy – there is both a legal benefit and staff want clear guidance

WHY IS THIS IMPORTANT? Firstly, the Data Protection Act 1998 requires creditors to explain to customers with mental health problems how their information will be used – without a written policy, creditors will be unable to do this. Secondly, nearly half of frontline staff don't know what to say to such customers, and the majority report that a written mental health policy would help.

ACTION: Write a simple policy which explains how a customer who discloses a mental health problem will be treated, and how their information will be used and shared during this process – our checklist will help.

GOOD PRACTICE:
Data Protection Act 1998 (Box 5) and Money Advice Liaison Group (Box 6).

3 Organisational policy
Pages 16–17

Plan for common situations, but don't overlook rarer, high-impact events

WHY IS THIS IMPORTANT? An extremely common staff concern is working with a customer who talks about taking their own life. Despite the rarity of such events, such situations are exactly where staff need a clear and well-understood protocol.

ACTION: Check that your mental health policy deals with rare but high-impact events such as suicide, extreme distress, and other 'learning events'.

GOOD PRACTICE:
The Samaritans (Case Study 2) and American Express (Case Study 3).

4 Frontline staff
Pages 18–19

Create an organisation where customers are confident to disclose, and staff manage disclosures effectively

WHY IS THIS IMPORTANT? Firstly, for the customer, disclosure to a creditor can be a big step – a point where they entrust an organisation with information about something often highly personal, and in the hope it will be taken seriously and into account. Secondly, for the creditor, it represents an exchange which if not properly handled, could result in customer engagement being lost, commercial insights not being acted upon, and potential breaches of the Data Protection Act taking place.

ACTION: First, make it clear to customers that they can disclose a mental health problem, and outline the potential benefits of doing so. Second, to help staff, introduce the TEXAS protocol.

GOOD PRACTICE: Arrow Global (Case Study 4) and Robinson Way (Case Study 5).

5 Frontline staff
Pages 20–21

Ensure that carers are not forgotten – they can provide invaluable insights

WHY IS THIS IMPORTANT? Customers are not the only people who can disclose a mental health issue to creditor staff. Carers are also in a position to inform staff about situations where a family member or friend is unable to manage their money due to a mental health problem. However, invaluable insights from such disclosures are potentially being lost by creditors.

ACTION: Help your staff by introducing the CARERS protocol.

GOOD PRACTICE: Shoosmiths (Case Study 6).

6 Specialist staff
Pages 22–23

Help your specialist staff by introducing the IDEA protocol

WHY IS THIS IMPORTANT? The 'TEXAS drill' is designed for managing initial conversations about a customer's mental health – but what help can be given to specialist staff to 'go deeper' and find out more? Introducing the IDEA protocol will provide staff with a 'compass' to help structure and manage more in-depth conversations, listen out for relevant information, and ask key questions.

ACTION: Introduce the 'IDEA' protocol (Figure 1).

GOOD PRACTICE: Nationwide Building Society (Case Study 7).

7 Building staff capacity
Pages 24–25

General 'mental health awareness' training will not deliver – provide training that recognises the type of work you do

WHY IS THIS IMPORTANT? There is a large difference between 'knowing about mental health', and having the skills, strategies and techniques to work closely with customers who have mental health problems. Consequently, creditor staff need to receive training that both reflects the lending or collections situations that they will encounter at work, and which also provides them with the specific skills and tools to manage this in the creditor workplace.

ACTION: Review our checklist of knowledge, skills, and strategies to ensure your training delivers positive outcomes for your customers and your business.

GOOD PRACTICE: Royal College of Psychiatrists and the Money Advice Trust (Case Study 8).

8 Contact with the NHS and social care
Pages 26–27

Only collect medical evidence where it makes a difference. It is not needed for every customer who discloses a mental health problem

WHY IS THIS IMPORTANT? 'Medical evidence' is information about a customer's mental health provided by a nominated health or social care professional that knows the customer. Creditors need such relevant and clear evidence to inform decision-making about the action to take on a customer's account. But it is not always needed for every customer – doing this may waste time, incur unnecessary costs, and delay needed action.

ACTION: Ensure that decisions to collect medical evidence are made on a case-by-case basis, rather than being an automatic action. Staff should ask: is more really needed?

GOOD PRACTICE: Co-Operative Bank (Case Study 9).

9 Contact with the NHS and social care
Pages 28–29

If you decide to collect medical evidence, check that you are using this to its full effect

WHY IS THIS IMPORTANT? Even when sound reasons exist for collecting medical evidence, some creditor staff find it extremely challenging to use the collected medical evidence for decision-making.

ACTION: Follow our suggested framework for ensuring that your investment in collecting evidence is optimised, and that you have a full and fair understanding of the customer's needs.

GOOD PRACTICE: HMRC (Case Study 10) and a framework for organising and understanding medical evidence (Figure 2).

10 Quality improvement
Pages 30–31

Make full use of routine data and monitoring to improve performance and prevent problems

WHY IS THIS IMPORTANT? Basic mental health monitoring allows organisations to firstly identify the volume of customers reporting mental health problems; understand and categorise the strategies put into place by staff in response; and evaluate the outcome of these interventions. Secondly, creditors can use the monitoring of general customer activity data to prevent financial and health problems developing further by identifying unusual 'blips' and inconsistent 'patterns'.

ACTION: Creditors need to record and then use basic mental health monitoring data.

GOOD PRACTICE: HSBC (Case Study 11) and Cabot Credit Management (Case Study 12).

Introduction

This briefing explains how creditors and debt collection organisations can practically take the mental health of their indebted customers into account.

In doing so, it encourages creditors to use this to inform their thinking and approach to both mental health, and the wider challenge of working with 'vulnerable consumers'.

2010: our original ten steps

- In 2010, we published *Debt collection and mental health: ten steps to improve recovery*[1] (www.rcpsych.ac.uk/recovery)
- Based on innovative research developed with the creditor sector, this described ten steps to improve creditor practice when working with customers with mental health problems.
- Highly influential, *ten steps to improve recovery* helped to bring about wide-spread change including:
  - the training of over 2000 frontline collections staff from more than 50 creditor organisations
  - the inclusion of significant revisions about mental health within the Lending Code
  - industry recognition in the form of a 2011 *Credit Today* award.

2014: ten steps rewritten

- In 2014, we have *completely rewritten* this award-winning briefing.
- We have done this for two simple reasons:
  1. Four years on, the creditor sector has continued to accumulate experience of working with customers with mental health problems, with numerous examples of excellent, effective and fair practice. This invaluable knowledge and practice in both collections and lending **needs to be shared** and implemented across the industry.
  2. During the same period, creditors have also told us that they **need help on new issues** (such as lending decisions and mental capacity), **updated advice** on long-standing challenges (such as the Data Protection Act and processing mental health information), and the development of **bespoke training** which reflects the working situations that creditor staff encounter (as opposed to relying on generic mental health awareness training).

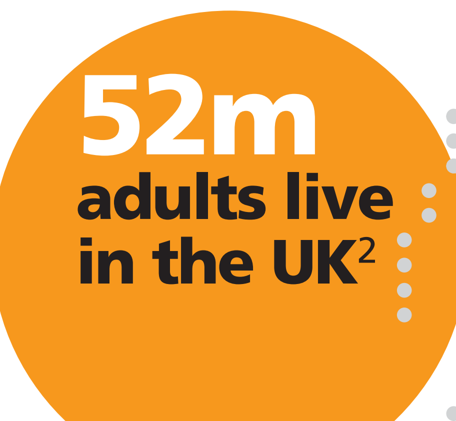
The year ahead: vulnerability

- In the coming year, the Financial Conduct Authority will pay ever-increasing attention to vulnerable consumers.
- Critically, almost everything that has been learnt about working with customers with mental health problems can be used by creditors to help meet this new challenge.
- This collective experience can be drawn upon as a blueprint for both change within the creditor sector, and engagement with the range of bodies representing potentially vulnerable consumers.
- Without such a blueprint, there is a significant risk of opportunities for change being lost in either the shadow of debates about definitions, or the noise of consumer bodies seeking to 'shout the loudest' for creditor attention.

Reflecting this new horizon

- Reflecting this emphasis on new knowledge and wider vulnerability, we have therefore rewritten and re-launched our briefing with the revised title: *Lending, debt collection and mental health: ten steps for treating potentially vulnerable customers fairly.*
- Recognising that not every customer with a mental health problem is 'automatically vulnerable' or unable to manage their money, the briefing instead emphasises the importance of preparation, assessment, and support for customers who are.
- If we can achieve this, then we will be a step closer towards not only making 'mental health everyone's business' (as government health strategies encourage), but business becoming an important contributor towards good customer mental health.

BOX 1: Mental health and your customers



1 in 4 adults will experience a mental health problem in any given year[3]

These adults are also your customers.

In a single year,
the number of times that collections staff will be told about customers with mental health problems[4]:

120,000 times	in a large-scale collections environment (2,000 staff)
48,000 times	in a medium sized collections operation (800 staff)
15,000 times	in a large sized collections call centre (250 staff)
6,000 times	in a medium sized collections department (100 staff)
3,000 times	in a small sized collections department (50 staff)
600 times	in a typically sized collections team (10 staff)
60 times	for a typical member of collections staff

And for every customer who does disclose a mental health problem, potentially two customers will choose not to tell out of worry and fear[5]

Reasons given by customers for non-disclosure include *worrying how this information would be used, fears that disclosure would affect future credit, thinking staff would not understand,* and *believing it would make no difference*[5].

Rationale: why should creditors care?

Three reasons

Creditors are not doctors, counsellors or an NHS helpline. However, creditors should still care about mental health and mental capacity:

A because a better understanding of an individual's circumstances allows creditors and lenders to **treat their customers fairly**

B because – as the majority of debt collection staff believe – taking mental health into account allows creditors to better **achieve their commercial objectives**

C because creditors and lenders have **legal and regulatory responsibilities** in terms of mental health and mental capacity.

A Treating customers fairly

Mental health problems can affect the way people think, feel and behave, and can negatively impact every aspect of our lives.

When combined with financial difficulties, mental health problems can pose serious challenges for the individual concerned and their family, and the range of organisations they have relationships with.

Critically, these relationships will include lenders, creditors and debt collection organisations. This is because credit and debt are part of everyday life for millions of British adults, including the 1 in 4 experiencing a mental health problem in any given year (as shown on page 5).

Although knowing such 'key facts' about mental health can help, what is critical is the willingness and ability of creditor staff to take a customer's full situation into account, including any relevant mental health or mental capacity issues.

This will require staff to engage with an issue – as illustrated in this report – that they currently perceive as the 'most difficult' to deal with. However, such engagement and understanding is key to the fair and sensitive treatment of such customers.

B Better for business

The rationale is simple.

If creditors do not:

- know customers have mental health issues
- encourage customers to tell them this
- ask basic questions about the impact of a customer's mental health problem on repayment;

They will be missing out on:

- a vital piece of information
- an opportunity to impress upon customers that this can be taken into account
- an opportunity to impress upon customers that they can clear their arrears
- an opportunity to identify, anticipate and manage any related challenges
- an opportunity to refer customers with complex needs to a specialist team/staff member.

