With a little help from my friends

How advisers, creditors and debt collectors can work together to help people in debt negotiate repayments themselves

Summary

Demand for debt advice is growing. However, not everyone in debt wants or needs an advice agency to deal directly with their creditors. Instead many advice agencies provide information, advice and support for people who can and want to negotiate with their creditors themselves. This self-help approach enables people in debt to regain control of their finances and allows advice agencies to offer greater support to those who cannot deal with matters themselves.

However, the evidence set out in this report shows that self-help debt advice services are presently not working as effectively as they could. Nearly half of all the people who completed our survey wanted to take control of their own debt problems, yet only 20 per cent reached agreement with all their creditors and almost 90 per cent had a bad experience with at least one company. Consequently, people in debt are left feeling disempowered.

Our research with people in debt, advisers and creditors showed that inconsistent practice by creditors and advisers may be adding to the problem. It appears some creditors expect advisers to make offers of repayment on behalf of everyone seeking debt advice. Creditors trust that offers of repayment made by advice agencies are realistic and sustainable, but this may not be the case for offers made by borrowers themselves. Some advice agencies do not adequately assess whether people in debt can cope with negotiating with their creditors themselves and the range of self-help information and support materials is growing.

As the cost of living increases, and the ‘credit crunch’ affects the wider economy, it is important that these problems are resolved, so that more people can regain control of their finances. The advice sector could also be overwhelmed if the number of debt problems rose steeply and the credit industry insisted that all negotiations were carried out by advice agencies.

Although our research has highlighted a number of problems, our research found many examples of good practice. Some creditors are not treating people who negotiate with them directly any differently from those represented by an advice agency. Indeed more than half of the people who completed our survey reported having a good experience with at least one creditor.

We have used these examples of current good practice from creditors and advisers to propose a new model for self-help debt advice services. We propose that a working party with representatives of the credit and advice sectors is established to make the model a reality. The advice and credit sectors have previously worked together to improve how people in debt with mental health problems are treated and how offers of repayment are assessed. If the credit and advice sectors work together to improve self-help debt advice services, people in debt will be able to negotiate affordable, fair and sustainable repayments successfully with all their creditors.

Introduction

Unmanageable personal debt is a growing problem in the UK. It now accounts for one in every three problems dealt with by the CAB service in England and Wales. In 2007 alone, nearly one million people sought free, impartial and holistic advice about debt from either an independent advice centre which is a member of the umbrella group AdviceUK, National Debtline or a Citizens Advice Bureau. The service provided by these agencies aims to help people with multiple debt problems, using a consistent, holistic and practical approach, which:

- protects clients' homes, liberty and essential goods and services
- ensures that clients understand their rights and responsibilities
- helps clients make informed decisions about how to deal with their debt problems
- improves the health and well being of the client and their family
- wherever possible, gives clients the skills, knowledge and confidence to manage their financial situation themselves.

In response to growing demand for debt advice, the Government set aside £45 million from the Financial Inclusion Fund for 2006-2008 to expand the capacity of the advice sector to deliver face-to-face debt advice to financially excluded people; those from poorer backgrounds with limited access to financial services and advice.[1] In the first two years alone this fund allowed advice agencies to recruit an additional 515 debt advisers, who have helped nearly 120,000 people.[2] This funding has now been extended to 2011 and will help a further 270,000 people at the cost of £84 million.[3]

The credit industry has also provided funding via the Money Advice Trust (MAT), which runs National Debtline, Great Britain's leading provider of free impartial and confidential telephone debt advice services. Since 2005 the credit industry has increased funding to the MAT from £3.9 to £4.7 million. This has enabled the MAT to employ 88 advisers at National Debtline who deal with nearly 150,000 calls per year, produce 130,000 information packs each year and fund a range of money advice support services for the whole free debt advice sector.

This increased funding has resulted in more people being able to get help with their debt problems. However, advice agencies still find it difficult to cope with demand. Debt casework can be extremely time-consuming for a number of reasons: the number of creditors clients have, the range and complexity of issues which require advice and advocacy, or the client's state of health or mind. For example, research for the Advice Services Alliance showed that the average time required to advise on a debt case under a Legal Services Commission contract was five hours and 12 minutes, compared to four hours and 38 minutes for a welfare benefits case and three hours and 52 minutes for a housing case.[4]

Consequently, the free advice sector has to provide advice and assistance about what can be complex, time consuming and labour intensive debt problems to a range of people, some who want to deal with their own debt problems, some who could deal with their own debt problems with a little help and others who simply cannot deal with their own debt problems.

1 *Promoting Financial Inclusion*, HM Treasury, 2004.

2 Figures supplied to Citizens Advice by the Department for Business, Enterprise and Regulatory Reform (BERR).

3 *Financial inclusion:* an action plan 2008-11, HM Treasury, 2007.

4 *Case lengths under NfP contracts*, Advice Services Alliance, 2006.

To do this, a self-help approach to debt advice has been developed. This approach gives people who are willing and able to deal with their own debt problems the information, advice and support they need to do so and allows the agency to provide a more intensive service for those who are unable to deal with matters themselves. These self-help services involve providing clients with advice on their financial situation, helping them budget and draw up a financial statement, which shows a breakdown of their income, expenditure, debts and offers of repayment. It also includes sample letters which can be sent to creditors and further information is then supplied in comprehensive packs or fact sheets covering specific subjects like bankruptcy. These services can be provided both face-to-face or by telephone. This approach to advice delivery is not new. National Debtline, for example, has been providing self-help debt advice since 1987 and their telephone advice service is focused on referrals and self-help rather than taking on cases and negotiating on behalf of people in debt.

However, these self-help services do not seem to be working as effectively as they could. Advice agencies are now reporting that people negotiating with their creditors themselves are being treated less sympathetically than those whose negotiations are carried out by an advice agency. As a result, advice agencies are forced to take over negotiations when creditors reject offers made by the client themselves or demand a letter from the advice agency on headed paper confirming the client's offer.

This situation presents a strange conundrum. On the one hand the credit industry provides a substantial amount of funding to the main provider of self-help debt advice services, National Debtline, and sponsors the production of self-help packs and other materials, yet on the other hand, they often treat people who use the self-help materials less favourably than those who have an advice agency negotiate on their behalf. This means people in debt are finding it harder to sort out their financial situation and make sustainable offers of repayment to all their creditors.

As the current 'credit crunch' and rising food and fuel costs are likely to result in more people needing help managing their finances, it is important that problems in accepting the value and validity of self-help services are identified and addressed promptly. This report will cover:

- the main problems experienced by people who negotiate with their creditors themselves
- the knock-on effect on advice agencies
- the possible reason why these problems exist.

We then set out a model of best practice to ensure that people who negotiate on their own behalf can do so successfully, and we make recommendations as to how the model could be put into practice.

About this report

This report is based on evidence from Citizens Advice Bureaux in England and Wales, members of AdviceUK and the Institute of Money Advisers.[5] This is complemented by the following pieces of research:

- A survey on Citizens Advice's Adviceguide and National Debtline's websites which asked members of the

5 The Institute of Money Advisers is the professional body for money advisers in England, Wales and Northern Ireland. It has over 1,400 members providing free-to-client money advice.

public for their experiences of dealing with their own debt problems. This survey was completed by 1,042 people in June and July 2008. The survey asked questions about the level of debt, the number of creditors, why they decided to negotiate with their creditors themselves and what happened when they did. We also asked questions about their personal circumstances. The responses to these questions showed that the survey was completed by a representative sample of the general population.

- In-depth interviews with 15 advisers from Citizens Advice Bureaux in England and Wales and independent advice centres, which are members of the umbrella organisation AdviceUK, about their use and experience of self-help services.
- Interviews with staff from National Debtline, the main telephone advice line in Great Britain providing free, impartial and holistic self-help debt advice.
- Interviews with five creditors about their experiences of self-help.
- A workshop at the July 2008 meeting of the Money Advice Liaison Group (MALG), a national forum for advice agencies, regulators, government and creditors to discuss key issues relating to personal debt.

The main problems experienced by people who negotiate with their creditors themselves

When people are struggling to pay for everyday essentials and repay their credit obligations, such as credit cards and personal loans, the advice sector and the credit industry encourage them to contact all their creditors as soon as possible to negotiate reduced repayments. For this approach to be successful, people in debt need to carry out an assessment of their whole financial situation and make fair and equitable offers of repayments to all their creditors. This is the approach taken by advice agencies negotiating on behalf of their clients, and creditors should accept offers on this basis. It should also be possible for people to do this for themselves and our survey showed that one in five respondents were able to do just that:

> "It was easy to do with the letter templates that were sent through, and the monthly budget sheet to work out exactly how much spare we had each month. I'm happy with everything I've agreed with my creditors."