Which could result in:

- a broken repayment arrangement
- additional costs of negotiating a new arrangement for the creditor
- a financial impact on the customer in the form of penalty charges, further arrears, and legal action
- a potential worsening of the customer's mental health (e.g. due to distress and anxiety)
- a reduced likelihood of the customer engaging with the creditor or addressing their financial problems.

The importance of such information and insight, can make the difference between successful and unsuccessful debt recovery.

In our 2010 survey, 59% of staff reported that if they could take customer mental health fully into account, they would be more likely to recover the debt. ”

C Legal and code responsibilities

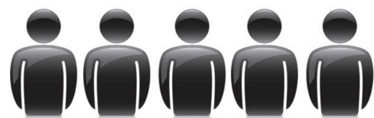
Creditors are expected to comply with a range of industry codes of practice, as well as having a legal duty to comply with wider laws. These include:

- Lending Code (British Bankers' Association, Building Societies Association, The UK Cards Association)
- Lending Code (Finance & Leasing Association)
- Code of Practice (Credit Services Association)
- Rules for consumer credit (Financial Conduct Authority)
- the Data Protection Act (1998)
- the Mental Capacity Act (England and Wales, 2005) and Adults with Incapacity Act (Scotland, 2000)
- the Equalities Act (2010).

Creditors will have a heightened awareness of the actions that industry codes of practice expect them to take in relation to mental health. However, creditors should also always fully meet their legal duties, including relevant legislation on data protection, mental capacity, and equalities.

BOX 2: Your customers, your staff, your industry

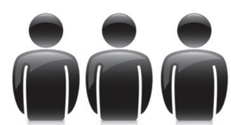
Your customers say:



Trust is a real issue, but fairness could provide the key

- research indicates that customers often do not disclose their mental health problems to creditors because of concerns about how they will then be treated
- where customers do disclose to a creditor, many do not feel their mental health problems are taken into account[5].

Your staff say:



Mental health is a challenge – but we can meet it with support

- more frontline staff report that mental health is the most difficult issue to deal with, than any other issue (including physical disability or bereavement)
- however, 59% of frontline staff state that if they could take a customer's mental health fully into account they would be more likely to recover the debt[1].

Your industry says:

Mental health is no longer a taboo subject – it is a focus for practical action

- 2004 – mental health first identified by the 'Independent Review of the Banking Code' as an issue requiring industry action
- 2007 – the Money Advice Liaison Group publish guidance on working with indebted customers with mental health problems (a second revision is published in 2009)
- 2008 – the first version of the Debt and Mental Health Evidence Form is published – a tool to help collect relevant evidence for decision-making (second and third revisions in 2009 and 2012)
- 2009 – the Banking Code becomes the Lending Code – this new code contains a section on debt and mental health (which is updated again in 2011 version)
- 2011 – Office of Fair Trading publishes guidance on mental capacity and lending
- 2012 – Finance and Leasing Association publish their industry code, which includes a dedicated section on mental health
- 2014 – Financial Conduct Authority take responsibility for consumer credit, with the FCA rule book containing specific references to mental health and mental capacity.

For every creditor: ten questions, ten steps

Overview

In this section, we outline ***ten questions*** that every creditor should ask themselves, and describe the accompanying ***ten steps*** that every creditor can take to improve their work.

We begin with lending decisions (a critical point at which future financial and health crises may be prevented), before moving on to consider actions that every creditor can take at any point in their relationship with customers.

When lending are you really complying with law and regulation on mental capacity?

What is the issue?

'Mental capacity' is a person's ability to make an informed decision at a specific point in time. A 'mental capacity limitation' – as recognised in law and regulatory lending frameworks – is where a person cannot make such an informed decision due to an 'impairment or disturbance... in the mind or brain'.

This potentially includes customers with mental health problems. It can also include customers experiencing *other conditions* (Box 3). Consequently, both sets of customers may be vulnerable to financial detriment due to a mental capacity limitation.

In 2011, the Office of Fair Trading (OFT) issued thought-provoking guidance on mental capacity. This considered the responsibilities of lenders in relation to the Mental Capacity Act (2005) and Adults with Incapacity (Scotland) Act 2000, which both address decision-making and consumer contracts.

Most importantly, the OFT guidance focused on helping lenders legally and fairly assess applications for credit where a borrower was (a) understood or suspected to lack the mental capacity to (b) make a decision about whether to enter into a credit agreement.

In 2014, the Financial Conduct Authority took over responsibility for the regulation of consumer credit. The FCA continues to expect lenders to take explicit steps to prevent inappropriate or irresponsible lending to borrowers with mental capacity limitations, and to protect their best interests. However, there have been:

- reports that translating mental capacity legislation into lending processes is proving very challenging for lenders
- evidence that customers with 'limited mental capacity' may not be receiving the support from lenders that is required.

What is the evidence?

The first source of evidence comes from RCPsych's work with lenders to help translate mental capacity policy into operational practice.

During this, a commonly reported problem has been lenders' initial instinct to 'work this out ourselves', rather than engaging with organisations with health expertise. Unfortunately, this has often resulted in procedures which lenders believe comply with law and industry guidance, but which actually:

A **conflate 'mental capacity' with 'mental health problems'** – resulting in only borrowers with mental health problems being focused on, rather than a wider list of conditions affecting mental capacity (Box 3). This is discriminatory and commercially inefficient.

B **rely solely on customer disclosure** – customers with a potential mental capacity limitation may not disclose this to a lender. Consequently, if lenders do not actively encourage such disclosure (by looking for signs of a potential and relevant mental capacity limitation), such customers (a) will not receive the support they need to make an informed decision and (b) irresponsible lending may occur. Instead, lenders need to encourage disclosure, and look for signs of a potential and relevant mental capacity limitation.

C **neglect the legal need to support decision-making** – it is not uncommon for lenders to focus on the *assessment* of a mental capacity limitation, but neglect the need to *support* customers with such limitations to make an informed decision.

D **treat mental incapacity as a life-long state** – some lenders have wrongly assumed that a person who currently lacks the mental capacity to enter into a loan agreement, will be unable to enter into any agreement in the future.

E **overlook mental capacity issues entirely** – law and guidance expects lenders to presume that each borrower has the mental capacity to make an informed decision, unless there is an understanding (or indication) that this isn't the case. However, some lenders wrongly conclude that this means they do not have to actively look or check for *any indicators* of a mental capacity limitation.

Further evidence: customer data

In 2010, RCPsych and Mind surveyed 450 people with a personal experience of debt and mental health problems. These people were asked about the *effect of their mental health problems* on their ability to make a decision during any loan application process in the last 12 months[6]. This found that:

- **one-in-three** reported feeling unable to make a 'reasonable decision' about taking out the loans on offer
- **one-in-four** reported being unable to understand the terms and conditions of these loans
- **one-in-three** reported being unable to ask questions about, or being able to discuss the loan with, the lender.

These findings are important as they both indicate that mental capacity limitations are not uncommon during loan applications, and that lender support for consumer decision-making is critical.

What should lenders do?

There are four steps that lenders can take.

Firstly, lenders should encourage customers to disclose any potential mental capacity limitation – as customers may be reluctant to disclose for a number of reasons (including the fear that a loan may be declined), lenders should reassure customers that such a disclosure can potentially result in additional support being provided. As long as this reassurance is clear and easy to understand, it can be given on the phone, or though written notice or letters inviting disclosure:

BOX 3: What is a mental capacity limitation?

A. mental capacity is a person's ability to make an informed decision at a specific point in time. It is determined by a person's ability to:

- understand information
- remember information
- weigh-up information
- make/communicate an informed decision.

B. mental incapacity is a person's inability to make an informed decision at a specific point in time due to an '*impairment or disturbance in the functioning of the mind or brain*'. This, for example, includes:

- some forms of mental illness
- dementia
- significant learning disabilities
- the long-term effects of brain damage
- physical or medical conditions which cause confusion, drowsiness, loss of consciousness
- delirium
- concussion following a head injury
- the symptoms of alcohol or drug use.

C. law and regulatory guidance expect lenders to presume that all borrowers have the mental capacity to make an informed decision about a loan (to prevent discrimination against people with certain conditions), **unless** the lender also knows or reasonably suspects that a mental capacity limitation exists.

We want to meet your needs

We aim to provide accessible services for all our customers. This includes customers who require support to make their own decisions, or need information in different formats. If you find our information difficult to understand, we can help:

- *meet your needs*
- *support you to make your decision.*

If you would like to talk to someone, you can call XXXX between X and X. Or you can visit any branch and speak to an adviser.

Secondly, lenders should actively 'look out' for indicators of a potential mental capacity limitation – a policy of relying on customer disclosure will be ineffective. Instead, lenders need to be vigilant for any signs of a limitation on a customer's ability to make a decision. Box 4 provides examples of indicators of a potential capacity limitation.

Thirdly, when a lender understands or suspects a mental capacity limitation, they should take reasonable steps to establish (and document) this – this will require lenders to assess the customer's ability to:

- understand information
- remember information
- weigh-up information
- and make/communicate a decision.

To help with this assessment, creditors may wish to develop questions specifically related to the loan product that is being applied for.

These questions could aim to get the borrower to reflect on what they have been told about the financial product they have applied for, and to ascertain whether they have understood, retained/remembered, and weighed-up this information, as well as being able to communicate a decision. Such questions could include:

- *can you please reflect back the main risks and benefits of what has been explained to you?*
- *can you summarise the key consequences of entering into this credit agreement?*
- *can you tell me if there is an interest rate for this loan and if so how much it is?*
- *can you tell me what the consequences will be if you start to miss payments?*
- *can you tell me what the total amount is that you are borrowing? What is the total amount you have to repay (including interest)? How long do you have to pay it back? How many payments will you have to make?*

- *can you tell me what the interest rate on this credit card is?*
- *can you tell me what the credit limit is on this product?*

These questions are only examples – they will need to be adapted for different products.

Fourthly, where a mental capacity limitation is suspected or established, lenders should take reasonable steps to support customers to make an informed decision – a borrower with a mental capacity limitation may be able to make an informed borrowing decision if provided with appropriate help and assistance.

Lenders can therefore help by:

- asking the customer what type of support they need to achieve this

BOX 4: Indicators of a potential mental capacity limitation

A. The customer:

- clearly does not understand what they are applying for
- becomes upset when struggling to understand what they are applying for
- is clearly unable to understand/retain the information and explanations you provide
- appears confused about the personal or financial information you are seeking
- appears unable to recall or communicate basic personal information
- provides conflicting answers to questions
- asks the same question repeatedly
- appears to have no awareness of their own financial circumstances
- makes decisions that are unexpected and/or out of character (only effective where a prior relationship exists with the customer)
- is known to have previously been diagnosed with an impairment or disturbance of the mind or brain, and it was established that the borrower lacked the capacity to make certain decisions at that time
- is unable to assess information provided for the purpose of helping him/her to make an informed borrowing decision
- is unable to communicate the borrowing decision by any reasonable means.

B. third-party raises concerns with you, which needs to be investigated further (e.g. relative, close friend, carer, clinician, police or social services).

CASE STUDY 1

Barclaycard have worked to improve their credit card applications and credit limit increase procedure to assess and support people with mental capacity limitations. This has included providing guidance to frontline staff (including off-shore telephony teams) on dealing with customer disclosure of a limitation, as well as helping staff to identify indicators of potential limitations.

Work has also been undertaken to respond to a potential mental capacity limitation. This involves a member from Barclaycard's specially trained team talking with the customer to assess the impact of the potential mental capacity limitation, with an emphasis on providing reasonable support to that customer to enable them to make their own decision about the credit card or credit card limit increase.

Barclaycard staff have received training on working with customers with mental capacity limitations, with additional guidance being given to managerial and design teams by the Royal College of Psychiatrists.

- asking the customer if it is helpful for a third-party (such as an authorised friend or relative) to be present when they make a decision
- offering borrowers further information or explanations about credit agreements and any associated risks
- offering borrowers further time to decide (including 'pausing' the loan application) so they can consider the information provided.

This support should aim to help borrowers overcome the effect of any mental capacity limitation, and place them on an equivalent footing to borrowers who do not have such limitations.

Clearly, throughout all four of the above steps, lenders should work to determine whether the borrower can afford the repayments under the credit agreement without adverse financial consequences. They should also decide whether the credit the borrower is applying for is clearly unsuitable (even if it is affordable).

Useful resources

Office of Fair Trading (2011). Mental capacity – OFT guidance for creditors. OFT 1373.

Financial Conduct Authority (2014). Detailed rules for the FCA regime for consumer credit. Policy Statement PS14/3.

Do you have a written policy on working with customers with mental health problems?

(as required by the practical implications of the Data Protection Act 1998)

What is the issue?

Under the Data Protection Act 1998, when a customer discloses a mental health problem to a creditor, the creditor has a legal duty to clearly explain to that customer how their information will be used, stored, and shared (Box 5).

However, such explanations do not always take place as routinely as they should (see 'What is the evidence?').

There are potentially several reasons for this. The most obvious, however, is that unless a creditor organisation has developed a sufficiently detailed policy on how they will work with customers disclosing a mental health problem, staff will be unable to explain this process to customers.

Consequently, a strong practical and legal incentive exists for every creditor organisation to:

- develop a written policy on working with customers with a mental health problem
- communicate and share this policy with staff
- support staff to clearly explain relevant aspects of this policy to customers who disclose a mental health problem.

> "If creditors want consumers to communicate with them and be open and honest about the difficulties they face in repaying their debts then they themselves will need to be upfront about how they will process the data when it is volunteered to them..."
>
> **Information Commissioner's Office, 2012**

We refer to these steps as the '*explain to gain*' approach. This is because taking these steps will not only ensure compliance with the Data Protection Act, but will also deliver three additional bonuses:

- staff will get the clear guidance on mental health they are calling for
- customers will receive reassurance about the consequences of disclosing their health situation to creditors
- the organisation will have a policy framework which they can develop to consider other potential customer vulnerabilities.

What is the evidence?

Firstly, there is evidence from staff that explanations are not given. In the 2010 RCPsych survey, 39% of frontline collections staff reported never explaining to customers how their disclosed health information would be used, or why it was being recorded.

Secondly, customers have also confirmed this situation. In a 2008 survey undertaken by Mind and RCPsych, only 4% of individuals who disclosed a mental health problem to their creditor reported being clearly told what would happen to this information.

Thirdly, staff have reported that they need guidance in order to provide such explanations. Again, based on the 2010 RCPsych survey, 44% of staff reported finding it difficult to know what to say to customers who disclosed a mental health problem. Meanwhile, 69% of staff indicated that they worked in an organisation where a clear mental health policy did not exist, and where they would like one.

Fourthly, customers indicate that a clearly communicated mental health policy, may reassure their concerns about disclosure. Again, based on the 2008 Mind and RCPsych survey, 40% of participants who did not tell their creditor about their mental health problem, said this was because they were concerned about what the creditor would do with the information about their mental health problem.

Taking these four points together, it is possible to contend that the presence of a clear and well communicated mental health policy may both increase the likelihood of compliance with the Data Protection Act, and also significantly help both customers and staff in taking a mental health problem into full account.

BOX 5: The need for a clear explanation: the Data Protection Act 1998

Collecting relevant mental health data is good practice

It is critical that organisations do collect relevant data about an individual when information about a mental health problem is disclosed or made available to the organisation. Collecting relevant information is good practice as it:

- allows creditors, their agents and debt advisers to make informed decisions
- enables subsequent dealings to proceed as efficiently as possible because all the information is readily available
- is especially beneficial with an issue such as mental health, where it can be difficult or intimidating for individuals to disclose a mental health problem, or for staff to identify, ask about, or discuss such mental health problems
- allows creditors, their agents and advisers to be more responsive to an individual's circumstances
- saves individuals from having to repeatedly disclose this information (which can be traumatic, difficult, and runs the risk of a disclosure not being recorded)
- allows an individual's mental health to be taken into account in a way which assists both the commercial recovery of the debt and which also contributes to the personal and health recovery of the individual concerned.

However, the processing of such information must be undertaken in compliance with the Data Protection Act and in a manner which builds trust and rapport with often vulnerable individuals.

What does the Data Protection Act say?

Under the Data Protection Act, there is a fundamental and over-arching requirement for organisations to always collect, use, retain, or dispose of personal data both fairly and legally.

One aspect of this requires the organisation receiving the data to tell individuals providing such information how it will be processed and used.

Guidance accompanying the Data Protection Act indicates that the duty to explain is strongest when the information is likely to be used in an unexpected, objectionable or controversial way, or when the information is confidential or particularly sensitive (which includes health data – see opposite).

Source: www.ico.gov.uk/for_organisations/data_protection/the_guide/principle_1.aspx

What are the practical implications of this?

Establishing a written mental health policy will help ensure that all staff in an organisation clearly and consistently explain to the individual how data about an individual's mental health will be used and processed.

What does the Information Commissioner's Office say?

Following discussions with the Information Commissioner's Office from May 2012 onwards, the following statements were made by the ICO:

"Processing personal data must be fair, and fairness generally requires you to be transparent, clear and open with individuals about how their information will be used.

"If creditors want consumers to communicate with them and be open and honest about the difficulties they face in repaying their debts then they themselves will need to be upfront about how they will process the data when it is volunteered to them..."

Why is it necessary to explain – isn't it obvious to customers?

Guidance on the Data Protection Act does state that it is not necessary to provide an explanation in situations where it would be obvious to the individual how that data will be used, or in ways that individuals might reasonably expect.

However, there are three reasons why this would **not** apply to individuals sharing information about a mental health problem:

- robust evidence exists that it is neither obvious to individuals with mental health problems, or frontline debt collection staff, how such data would be processed (see 'What is the evidence?')
- the collection of health data by creditor, debt collection agencies, or advisers is a relatively new development, and it is arguably neither obvious to individuals (nor reasonably expected) why such information would be collected
- individuals with mental health problems may experience difficulties in understanding how such information will be processed due to their condition, or may not have the mental capacity at the time of contact with the creditor to understand.

Where does 'explicit consent' come into all this?

'Explicit consent' is not defined by the Data Protection Act itself. However, it is commonly understood to refer to the customer (a) receiving an explanation of how their data will be used, stored, and shared and (b) giving their permission for their data to be processed in this manner. Consequently, creditors need to pay attention to both the 'explanation' and 'permission' (or consent) aspects of their processes.

The need for such attention is underlined by one further critical fact: the Data Protection Act requires data which are of a very private or sensitive nature to be treated with greater care than other personal data. Importantly, data on a person's physical or mental health is classed as such 'sensitive personal data' (sitting alongside data, for example, on race or ethnicity, religious beliefs, sexuality, offending and criminal history).

Before creditors can begin to process such sensitive personal data, the Data Protection Act therefore requires them to (a) meet at least one of nine conditions for processing and (b) also process that data in a fair and legal manner. Significantly, the first of the nine conditions in the list is that the individual who has provided the sensitive personal data has given their explicit consent for it to be processed.

Again, this underlines the importance of creditors paying attention to both the 'explanation' and 'permission' (or consent) aspects of their processes, in order to meet the requirements of the Data Protection Act.

What should creditors do?

If organisations are going to be able to offer an explanation to customers disclosing a mental health problem, they will need to:

- look at how they currently collect and use information collected from customers who disclose a mental health problem
- improve this (in line with Data Protection Act requirements, and other guidance)
- write a simple policy which explains how a customer who discloses a mental health problem will be treated, and how their information will be used and shared during this process (see Box 6 for an outline of the potential content of such a policy document)
- communicate this to all staff – if the policy isn't simple to understand or isn't shared with staff, it will not work
- check whether staff know what they have to do – each employee needs to (a) understand where they fit in the process of debt collection and vulnerable customers, (b) what other team members can offer, and (c) how to access them
- train staff to explain and discuss this policy in clear and straight-forward language when needed to customers, and to be able to answer questions about this.

In addition, organisations should also:

- routinely audit their policy and practice – as gaps will inevitably develop between the ambition of a written policy and its practical implementation by frontline staff, it is important that organisations regularly audit and measure their actual practice
- develop quality improvement programmes – through routine audit, organisations will be able to identify their areas of strength and weakness in relation to mental health. This will provide an opportunity to improve both frontline practice (to bring it 'in line' with organisational policy), and also improve the written policy based on the experience of the frontline staff implementing it.

Useful resources

The Money Advice Liaison Group Briefing #4. Best practice in processing data from individuals with mental health problems under the Data Protection Act (1998).

www.malg.org.uk/briefing.html

BOX 6:
Mental health policies: key elements

Ideally, every creditor should have a written policy for working with customers with (a) mental health problems and (b) mental capacity limitations. This policy can be 'standalone', or incorporated within a larger document. However, it must precisely describe what practical steps need to be taken, and be clearly communicated to staff.

In developing such a written mental health policy, creditors are encouraged to consult their own trade membership body Codes of Practice, regulatory guidance and legal frameworks, and also 'best practice' documents such as the Money Advice Liaison Group guidance document Good Practice Awareness Guidelines for Consumers with Mental Health Problems and Debt (www.malg.org.uk/debtmentalhealth).

A written mental health policy should cover:

- ✓ mental capacity and lending decisions (including compliance with FCA guidance)
- ✓ working with difficult or challenging situations, including guidance on referring such customers to third-party external agencies
- ✓ handling initial customer disclosures of a mental health problem, or mental capacity limitation
- ✓ encouraging customers to disclose a mental health problem, or mental capacity limitation
- ✓ complying with the Data Protection Act in relation to (a) providing customers with a clear explanation of how their information will be processed, (b) obtaining the customer's explicit consent to process this personal sensitive data and (c) recording all data in line with the requirements of the Data Protection Act
- ✓ the collection and use of medical evidence, including reasonable time-scales for customers or debt advisers to collect this information, and the acceptance of evidence from a range of health and social care professionals
- ✓ the monitoring of key account indicators on customers with mental health problems, or mental capacity limitations
- ✓ the composition, function and operation of specialist teams, including referral mechanisms with frontline collections staff
- ✓ working with third-parties including debt advice organisations, carers and family members, and agencies providing health or social support
- ✓ a focus on sustainability, customer engagement and quality of service provision (as well as discrete quantitative targets)
- ✓ composition and provision of training programmes for staff
- ✓ guidance on the use of court action or enforcement activity
- ✓ the criteria/circumstances against which debts may be considered for write-off
- ✓ the criteria/circumstances against which a payment to a health or social care professional would be consider in exchange for medical evidence.