> "I used an online debt help service. I worked out my budget and used letters off the web to write to each creditor with an offer. Each company agreed to a pro-rata payment and stopped adding interest. I have been paying for two years now and my overall debt is going down."

> "At first I did have some problems, but I stuck to my guns and they all eventually accepted my offers."

These people had been empowered to get their debt problems under control. However, this was not always the case. Half of the respondents reported that only some of their creditors accepted their offers of repayment and 21 per cent had not been able to reach agreement with any of their creditors.

We also asked the survey respondents to identify how creditors had responded to their offers. They were given lists of possible positive and negative experiences from which they could select all those that applied to their negotiations.

Nearly two out of three people who had a negative experience told us that their offers of repayment were rejected. Nearly half of all respondents reported that their creditors initially insisted that they repay their debt in full, and in other cases, creditors wanted much higher payments than the borrower could afford:

> "[bank] refused to accept any offer put to them. They demanded the whole debt in full."

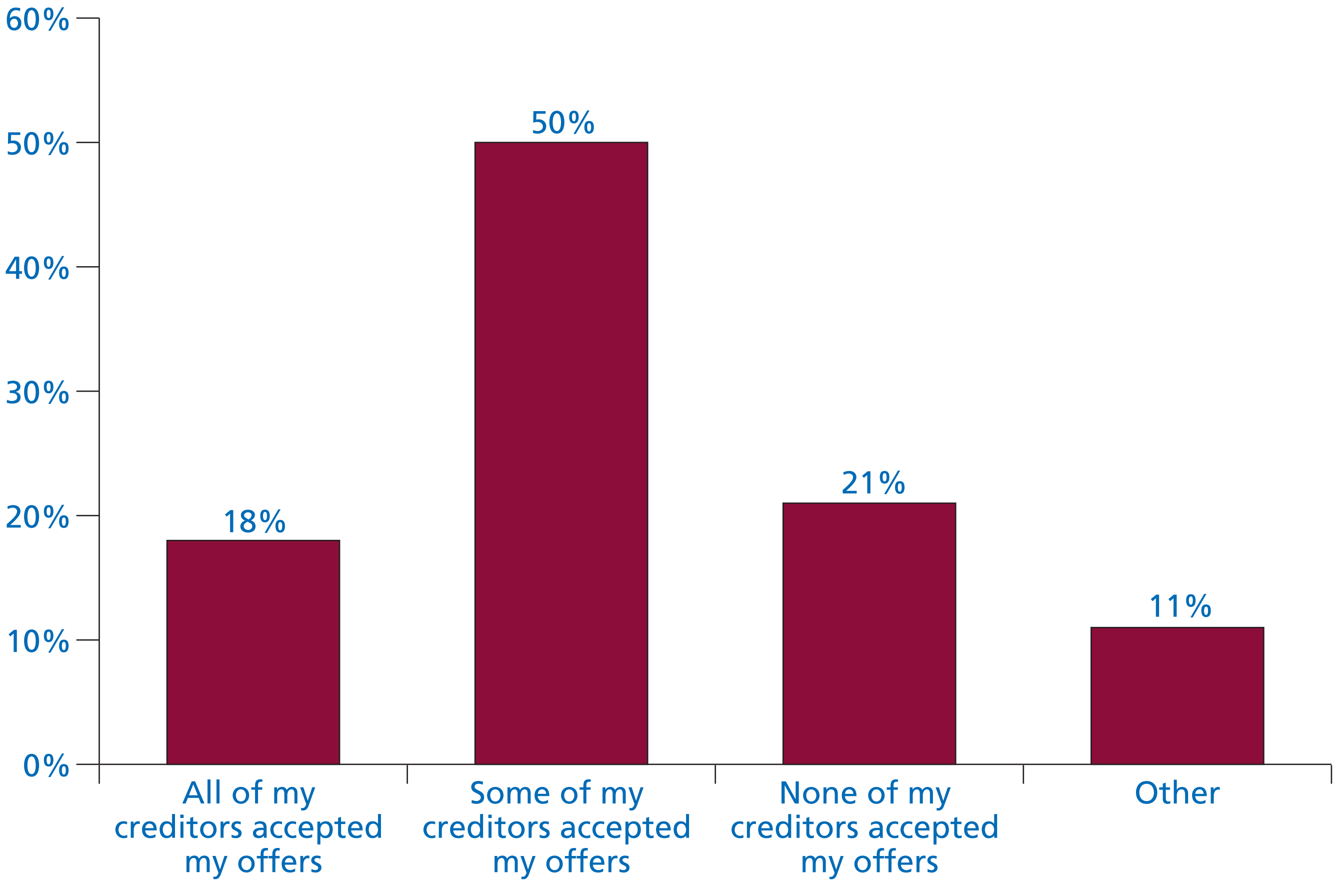
> "They continued to demand a minimum of one per cent of the outstanding balance even though I explained over and over that I didn't have the money."

Some of the creditors we interviewed for this report told us that one of the reasons they liked dealing directly with their customers was because they could persuade borrowers to make higher payments:

> "Ideally we want to keep in touch with our customers. When there's no middle man, it is much easier. We can discuss their offers with them with a view to increasing them so they can clear the debt more quickly."
>
> A bank

Discussing higher repayments might be appropriate when borrowers are spending large amounts on non-essential items, such as satellite TV subscriptions. In these situations borrowers may be able to cut back their spending and increase their offer of payment without affecting their ability to pay for everyday essentials. Such cut backs would also help them become debt-free more quickly which benefits both the borrower and the creditor.

Chart 1: What happened when you tried to negotiate repayments?



Base: 1,042 responses to our online survey.

However, for borrowers who cannot afford to pay any more, this practice can be very stressful and leave them struggling to pay their essential expenditure:

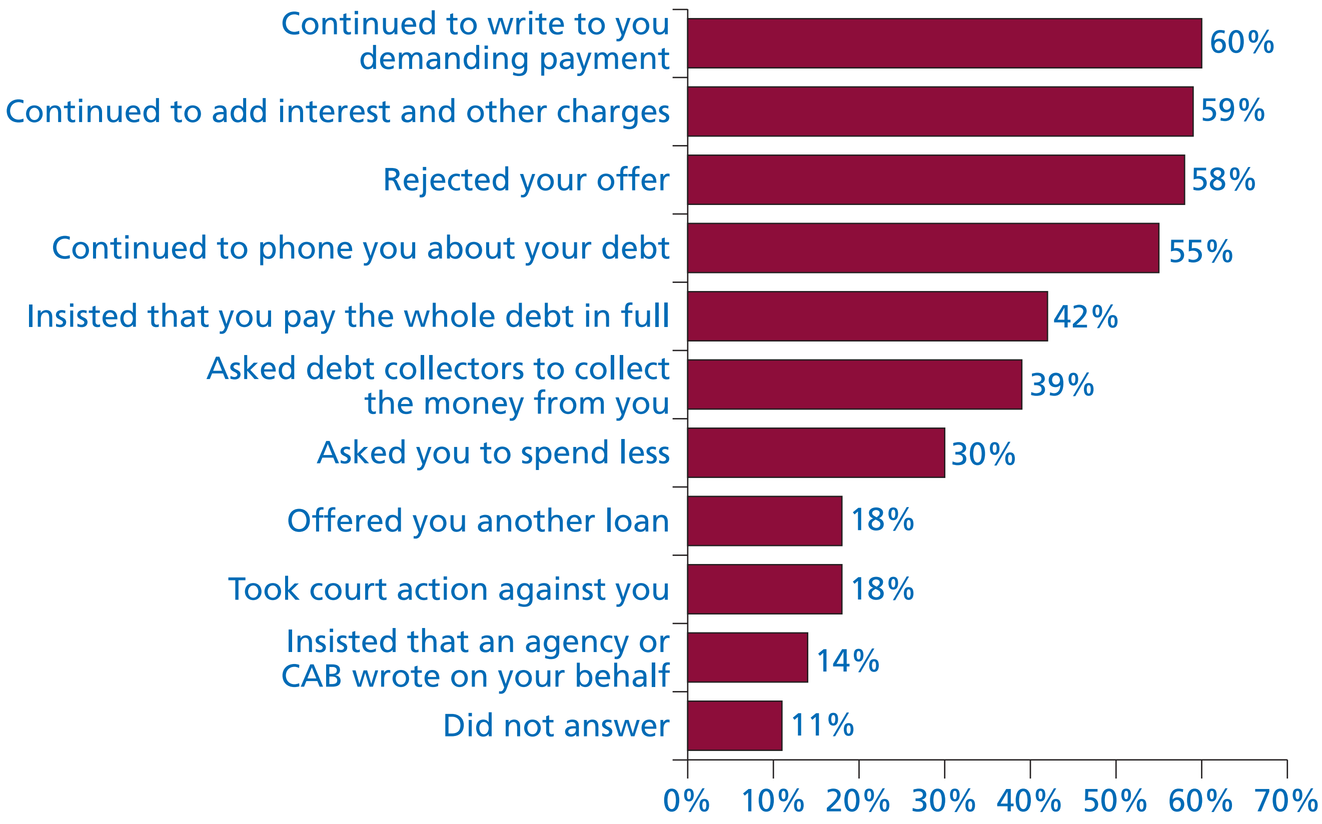
"I was continually told that my offer was unacceptably low compared to my monthly income. I receive incapacity benefit of £92 per week and my mortgage and fuel bills use up most of that. I have sent them several income and expenditure forms."