Other considerations

Where debts are out-sourced to debt collection agencies, or sold to debt purchase companies, reasonable steps should be taken to ensure these organisations also have a mental health policy in place which attends to these issues.

When considering the specific data protection aspects of this policy, organisations will need to consider:

- ✓ how data about a person's mental health problem will be used, stored, and shared (particularly with authorised third-parties)
- ✓ how long data will be retained for, and how (if it is necessary to keep data for a period of time) it will be updated to ensure it is relevant, accurate and timely
- ✓ the criteria determining when and how data will ultimately be disposed of.

Does your mental health policy address dealing with more difficult situations including emotional distress, suicidal customers, and other 'learning events'?

What is the issue?

The majority of creditor staff will only rarely have to deal with a customer who is extremely emotionally distressed, threatens to harm themselves, or presents an unusual and difficult challenge.

However, despite their rarity, such situations are exactly where a clear and known policy on what to do is required. Without this, both staff and customers are susceptible to uncertain action or poor judgement.

There is a consequent need for all creditors to include these clear lines of action within their mental health policy. To do this, creditors will need to work closely with external organisations with expertise in these areas.

What is the evidence?

From our training programmes with over 50 creditor organisations, it is clear that:

- the most common staff concern is about working with a customer that talks about suicide
- some staff have had to deal with customers who have actively tried to take their lives following creditor contact
- customers that are perceived to be extremely emotional, and also unpredictable due to an accompanying mental health problem, are also a concern for staff.

These views were also echoed by some of the 1270 frontline creditor staff that were surveyed in 2010.

What should creditors do?

Firstly, creditors need to develop clear lines of action to deal with these difficult situations. It is recommended that external assistance is sought in doing this:

- **Training programmes** offered by the RCPsych and the Money Advice Trust specifically address how to deal with a wide range of these difficult issues in the context of debt collection.
- **Other training programmes** focusing solely on the issue of suicide prevention include workplace training from the Samaritans, and the RCPsych's partnership with the 'Connecting with People' programme.

Secondly, referral mechanisms to external agencies that can help should always be considered (see opposite for a description of working with the Samaritans).

Thirdly, creditors should aim to find ways to encourage staff to share their experience of difficult situations (including organising internal training events based on group listening to recorded calls), and identify ways for the organisation to deal with these 'learning events' in the future.

Useful resources

Royal College of Psychiatrists and Money Advice Trust mental health training programme for creditors: www.mhdebt.info

Connecting with People – training programme: www.connectingwithpeople.org/courses

Samaritans workplace training: www.samaritans.org

> "I dealt with a call where the customer stated he was going to kill himself then hung the phone up. I found this very distressing as I had no training on how to deal with such customers."

CASE STUDY 2
Working with distressed and suicidal customers: guidance from the Samaritans

The Samaritans is a national charity that aims to reduce the number of people in the UK dying through suicide. Critically, only 20% of calls to the Samaritans involve assisting with someone who is at a point of suicide. Instead, the Samaritans prefer to offer support at a much earlier stage to reduce personal distress.

Stage 1 – the customer calls
If a creditor identifies someone suffering from personal distress, then the Samaritans actively welcome the customer being encouraged to call the Samaritans directly on 08457 90 90 90.

When beginning to speak with customers about this, the Samaritans suggest that creditors refer to them as a 'partner agency', so that the customer agrees to make contact. Once this has been achieved, the number and name of the Samaritans can then be used. If the customer appears to get 'cold feet', creditors should reassure them that 80% of calls to the Samaritans are for callers like this.

Stage 2 – the creditor arranges a 'call back'
If a creditor feels that a customer needs support but may be unlikely to call the Samaritans themselves, the creditor can refer the customer to the Samaritans for a 'call-back'. Again, the Samaritans recommend that they are referred to as a 'partner agency' in the first place, until agreement has been reached with the customer to arrange a 'call-back'. Once this agreement has been achieved, the creditor will need to contact the Samaritans with the following details:

- the customer's name
- the customer's contact details
- the day and time that the call-back is required (based on the customer's choice/availability) – a call-back will occur within 30 minutes of this time
- confirmation that the customer has given their permission for these details to be passed to them.

Stage 3 – situations where a creditor might call the emergency services
A customer might be so distressed that they indicate that they intend to commit suicide. Having a mental health illness is the most significant risk factor for suicide. The two most important risk factors in helping frontline staff decide how real this threat is are:

- the customer has a credible plan and can discuss it in detail
- the customer indicates that they have attempted to kill themselves before.

If staff believe that a real threat exists, they may need to break confidentiality for the benefit of the customer. Depending on their organisational policy, creditor staff may want to ensure that the customer is not left alone, while a colleague seeks immediate help for the customer by contacting third-party emergency services. Creditor staff may be advised by their organisational policy to keep the customer talking (making sure not to deny the person's feelings, avoiding giving advice, and always focusing on a favourable outcome to the situation).

CASE STUDY 3
American Express

During a call to a customer who was having extreme financial difficulties, the customer reported that he was very ill, had lost his job, and that his marriage and family had fallen apart. Clearly extremely upset, the customer said that he wished he had never been born, and abruptly ended the call sobbing.

During the call, the specialist team member in the AmEx Financial Difficulties Team tried to remain calm and showed empathy, compassion and concern for the customer. The staff member was so concerned about the customer's welfare, she asked if he had anyone he could talk to about his situation, and offered to give him the phone number for the Samaritans.

When the customer ended the call, the staff member continued to be so concerned about the customer harming themselves or committing suicide, that a decision was taken to call the emergency services. The customer was consequently visited by the police and was found to be extremely distressed but fortunately unharmed.

AmEx continued to support the customer and after collecting medical evidence, decided to cancel the debt.

A How well do your staff manage customer disclosures?

What is the issue?

The disclosure of a mental health problem marks a critical moment:

- for the customer, disclosure to a creditor or lender can be a big step – a point where they entrust an organisation with information about something which is highly personal, and with the hope it will be taken seriously and into account
- for the creditor, it represents an exchange which if not properly handled, could result in customer or carer trust being lost, commercial insights not being acted upon, and potential breaches of the Data Protection Act.

Effectively managing customer disclosure is therefore key.

What is the evidence?

The 2010 RCPsych survey of 1270 collection staff found:

- every 30 seconds, a disclosure of a customer mental health problem was made to staff
- despite this, 20% of staff *did not* make any note on the customer's file about the reported mental health problem (resulting in vital insights being lost)
- among those staff who *did* make a note:
  - 39% never explained to the customer why their information was being recorded or how it would be used
  - nearly half (47%) never asked for the customer's explicit consent to record or use their personal health information
  - and these both represent potential breaches of the Data Protection Act.

In addition to this:

- 33% of staff 'rarely' or 'never' asked disclosing customers if (and how) their mental health problem affected their ability to repay their debt – this represents a significant oversight
- in relation to sign-posting customers to internal specialist teams, 20% of creditor staff did not know whether their organisation had a specialist team.

What should creditors do?

To help ensure that customer disclosures are handled effectively and legally, creditors should follow the 'TEXAS' model outlined in Box 7, and ensure staff are aware of the roles of others within their organisation.

BOX 7: TEXAS drill

T — **T**hank the customer (what they have told you could be useful for everyone involved):

"Thanks for telling me, as it will help us deal with your account better"

E — **E**xplain how the information will be used (it is a legal requirement):

"Let me explain how we'll use that information, just so you know"

This explanation should include why the information is being collected, how it will be used to help decision-making, and who the data will be shared with/disclosed to.

X — e**X**plicit consent should be obtained (it is a legal requirement):

"I just need to get your permission to..."

A — **A**sk the customer questions to get key information (these will help you understand the situation better):

- *"How does your mental health problem make it difficult to repay your debt?"*
- *"How does your mental health problem affect your ability to communicate with us?"*
- *"Does anyone help you manage your finances such as a carer, relative or other third party?"*

S — **S**ignpost or refer to internal and external help (where this is appropriate):

At this point, staff and organisations might:

- need to internally refer the individual to a specialist team/staff member in their organisation
- want to consider external signposting to an organisation such as:
  - a debt advice agency for help with multiple debts
  - NHS 111 (dial 111) for more help with a mental health problem
  - the Samaritans (08457 90 90 90) for suicidal or despairing people.

B How well do your staff encourage customer disclosures?

What is the issue?

For every customer who discloses a mental health problem, there will be other customers who do not. This means that some mental health problems remain 'unspoken' about, and creditors cannot take steps to take these into account.

What is the evidence?

A 2008 survey by the Royal College and Mind found that for every customer who disclosed, *two did not*. Their reasons for not disclosing included:

- worrying how this information would be used
- fears that disclosure would affect future access to credit, or other financial services
- feeling they would not be believed
- thinking staff would not understand
- believing it would make no difference
- expecting they would be treated unfairly
- feeling debts would be recovered from their welfare benefits.

Identifying how to overcome these 'trust barriers' is key to engagement. Creditors who do this will gain invaluable insights into the reasons why a customer is struggling financially, and the steps to address this.

What should creditors do?

Creditors who wait for customers to take the initiative to disclose may ultimately end up working with a small minority of this group.

Customers will be more likely to disclose a mental health problem if they feel it will make a positive difference, and won't have negative consequences.

Creditors should therefore consider:

- inviting customers on letters to inform them about any relevant health difficulties: *"are there any health issues we should know about, as we will treat these confidentially and they will help us to provide you with a better service?"*
- including a statement in a 'how we use your information' leaflet about how mental health data will be collected, used, and stored. This will help overcome the common customer concern about how disclosed information will be used by creditors.

CASE STUDIES 4 and 5
Day-to-day collections

ARROW GLOBAL

Arrow Global works closely with a select panel of partner agencies which treat all customers with special circumstances positively and sensitively. This is managed by having effective policies and procedures, and by ensuring staff are sufficiently trained. Furthermore, we have rigorous agency oversight to monitor and promote appropriate customer outcomes.

In December 2013, in collaboration with the University of Bristol, Royal College of Psychiatrists and Plymouth Focus Advice Centre, we published a report called "Working Together: Understanding motivations and barriers to engagement in the consumer debt marketplace." The research found that in order to improve the customer experience, creditors can seek to build and encourage relationships of trust and disclosure with their customers through better communication, flexible processes and treating customers as individuals.

This philosophy is embraced and evident throughout our systems, controls and culture, which aim to place the customer at the heart of everything we do.