One in five respondents reported that their creditors insisted that the debt was repaid via a consolidation loan. It is the experience of advice agencies that consolidation lending is not always an appropriate way of dealing with multiple debts because the repayments are sometimes higher, the total debt often increases with the extra interest and charges applied to the new loan and often unsecured debts are secured against the borrowers home as a result. This is particularly the case where the loan consolidates only one or two debts:

"[bank] refused my £5 per month offer (even though they had proof that I was overdrawn and I was getting carer's allowance) and said that nothing less than £80 would do, as their policy would not let them accept anything less. They suggested I get a loan to pay them back".

"[bank] were very intimidating and suggested I approached family, friends and other sources for a loan to repay the outstanding debt, even though I explained I had no family to ask and was a new mother trying to get by on maternity allowance."

Chart 2: What negative responses did you receive from your creditors?



Base: 1,042 responses to our online survey. Respondents were presented with a list of possible negative outcomes and asked to select all of those that applied to their own negotiations with creditors.

More than two out of three respondents reported that their creditors refused to suspend interest and other charges accruing on the debt, resulting in the debts spiralling out of control:

"[bank] accepted my token offer of £5 per month, but continued to add interest of between £35 and £38 per month, even when I informed them of my predicament. They insisted there was nothing they could do."

Two out of three people reported that their creditors continued to phone them and write to them demanding payment despite being aware of their problems:

"The constant hounding and huge amount of letters made the process more unmanageable to the point where I couldn't cope …there is no point in calling every day for updates as this puts increased pressure on you until you feel totally unable to cope."

"People were phoning all the time, sometimes five times a day, even after I had spoken to someone only a few minutes earlier."

Two out of five told us that their debt was passed to a debt collection agency who threatened to call at their home and one in five respondents were taken to court:

"[bank] are taking us to court. This will add a further £400 to our debt. We already have a repayment plan in place, but [the bank] are insistent on going to court."

"Most of the companies threatened to send debt collectors or bailiffs. In the case of [a credit card provider] we told them that my wife was mentally ill but they continued to send letters and phone us threatening us with debt collectors."

One in seven respondents said that they had been told by their creditors that their offer would only be accepted if the CAB or another advice agency wrote on their behalf. It is clear that this left them feeling disempowered:

"[bank] made it very difficult for me. They insisted that I had to get the CAB involved before they would consider anything. They made me feel very embarrassed."

"[bank] refused to do anything about my problems. I explained that I just needed to pay over a longer period but they refused to discuss it with me and insisted that I go to an advice agency."

These experiences can have a counter-productive effect. Some people feel that there is nothing they can offer which is acceptable to all their creditors and so may petition for bankruptcy. This effectively writes off the debts and creditors rarely receive any money.

"I found that different companies have very different attitudes to their customers. It was impossible to get them all to agree. In the end I just went bankrupt."

"Despite accurately calculating my disposable income and offering to share this out pro-rata between my creditors, all of them declined to accept the offer when it was obvious that I could not pay any more. They also ignored my request to stop adding interest, with the eventual result of me going bankrupt."