Robinson Way

The Training and Development team at Robinson Way Limited completed an initiative with the Money Advice Trust and the Royal College of Psychiatrists to develop bespoke training to identify, manage and support customers with mental health problems. In doing so, the company has become one of the first to adopt the 'TEXAS'-based approach to working with vulnerable debtors, with the procedure implemented across the entire collections floor.

"These guidelines have been very useful to the collections staff", says Lorraine McMullen (Training and Development Manager). "Calls which require the use of TEXAS are now quite common due to the strong correlation between debt and mental health problems."

The impact of the training has been significant. TEXAS has been embedded fully into the ongoing staff training and it has been followed up with further coaching and call monitoring to ensure that TEXAS is being used to its full potential. Robinson Way believe that the most far reaching and valuable benefit of this training is the confidence it has given to their teams in dealing with what can be very challenging and emotive calls.

When a carer discloses a mental health problem, do your staff handle this effectively and legally?

What is the issue?

Customers are not the only people who can disclose a mental health issue to creditor staff.

Carers are also in a position to inform staff about situations where, for example, a family member or friend is unable to manage their money due to a mental health problem.

Information from carers who are concerned about a family member or friend can be incredibly helpful and illuminating – this is particularly the case where a creditor is having trouble contacting, or speaking with, the customer.

However, valuable insights from such carer disclosures are being lost by creditors who:

- *correctly believe* they are unable to discuss a customer's account with a carer who does not have the appropriate authority to do so
- but *feel unable* to record observations reported by such carers, as they believe that the Data Protection Act 1998 requires them to firstly always obtain the explicit consent of the customer in question
- and who *subsequently lose the opportunity to*:
  - *engage with carers* (with the risk that carers perceive they are not being listened to)
  - take appropriate action – this includes 'pausing' any negative actions (such as automated processes related to the issuing of legal proceeding or collection letters), and using this pause to take more positive steps (such as checking the reported observations with the client, or sharing the observations with colleagues and agents)
  - *prevent a larger crisis developing* from an original difficulty that was potentially manageable.

This need not happen – there is another option.

What is the evidence?

This is an issue that has been repeatedly raised in our discussions with regulatory bodies, individual creditors and also carer groups.

What should creditors do?

Creditors can instruct staff to follow a drill for handling disclosures from **CARERS**.

- **C**heck for authority
  - if the carer *can* supply evidence of their authority to act on the customer's behalf, a more detailed discussion can be arranged once this is received
  - if the carer *cannot* supply this evidence, or needs to share information about the customer now, the following steps should be taken:
- **A**void discussing any account details, making sure to explain to the carer why this isn't possible
- **R**eassure the carer that their concerns can still, however, be recorded as observations (unverified) on the customer's account, and these can be looked into
- **E**xplain to the carer that their observations will need to be shared with the customer, colleagues, and potentially any clients. Carers will need to give their consent for this.
- **R**ecord the carer's observations, listening carefully, and ensuring:
  - you have checked why the customer is unable to speak directly with the creditor about these issues (is there, for example, a communication issue?)
  - you are clear how the customer's mental health problem affects their ability to repay
  - you have confirmed with the carer what information has been recorded, and how long these unverified observations will be held on file while they are being checked.
- **S**ummarise the available next steps, which might include:
  - you (or a colleague) speaking with the customer concerned to establish if there is a problem, including checking the unverified observations made by the carer
  - the carer discussing with the customer a potential mandate to act on their behalf
  - the carer and customer working together to collect supporting medical evidence.

CASE STUDY 6
Carer disclosure

When a customer discloses a mental health problem, with some exceptions, the usual legal requirement is to (a) explain to the customer how their mental health information will be used, shared, stored, and ultimately removed from their files; and (b) obtain the customer's explicit consent to process these data in that manner. This is necessary to comply with the Data Protection Act 1998 (the 'DPA').

However, what should happen if a carer informs a creditor about their concerns for a family member/friend with mental health and financial problems?

Shoosmiths: deciding when to act

The carer called
Shoosmiths received a call from the mother of a customer, but had to explain that we could not discuss the file without her daughter's consent. The customer's mother (the 'carer') was upset, because she said our attempts to contact her daughter were causing distress and triggering her daughter's depression.

We listened
The carer was referred to our mental health coordinator. The coordinator explained that they were unable to discuss the file with her, but could listen to what she had to say. The carer explained that her daughter was being treated by a GP for severe depression. This stemmed from an acrimonious divorce, and became more severe when any mention was made of the marriage or former matrimonial home. We were asked by the carer not to write to the customer about repossessing this home, as this was triggering depression spirals in her daughter.

We explained
We explained to the carer that she needed to get evidence from her daughter's health professional that (a) the daughter was still able to make decisions regarding her financial situation, and (b) how our contact about the former matrimonial home was affecting her mental health. If this evidence was supplied together with a letter of authority from the daughter allowing the carer to act on her behalf, we could then help.

The dilemma
However, we faced a dilemma: we felt that we did not have the customer's authority/explicit consent at that point to record anything about her mental health. However, we felt that if we did not record this (or share it with our client, the original creditor) we would be unable to stop subsequent letters or legal proceedings being issued. Critically, such communications could affect the customer's mental health.

Our solution
After careful consideration we felt that as the decision to take legal proceedings had been taken and the information given was necessary to deal with those legal proceedings, the legal condition (under Schedule 3 of the DPA) was satisfied and we could record the information. We therefore decided to:

- temporarily record the carer's observations on the customer's file
- allow time for the necessary medical evidence to be collected
- allow time for a letter of authority from the daughter to be produced
- hold all other action in the interim.

We subsequently received the requested medical evidence and customer authority. We informed the carer (as the authorised third-party representative) that a note would be made on the customer's file about her health problems on the basis of the received medical evidence.

This was not a decision we took lightly
We wanted to act in the best interests of the customer as far as we could, but we also needed to comply with the DPA. We therefore recorded the minimum necessary information from the carer, making sure it was **labelled as an unverified observation**, rather than factual evidence. We also requested a letter of authority from the customer, and made sure we had the carer's consent to record the health information on the customer's account. This meant we could deal with the carer, including issuing proceedings with service on the carer, rather than the customer (and therefore avoiding further distress in the process).

When asking more *in-depth* questions about mental health, are your specialist staff covering the key points?

What is the issue?

The 'TEXAS drill' described in Box 7 provides guidance on the *three core questions* that staff should be asking any customer who discloses a mental health problem.

However, there will be times where a need exists to more fully understand a customer's reported mental health situation. This is particularly the case when customers are internally transferred from mainstream collections staff to speak in more detail with a specialist team or staff member[A].

The RCPsych's 2010 report found that compared to frontline debt collection staff, a greater proportion of specialist team staff described knowing what to do when a customer disclosed a mental health problem, and a smaller proportion had difficulty in discussing mental health issues.

However, as noted opposite, specialist staff still reported difficulties in discussing a customer's mental health problems, including avoiding being drawn into lengthy conversations about a customer's situation.

In situations like these, specialist staff therefore not only need to use core questions to start a conversation, but also need to feel confident about holding a conversation which can quickly focus on relevant details for creditor decision-making.

In short, a significant minority of specialist staff may benefit from a conversational 'compass' to help them listen out for relevant information, and ask key questions about a customer's condition.

[A] A growing number of creditors have established specialist teams or specialist members of staff (the latter particularly occurring in smaller organisations). Typically, these deal with 'sensitive cases' or 'vulnerable customers', such as customers with a mental health problem, customers who are recently bereaved, or customers who are terminally ill or elderly. Some creditors combine this function with staff who work with third-party money advisers and debt management companies. Smaller creditors will not always have the capacity to employ a dedicated member of staff who specialises in working with vulnerable customers, and many staff take on this responsibility alongside other duties

What is the evidence?

Findings from a sub-sample of 134 specialist staff in the RCPsych's 2010 survey found that:

- one-in-six specialist staff reported difficulties in discussing customer mental health problems (compared to one-in-three non-specialist staff)
- one in ten specialist staff were reluctant to discuss mental health problems as they 'did not want to get bogged down in personal issues' (compared to one-in-five non-specialist staff).

What should creditors do?

In Figure 1, we present a '**compass**'. This can help guide staff in their conversations with customers.

Each **compass point** is a key issue for decision-making that staff can listen out for, or ask about, to get a better **IDEA** about the customer's situation:

Impact – staff should ask what the mental health problem either stops the customer doing in relation to their financial situation, or what it makes harder for them to do. This will help provide insight into both the severity of the condition, and its consequences.

Duration – staff should discuss how long the customer has been living with the reported mental health problem, as the duration of different conditions will vary. This can inform decisions about the amount of time someone needs to be given to retake control of their situation.

Episodes – some people will experience more than one episode of poor mental health in their lives. Creditors will need to take such fluctuating conditions into account in their decision-making.

Assistance – creditors should consider whether the customer has been able to get any care, help, support or treatment for their condition. This may help in relation to collecting medical evidence.

Throughout, creditors should keep in mind not only the *commercial outcomes* they wish to achieve, but also the steps that would bring about better *customer outcomes* for their health and financial wellbeing (see Case Study 7 opposite).

Useful resources

The 'compass' is dealt with in our mental health training programme for creditors: www.mhdebt.info

CASE STUDY 7
Specialist support is rarely completed in a single call

At the end of January 2013, a Nationwide customer went over their agreed overdraft limit. The account was moved into our collections operations, where it was quickly identified that the customer was distressed, disorientated, and would benefit from referral to the Specialist Support Team (SST).

During their call with the SST, the customer mentioned that their partner had passed away, that they had received surgery to remove cancerous growths, and that they were feeling extremely desperate. The customer said they felt very low, could not cope without their partner, and had no money to buy basic essentials.

The SST agent worked to calm the customer down and firstly arranged for the customer to access some money from their local Nationwide branch. The call ended with our SST agent leaving their direct phone number, and providing the customer with the phone number for the Samaritans. They also reassured the customer that all interest, charges, and further action on all their other accounts had been stopped.

Over the course of the next few calls, the SST worked hard to gain the customer's trust and encouraged them to disclose more details about their situation. From the start this was hard, as the customer was very disorientated and found it hard to clearly explain events in the order they had happened.

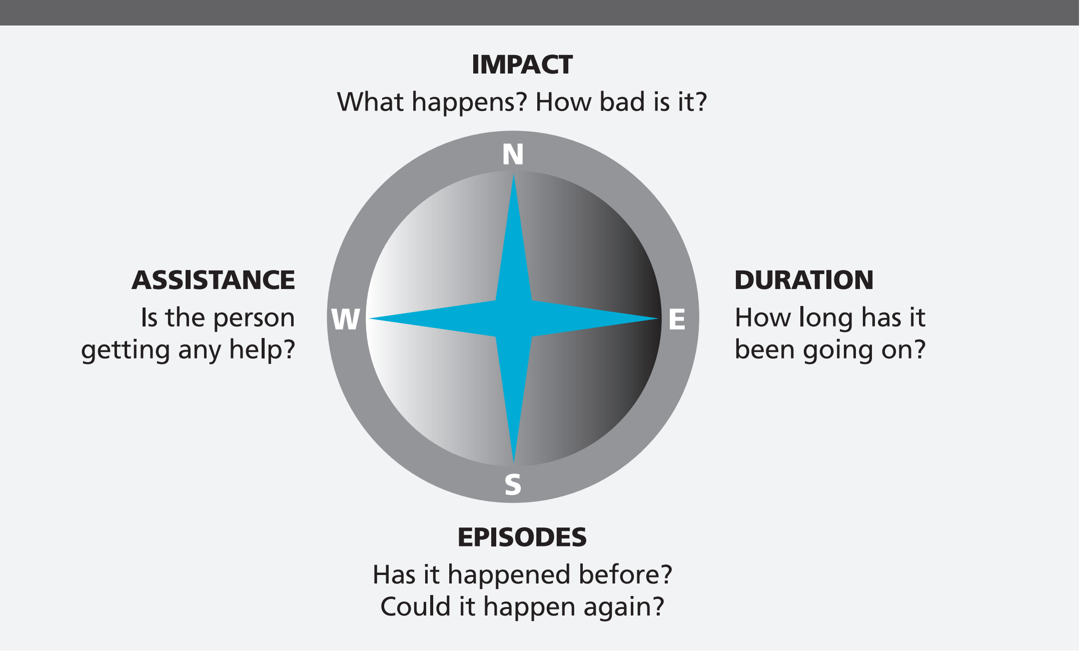
Through careful listening and targeted questioning, the SST began to establish that the customer had mental health problems which affected their ability to manage their money well, or repay what they owed. The SST could also see that all the customer's essential expenses were paid from their current account, and they were able to help the customer establish a sustainable budget and repayment plan.

The customer still has contact with the SST, and our specialists now regularly communicate with the customer's local Nationwide branch to ensure they can manage their bills and withdraw enough cash to get by each week.

This is labour intensive for the local branch, but ensures we can meet this customer's needs when it is not clear who else could.

We could not provide this level of support without our SST, our policy on working with vulnerable customers or the training our collectors have had from the Royal College of Psychiatrists and others. Even with these in place it has not always been easy from either a practical or an emotional point of view.

FIGURE 1
IDEA: a conversational 'compass' for specialist staff



When working with customers with *different* mental health problems, are your staff taking these differences into account?

What is the issue?

Using protocols such as TEXAS (page 18) and IDEA (page 22) will help creditors to treat every customer with mental health problems sensitively, fairly, and legally.

However, not all mental health problems are the same. Instead, a number of different mental health conditions exist, each with their own characteristics and challenges. Furthermore, even where customers have the same type of mental health problem, they can experience this in quite different ways.

Creditor organisations who invest in developing staff knowledge, skills, and strategies will be better placed to take such differences into account. This will give them a sharper competitive edge when it comes to helping staff and customers overcome a range of challenges relating to:

- initial engagement and sustaining contact
- communication and explanation
- understanding the financial and health situation
- decision-making (including achieving explicit consent)
- taking and following-through actions which could achieve customer and organisational ambitions.

Taking the step to invest in staff training will help to achieve this – a need clearly exists (see below: 'what is the evidence?'). However, before committing financial and human resources to this, creditor organisations need to ensure that staff receive training that develops an *essential combination* of knowledge, skills and strategies. Importantly, this requires more consideration than running a generic mental health awareness course.

What is the evidence?

Our 2010 survey with frontline collection staff found that:

- one-in-three staff reported difficulties in discussing mental health problems with customers
- more than 40% of staff said their lack of mental health knowledge was a key barrier to discussion
- 69% of staff indicated that they would like training on the different types of mental health problem.

What should creditors do?

Creditor organisations should ensure that staff receive training that develops an essential combination of knowledge, skills and strategies:

- **knowledge** – staff should not only know about the different types of mental health problems that exist, but also how to take these into account during the different stages of the collections or lending process. Developing staff knowledge about mental health which relates to the context of their everyday work is key, and will help the customer and organisation far more than simply being exposed to generic mental health awareness training.
- **skills** – staff should be helped to develop their existing skills in active listening and questioning so these can be applied to a range of common customer mental health problems. This should include, for example, considering how best to work with customers who are depressed or withdrawn, are experiencing high levels of anxiety, or have a psychotic disorder. Staff should also be helped to develop skills to respond to customers who say they want to hurt themselves. In addition, staff should develop the skills required to comply with wider legal and regulatory frameworks.
- **strategies** – representing the final part of any high quality staff training course, this should outline the protocols and steps that staff should follow in different situations relating to mental health or mental capacity. In doing this, these protocols will draw on the knowledge and skills that staff should have now developed.

It cannot be emphasised enough that investing in the correct balance of knowledge, skills and strategies is absolutely key – generic mental health awareness training is not sufficient. Instead, training should help staff develop their knowledge, skills, and strategic repertoire so that they are equipped to meet the challenges presented by a range of different mental health problems.

Resources

The Royal College of Psychiatrists and Money Advice Trust provide bespoke creditor elearning and face-to-face training courses.

www.mhdebt.info

CASE STUDY 8

Delivering bespoke mental health training to the creditor sector

Our starting point: not a generic mental health course

Following the publication of our award-winning briefing '*ten steps to improve recovery*' in 2010, we decided to continue our long-term working relationship with the creditor sector.

The reason for this was simple. We didn't just want to 'flag-up' the challenges the sector were tackling in relation to customer mental health, and then commentate from the sidelines on creditors' efforts. Instead, we wanted to be centrally involved in the response.

Consequently, we began to use the insights from 'ten steps' to build a bespoke training programme for the sector. Our aims were three-fold:

1. help creditors to treat customers with mental health problems fairly and legally
2. share knowledge, skills and strategies about mental health that reflected the actual work and tasks that frontline creditor staff are involved in
3. recognise the commercial realities and objectives of the creditor sector, while sharing techniques that would also help customers recover from the financial and health crises that they were experiencing.

> We have been pleased to work with the Royal College of Psychiatrists and others to contribute towards their development of effective guidance and training for our members. This is having a real and positive impact on the ways in which banks deal with vulnerable customers at a sensitive time.
>
> **Paul Ross, Director Retail Banking, British Bankers' Association**

> The training had an immediate impact on our collections staff and we have embedded the approach from the training into all calls and business practices when dealing with customers who have mental health problems.
>
> **Bryan Mouat, MD, BCW Group**

Critically, to achieve this, we needed to build a training course that didn't teach 'generic facts' about mental health, but one which reflected the actual tasks and challenges that frontline creditor staff encountered daily. This required building the course from the ground-up with the creditor and mental health sectors.

2011: elearning for all

In 2011, we funded and launched our first product: our elearning module '*Mental health and debt collection*'.

Set at an 'introductory level', this 40 minute course comes complete with audio, interactive exercises, best practice examples, and self-assessment quizzes. Bundled with a paper-based 'mental health call guide', the elearning has provided extremely popular.

To date, more than 1300 creditor staff have undertaken the elearning, with the package being purchased outright by many creditors for installation on their internal networks, as well being accessed via our training portal.

2012: face-to-face skills training

In 2012, the success of our elearning package resulted in the development of a complementary face-to-face training course.

This was generously funded by, and co-developed with, the British Bankers' Association, Finance and Leasing Association, The UK Cards Association, Credit Services Association, and the Royal Bank of Scotland.

This practical one day face to face course brought together videos, audio calls, and practical exercises to deliver strategies to overcome the challenges of working with customers with mental health problems, and also covered the key codes of practice and points of law in relation to collections and people with mental health problems. As with all our training, it aimed to achieve best practice balanced with business needs.

To date, more than 1000 frontline staff have received face-to-face training. These have been delivered in-house to creditors, with numerous creditors commissioning repeated sessions. 'Open' sessions have also been run for smaller companies or those wishing to sample the content before exploring further bookings.

2013/14: tackling consumer vulnerability

In 2013, our training portfolio changed to incorporate an even sharper focus on 'consumer vulnerability'. Developed both in response to requests from the financial services industry, and also in recognition of the significance of 'consumer vulnerability' in the developing regulatory agenda of the Financial Conduct Authority, our training options now ensure that staff are confident and skilled to deal with this key challenge.

Are you collecting medical evidence when you *really* need to?

What is the issue?

'Medical evidence' is information about a customer's mental health provided by a nominated mental health or social care professional that knows the customer.

Creditors need such relevant and clear evidence as it can directly improve their decision-making about what action to take on a customer's account.

However, the decision to obtain medical evidence should depend on the customer's situation – it is a case-by-case decision, and not an automatic action. To assess this, staff should review all the information already gathered about the customer's mental health situation, and ask: is more really needed?

What do we know?

Our insights about medical evidence come from a programme of work to develop the Debt and Mental Health Evidence Form (see opposite). This programme found that creditors vary in their approach to medical evidence. Some creditors will request evidence as soon as a customer discloses a mental health problem. Others, meanwhile, will only collect evidence when unanswered questions remain after discussions with the customer.

What should creditors do?

We believe that medical evidence is most effectively obtained when:

- an individual reports a mental health problem to a creditor
- the individual says that the mental health problem has impacted on their ability to manage their money
- a member of creditor staff has spoken in detail with the individual to establish how their ability to manage money has been impacted

but...

- where despite this conversation, unanswered questions, concerns or doubts remain, or the individual's situation is complex and needs further exploration
- additional information needs to be collected from a health or social care professional who knows the individual, in order to help creditors decide what action to take
- and where the customer has given their explicit consent for such an approach to be made.

Consequently, we believe that medical evidence should not automatically be collected every time an individual reports a mental health problem.

Instead, creditors should stop and consider (a) whether they could collect the insights they need simply by talking in more detail with the individual (or an authorised third-party) about the reported situation; and (b) whether the time and resources it will take for the information to be collected is proportionate (e.g. if a relatively minor action is being considered, it should not require medical evidence to be collected).

What about the 'payment issue'?

Since the publication of our 2010 report, creditors have increasingly reported that General Practitioners are requesting payment for providing medical evidence.

Creditors often have difficulty in understanding the motive for such requests, as they perceive the provision of such medical evidence as benefitting both the financial and mental wellbeing of the customer. However, GPs are not normally employed within the NHS, but instead have a contract with the NHS to provide specific primary care services. Consequently, any services 'falling outside' of this contract are likely to be charged for.

Furthermore, GPs are familiar with charging for report-writing (e.g. insurance reports) and may view requests for medical evidence in a similar manner.

What should creditors do about the 'payment issue'?

There are at least four options:

- make the payment – this recognises both the value of the evidence to decision-making, and also the health professional's time
- approach an alternative professional – they may decide not to charge
- explain the health benefits of collecting the evidence – requests for medical evidence which underline the potential health and social care benefits for the customer may be more positively viewed
- use information already gathered, or alternative forms of evidence.

Whichever option is chosen, creditors should not pass on charges for medical evidence to the customer.

Useful resources

The Debt and Mental Health Evidence Form and accompanying documentation can be downloaded at www.malg.org.uk/debtmentalhealth.html

CASE STUDY 9

Collecting medical evidence

The co-operative banking group

Our approach to medical evidence

Historically, our collectors would not have been so alert to signs or indicators of mental health issues. However, the training provided by the Royal College of Psychiatrists and the Money Advice Trust, and the investment and focus that we have provided to all our staff during the past two years, has created an awareness and greater empathy within them.

The Co-Operative's specialist vulnerability and mental health team aims to better act-upon mental health problems through actively listening to the individual needs of each customer. On referral, a specialist collector will explain their role to the customer, how they will record information, and also agree methods of communication with them.

The decision to collect medical evidence (primarily through the use of the DMHEF) is also down to our specialist team – critically, this is no longer an automatic process (as it once was), but depends on our customers' needs.

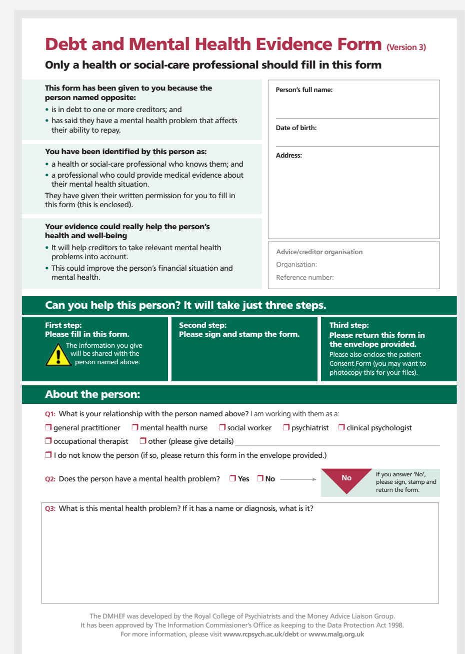
No need for a DMHEF – Miss B

Miss B has been a long-standing customer. Historically, she has entered the collections process a couple of times each year. Being self-employed, her income fluctuates and this has meant she has occasionally missed payments, only to catch-up fully a couple of months later. At no point, has she ever reported that she was living with schizophrenia – and there is no reason why she should have done so, as (for the most part) she has always managed her finances reasonably well.

In recent times, Miss B has been affected by the recession (as many self-employed people have been). Rather than catching-up on missed payments a couple of months later, she has continually missed payments and has ignored all attempts to contact her. After several months, the Co-Op received a letter from a Debt Management Company, who advised us that they were acting on behalf of Miss B, and she was seeking a Debt Relief Order.

When Miss B realised the longer-term implications of a DRO for her business, she contacted the Co-Op for advice. We had a number of conversations with her and through working together, not only agreed a repayment plan, but also how we could communicate with each other and our expectations of each other in the future.

Miss B has maintained her payment arrangement for the past eight months. From this we have learned that every customer, even if they have the same difficulties and same mental health problems, is still an individual with different needs and requirements.



Debt and Mental Health Evidence Form (Version 3)

Only a health or social-care professional should fill in this form

This form has been given to you because the person named opposite:
- is in debt to one or more creditors; and
- has said they have a mental health problem that affects their ability to repay.

You have been identified by this person as:
- a health or social-care professional who knows them; and
- a professional who could provide medical evidence about their mental health situation.

They have given their written permission for you to fill in this form (this is enclosed).

Your evidence could really help the person's health and well-being
- It will help creditors to take relevant mental health problems into account.
- This could improve the person's financial situation and mental health.

Person's full name:

Date of birth:

Address:

Advice/creditor organisation

Organisation:

Reference number:

Can you help this person? It will take just three steps.

First step: Please fill in this form. The information you give will be shared with the person named above.

Second step: Please sign and stamp the form.

Third step: Please return this form in the envelope provided. Please also enclose the patient Consent Form (you may want to photocopy this for your files).

About the person:

Q1: What is your relationship with the person named above? I am working with them as a:

❐ general practitioner ❐ mental health nurse ❐ social worker ❐ psychiatrist ❐ clinical psychologist
❐ occupational therapist ❐ other (please give details)
❐ I do not know the person (if so, please return this form in the envelope provided.)

Q2: Does the person have a mental health problem? ❐ Yes ❐ No → No: If you answer 'No', please sign, stamp and return the form.

Q3: What is this mental health problem? If it has a name or diagnosis, what is it?

The DMHEF was developed by the Royal College of Psychiatrists and the Money Advice Liaison Group. It has been approved by The Information Commissioner's Office as keeping to the Data Protection Act 1998. For more information, please visit **www.rcpsych.ac.uk/debt** or **www.malg.org.uk**

The Debt and Mental Health Evidence Form is a standardised form that can help creditors or debt advisers collect medical evidence. First published in 2008, Version 3 of the DMHEF was launched in 2012. The DMHEF can be downloaded at www.malg.org.uk/debtmentalhealth.html

A need for the DMHEF – Mr C

Mr C has been a customer for several years but about two years ago started missing payments. Whenever we spoke with him, he would promise to make payment but only half of these promises were ever kept. We sent him letters which he did not respond to, and when we did manage to speak to him, he was often unable to pass security checks so we were unable to discuss the account with him.

There had been no indication of any mental health issue when we had previously spoken to Mr C. We were nearly at the point of passing the account out to a Debt Collection Agency, when during a conversation we managed to have with him, he mentioned that he was in receipt of benefits. It transpired that he had a number of illnesses including depression and he was also agoraphobic.

We offered a DMHEF which he promised to get completed. It actually took two attempts to get a form completed and when we received it back, it highlighted that Mr C was on a vast range of medication (including tranquillisers) for a number of illnesses, and the GP advised that Mr C had issues around concentration and forgetfulness.

Mr C's income had reduced and he was not able to maintain his contractual payments as well as being unable to manage his finances. His wife was not permitted to deal with this, as she was not part of the account and we had not been able to obtain a letter of authority from Mr C.

Taking the information from the DMHEF into account, we arranged for field agents to visit Mr C at home on two occasions and they helped him complete a financial statement, and work out how much he could afford to pay each month. A standing order was set up so that payments would not be forgotten. Mr C is currently maintaining payments to his account.

Are you *using* the medical evidence you collect?

What is the issue?

Previously, we noted that automatically collecting medical evidence for every customer who discloses a mental health problem can be an inefficient and ineffective use of a creditor's resources.

In this section, we make a further observation: where a creditor decides to collect medical evidence, they need to take steps to ensure that staff understand how to optimise the use of this evidence.

Without a clear protocol to organise and analyse such medical evidence, staff often find it very challenging to use this evidence to inform decision-making. This can result in action which helps neither the customer or the creditor.

What do we know?

Our 2010 survey with frontline debt collection staff found the reported use of medical evidence was low. On average:

- respondents reported requesting medical evidence once a month
- however, staff reported using medical evidence once every five months.

This ratio of 'requested' to 'used' medical evidence may reflect a difficulty that staff have in using evidence for decision-making.

This perspective is supported by further data from our 2010 survey where a considerable proportion of staff who handled medical evidence as part of their job[B] reported they found medical evidence 'challenging':

- 43% of these staff did not agree that medical evidence was "easy to understand"
- 24% did not agree that medical evidence was "relevant"
- 76% did not agree that medical evidence ultimately "helped me to recover the debt".

What should creditors do?

Medical evidence can significantly help creditors and customers. However, to achieve this, all collections staff with a responsibility for using medical evidence need to know how to read, interpret, and make decisions on the basis of such evidence.

The first action is to *bring together the full range of relevant evidence* about a customer's situation. Critically, this is **not** just evidence provided by a health or social care professional (e.g. a DMHEF or practitioner letter). Instead, it also includes:

- the TEXAS protocol – when the initial disclosure of a mental health problem was made, information may have been recorded about any impact on repayment, communication needs, the provision of assistance from a third-party, or sign-posting to external or internal agencies
- the IDEA 'compass' – used during more in-depth conversations with a customer, this should have provided insights on impact, duration, episodes, and assistance
- financial activity data – income and expenditure data is clearly key, and it may be possible to identify patterns in recent account use
- information supplied by third-parties such as debt advisers or carers – attention will be needed to differentiate between unverified carer observations, and those substantiated with the customer.

The second action is to *meaningfully organise* this information – each organisation will have its own priorities, but in the example opposite (Figure 2) we use an analytical framework with three headings:

A what actions do we usually take for a customer?

B what specific health and financial factors need to be taken into account for this customer?

C what reasonable adjustments could we make to take these factors or needs into account?

This includes support or adjustments suggested by the customer (see Case Study 10 opposite for an example).

The third action is to ensure that staff *understand this evidence*, and the *options for decision-making*. This includes:

- checking any diagnostic or technical terms on a reputable website (see www.rcpsych.ac.uk/expertadvice.aspx)
- the realistic options for decision-making that are available, and whether these parameters need to be reviewed or revised.

The fourth action is to make the decision, to communicate this to the customer and colleagues, and then act upon it.

[B] Figures based on a sample of 293 staff reporting medical evidence collection as part of their responsibilities.

CASE STUDY 10
HMRC – 'Just Ask' initiative

HMRC has developed an internal e-learning package called 'Just Ask'. The aims of this learning are to:

- raise awareness of how to interact with people with communication issues
- encourage a focus on the needs of the individual rather than their disability
- raise awareness of HMRC's responsibilities under the Equality Act.

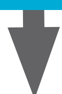
The e-learning encourages staff to 'Just Ask' the customer what kind of adjustments (if required) could be made to support them, rather than make assumptions. This is in recognition of the fact that the customer is the 'expert' in terms of their own particular needs and therefore will know what will or won't work for them.

The learning package aims to help staff to understand how to communicate effectively, particularly by telephone. It also aims to enable staff to: apply the appropriate behaviours and skills to ensure that customers are dealt with effectively and with due consideration; provide a service to the customer to make them feel more comfortable; use their listening skills so that any problems are identified and are addressed appropriately; and to understand and meet responsibilities under the Equality Act.

This case-study describes work undertaken at HMRC. Its inclusion, and that of the HMRC logo, does not indicate any endorsement of this report.

FIGURE 2
Using medical evidence – an organisational framework

A Before considering the mental health problem, what general options are available which could help the customer?



B What factors might need to be taken into account for this customer?

How does the mental health problem affect:

- income and expenditure?
- debt repayment?
- understanding?
- communication?
- engagement?
- decision-making?
- money-management?

- How severe and long-term is the mental health problem?
- How might our collections strategy affect the mental health problem?

C What adjustments could we make for this customer?

- Could we sign-post to the advice sector for income maximisation, benefits advice and budgeting advice?
- Could we involve appropriate staff/ departments within our own agency to progress this appropriately?
- Could we make flexible changes to payment arrangements?
- Could we change the way staff work to support the customer?
- Could working with an authorised third-party help?
- Could we encourage the customer to seek independent money advice?
- Could we freeze automated letters or telephone calls and rely on key individuals or teams to monitor the accounts identified as higher risk?
- Are we required to make any reasonable adjustments under the Equalities Act?
- Could we review the forbearance solutions?
- Could more staff time to deal with the issue help?
- Could we find a better time of day, or perhaps a different method of communication for this customer?
- Could we consider third party support?
- Could we make adjustments to support customer decision-making?
- Could we use Plain English in written communication?
- Could we freeze activity until the customer can make an informed decision?

Do you use routine data and monitoring to improve performance, and prevent problems?

What is the issue?

There are two opportunities that are not being fully taken. Firstly, more creditors need to record and use basic mental health monitoring data. Taking this step would allow organisations to:

- identify the volume of customers reporting mental health problems
- understand and categorise the strategies put into place by staff in response
- evaluate the impact and outcome of these interventions both for the business, and for the customer's situation
- learn from these evaluations to improve the performance of individual staff and the overall organisation.

Conversely, creditors who do not take this step will not know which of their actions are effective or beneficial in either commercial or customer terms.

Secondly, where creditors routinely monitor general account activity data (e.g. to identify unusual or inconsistent financial behaviour on a customer's account), they should remember that any account 'blips' or 'patterns' may be an indicator of a range of underlying causes, including mental health problems. Where creditors recognise this, the opportunity exists for the issue to be sensitively raised with customers. This may help prevent a potentially minor or embryonic problem developing into a full-blown financial and health crisis.

What is the evidence?

In delivering the RCPsych and Money Advice Trust training programme to more than 2000 creditor staff, discussions with staff have made it clear that basic monitoring data is typically still not collected.

However, a number of creditor organisations have started to take steps. Some creditors have begun to use routine data to evaluate performance and improve the quality of the service provided (see opposite). Meanwhile, other creditors are using general financial activity data as a means to engage with customers about potentially underlying mental health problems (see opposite).

What should creditors do?

Firstly, creditor organisations can monitor the basic number of:

- customers and third-parties who disclose
- the types of conditions disclosed
- broken arrangements involving such customers
- mental health referrals to specialist teams
- requests for external medical evidence
- cases returned to a creditor by a debt collection agency when a mental health issue is identified
- final outcomes of arrangements with customers with mental health problems.

In addition, recorded calls involving customers with mental health problems can be routinely collected, reviewed and incorporated by creditors into team training and organisational development. Doing this will allow organisations to meaningfully evaluate existing performance, and successfully improve future activity.

Secondly, creditors can use the monitoring of general customer activity data to prevent financial and health problems developing further by:

- identifying unusual 'blips' and inconsistent 'patterns'
- using this opportunity to generally engage the customer about this activity
- asking open questions which allow the customer the opportunity to disclose any underlying mental health problems:
  - *Is there anything else that you'd like to tell us about your situation?*
  - *Is there something, like a health problem for example? You might not think it is relevant, but it could help us provide a better service, and we will treat the information confidentially.*
- following the TEXAS protocol if a customer does proceed to disclose (see page 18), and the IDEA protocol (see page 22) to help structure any in-depth discussion which subsequently follows.

CASE STUDY 11
Preventing problems

Mr D is a 55 year old self-employed HSBC customer holding both personal and business accounts. He came to HSBC's attention as routine account monitoring indicated that he suddenly stopped using both accounts, and was displaying financial behaviour inconsistent with previous activity.

Mr D was contacted by HSBC. We explained that we had noticed changes in his account usage, and that we wanted to offer our support. No reference was made to the £12,000 that Mr D owed, nor was any request made for payment.

By taking a sensitive and supportive approach, Mr D appeared to feel comfortable enough to explain his situation, and in doing so he made passing reference to his long history of depression. The HSBC adviser picked up on this, and through selective questioning and careful listening, asked Mr D about this. Mr D explained that his depression had deteriorated due to the economic factors impacting his business, that he now also suffered with regular bouts of anxiety, and this had led to alcoholism. Together, this was impacting on his ability to work consistently and his business was suffering.

The HSBC adviser explained to Mr D that we could explore the support that could be given to him, subject to his explicit consent to record, share within HSBC, and use this health information to achieve this.

Over the following weeks, medical evidence was collected (with Mr D's support and consent), and the customer was made aware of available free and independent debt advice. Informed by the medical evidence, a decision was taken to place Mr D's accounts on hold for six months (with no interest or charges), giving him time for his financial and health situation to become more stable.

This was all achieved through building upon routine monitoring to identify unusual financial activity, providing sensitive and sympathetic support, and working to understand whether a customer's reported mental health problem is a factor that requires consideration in any solution.

CASE STUDY 12
Improving performance

Cabot Credit Management (CCM) operates a Vulnerable Customers Policy, which encompasses dealings with customers suffering mental health conditions.

A key part of implementing this policy is our new collections platform. This has been released across CCM's two UK call centres and incorporates state of the art speech analytics software. This allows CCM to monitor and identify telephone calls where a mental health condition has been raised by a customer or staff member.

Through routinely monitoring such calls, we are able to evaluate and improve our call handling, and also inform in-house quality improvement processes by highlighting examples of strong and weaker practice.

To help this quality improvement process succeed, all staff partake in an annual Compliance Workshop. This aims to both refresh staff knowledge and practical expertise in delivering fair outcomes for customers reporting mental health problems, in accordance with regulatory guidance and best practice.

To complement such quality improvement efforts, CCM also run a monthly compliance assessment (known internally as our 'Core Reading Tests'). These underline the importance of fair treatment of our customers, and the centrality of compliance standards to our culture and operation. The appropriate treatment of customers reporting mental health conditions features heavily within our training and assessment strategy.

Finally, our monthly Mental Health Awareness Forum has been created internally, involving key members of frontline staff from our Compliance, Analytics, Customer Operations and Correspondence Management teams. The Forum hosts discussions surrounding the results of monitoring and analytics, industry updates and training opportunities, and feeds back into our monitoring strategy.

Conclusion: a four-point plan

In this briefing, we have described ten questions that every creditor should ask themselves, and have proposed ten accompanying steps which explain how practice can be strengthened.

We conclude by outlining a four-point plan, which considers the immediate indicators of progress or 'success' against which creditors might be measured against when working with customers with mental health problems, or a mental capacity limitation.

1 Policy is the obvious starting point

Every creditor should have a written policy for working with customers with (a) mental health problems or (b) mental capacity limitations. This policy can be 'standalone', or incorporated within a larger policy document. However, it must precisely describe what practical steps need to be taken, and be clearly communicated to staff.

The policy should cover:

- mental capacity and lending decisions, including compliance with FCA guidance
- working with difficult or challenging situations, including guidance on referring such customers to third-party external agencies
- handling initial customer disclosures of a mental health problem, or mental capacity limitation
- encouraging customers to disclose a mental health problem, or mental capacity limitation
- complying with the Data Protection Act 1998 in relation to (a) providing customers with a clear explanation of how their information will be processed, (b) obtaining the customer's explicit consent to process this personal sensitive data and (c) recording all data in line with the requirements of the Data Protection Act
- the collection and use of medical evidence, including reasonable time-scales for customers or debt advisers to collect this information, and the acceptance of evidence from a range of health and social care professionals
- the monitoring of key account indicators on customers with mental health problems, or mental capacity limitations
- the composition, function and operation of specialist teams, including referral mechanisms with frontline collections staff
- working with third-parties including debt advice organisations, carers and family members, and agencies providing health or social support
- a focus on sustainability, customer engagement and quality of service provision
- composition and provision of training programmes for staff
- guidance on the use of court action or enforcement activity with this customer group
- the criteria/circumstances against which debts may be written-off
- the criteria/circumstances against which a payment to a health or social care professional would be considered in exchange for medical evidence.

Where debts are out-sourced to debt collection agencies, or sold to debt purchase companies, reasonable steps should be taken to ensure these organisations also have a mental health policy in place which attends to these issues.

Creditors are encouraged to also consult their own trade association codes of practice, as well as 'best practice' documents such as the Money Advice Liaison Group's guidance document 'Good Practice Awareness Guidelines for Consumers with Mental Health Problems and Debt' (www.malg.org.uk/debtmentalhealth).

However, while creditors are likely to be reluctant to publicly share policies, there have been numerous examples of creditors who have actively chosen to work with mental health organisations on a non-disclosure basis to check the technical content, legality and overall policy content.

2 Effective policy needs capable staff

Policies cannot be effectively delivered unless creditor staff have the necessary skills, knowledge and confidence.

While 'generic' mental health awareness training might appear to be the obvious option (i.e. where trainees are taught about the broad meaning and prevalence of

different conditions, without reference to the specific context of collections or lending procedures), staff will potentially benefit more from training interventions which:

- explicitly build on the detail of a completed organisational policy on mental health, or mental capacity limitations
- embed knowledge and develop skills about mental health or mental capacity through showing how this relates to the everyday situations, contexts, and tasks that mainstream and specialist staff actually undertake
- bring together the different parts of an organisation that have to work together to ensure that customers with a mental health problem, or mental capacity limitation, are treated fairly and legally, and in line with commercial objectives
- recognise that some staff will need elearning packages which can be completed in a single sitting, while other staff will need more in-depth specialist skills-based training.

In short, such training should aim to equip staff 'for the job', rather than providing general knowledge that isn't directly or easily applicable.

3 The gap between policy and practice needs both internal and independent scrutiny

Every creditor needs to devise mechanisms to measure, minimise and understand the gap between its policy ambition and practical realisation.

When the RCPsych undertook its survey of 1270 frontline creditor staff, it quickly became apparent from speaking with staff about everyday practice that although many organisations were 'signed up' to industry codes and guidance, or believed they were complaint with wider legal frameworks and responsibilities, that this did not reflect the reality of collections work.

However, through participating in the survey – and effectively auditing practice against expected published industry and legal standards – these organisations were able to identify their aggregate weakness and strengths.

Creditor organisations need to continue to not only undertake such audits, but to also invest in subsequent quality improvement initiatives. Clearly, this should involve collaboration with external bodies with the relevant expertise in mental health and mental capacity, with the aim of developing long-term partnerships. Taking this step will ensure that both partners not only foster a mutual understanding of what constitutes a high-quality and effective operation from a 'creditor' and 'mental health' perspective, but that each partner recognises that neither has 'all the answers'. Progress in this sector can only be achieved through continued collaboration and dialogue.

4 What has been learnt about mental health, can be applied elsewhere

While good progress has been made, mental health is far from a 'job done' – instead, it should continue to be everyone's business within the creditor sector. New issues have emerged (and will continue to emerge) and this report has addressed some of these, including both collections and lending practice.

However, we are now moving into an era where increasing attention will be paid to consumer vulnerability. Significantly, almost everything that has been learnt about working with customers with mental health problems can be used to help meet these new challenges.

Consequently, the collective experience gained in recent years can be drawn upon as a 'blueprint' for both change within the creditor sector, and engagement with the range of bodies representing potentially vulnerable consumers.

Using mental health as a 'blueprint' can provide a solid platform on which to build for the journey ahead, rather than seeking to 'reinvent a wheel' for every customer circumstance or condition that is encountered from this point onwards. Doing this will help ensure the commercial needs of the business are met, and that customers who are potentially vulnerable to financial detriment are treated fairly and sensitively.

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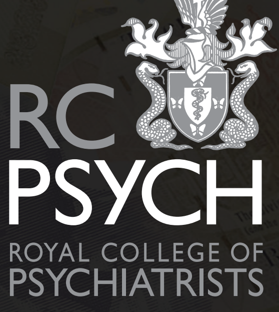

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