The knock-on effect on advice agencies

These experiences are echoed by advice agencies, which provide people with the advice and support they need to negotiate with their creditors themselves. As we highlighted earlier in the report, advice agencies are under pressure to help more and more people. It therefore makes sense for advice agencies to deal directly with the creditors of those in greatest need, with complex problems and challenging personal circumstances, and to provide information, advice and support to those who are willing and able to deal with their debt problems themselves. This still involves the agency interviewing the person and providing them with self-help materials, with the option to call back or see an adviser again should they have any problems. If the agency then has an increasing number of people asking for them to deal directly with their creditors, just because they will only accept offers from an advice agency, they have even less time and resources available to help vulnerable people in debt. As one adviser put it:

> "If you're writing letters for somebody who could quite easily do it themselves, you're taking time away from somebody who can't."
>
> A CAB in London

When an advice agency has worked through the money advice process with someone and provided them with a financial statement and template letters, there should be no difference between the offer made by the individual and that which would have come from the agency. However, all too often advisers report that clients face an uphill battle trying to get all their creditors to accept their offers. Many simply find it all too much and the agency ends up having to take over the negotiations with the creditors. This is a particular problem when people have little or no income to offer to their creditors. In these situations people are advised to make token payments, usually only £1 per month, to all their creditors until their situation improves and they are able to pay more. However, one major credit card company says they "will only consider token monthly repayments when formally approached by a nationally recognised debt counselling company."

> "People do come back a lot, particularly if they're having constant phone calls, reasonable offers are being refused or they feel harassed and upset. We have to take these cases in-house."
>
> A CAB in London

> "For example [a creditor] said they would only accept the offer if they had a letter from a third party such as ourselves. That makes a mockery of self-help because we've still got to write a letter. So in the end we picked up that case and it is very disempowering for the client."
>
> A CAB in the south west

> "We get cases where creditors absolutely refuse to negotiate with the student and we have to step in. We only usually do that if the student has a disability, a mental health problem or they are too upset to cope."
>
> An adviser from an independent advice agency in the Midlands

When this happens, it is a double whammy of time and resources for the agency. They have spent time on the interview with the client to diagnose and give advice about the debt problem in the first place and have provided the client with self-help materials and ongoing support while their offers were being considered. Then, when the client's own offer is rejected, they have the extra cost of setting up a new case and writing to all creditors on behalf of the client.

This also has the knock-on effect of damaging the reputation of the agency in the eyes of their clients by undermining the initial advice they were given. This is particularly relevant to National Debtline, which is funded by the credit industry and provides an extremely high quality advice service. The National Debtline advisers we interviewed for this report told us that people are often given contradictory information by their creditors or even told that they must go to an agency after a creditor initially referred them to National Debtline:

"I think one of the major things is that, if your client, to whom you've given what you would consider excellent advice, is told a lot of rubbish by their creditor or creditors refuse all the offers or don't freeze the interest, then it reflects on us. The clients are going to think it's to do with the advice they've been provided with."

A National Debtline adviser

"I've even had people being transferred directly from [bank] when they spoke to them about their problems so they're endorsing the service…yet they just throw it back in their face which just wastes everyone's time and makes the service we provide look bad."

A National Debtline adviser

It is a particularly frustrating problem for advisers when a self-help client seeks further advice because one creditor wants a letter from the advice agency on headed paper confirming their offer. However, it is very disempowering for the client to find that the creditor will listen to the advice agency, but not to them:

A CAB in north east Wales saw a client with six debts. He had produced his own financial statement and worked out offers on an equitable basis. Five of his creditors had accepted his offers, but one simply refused, insisting the offer came from a CAB. The adviser reported that this situation left the client very upset as his best efforts had been thwarted by one awkward creditor.

A CAB in Northumberland reported the case of a lone parent with three children, one of whom was disabled. The client had several debts and the bureau had helped her set up a token repayment plan in the past. Armed with the knowledge of how to work out an offer of repayment and feeling confident enough to act on her own behalf, she tried to increase her payments from £1 per month to £2 per month. The information supplied by the client was identical to the information supplied by the bureau except for an extra £1 per month for each creditor. However, when one of her creditors received the revised offer directly from her, they questioned why she needed so much money to care for her autistic daughter who also has other special needs. The client felt intimidated, disempowered and unable to take control of her own affairs. She thought she was doing the right thing by offering to increase her payment and did not expect to have her expenditure challenged in this way.

To get round this problem, advisers have customised the standard letters given to clients to state that the offer has been drawn up with the agency's help. This has had some success, but not total success.

"At first we tried self-help to safeguard our resources, but it wasn't working well. This was not because the client couldn't write to the creditor, but because the creditor wasn't happy negotiating with the client. But then we came up with the idea of doing a standard letter that they could send with their own letter confirming they'd seen us and that they were being giving an accurate picture of their situation. That's worked a lot better."

An adviser from an independent advice agency in the Midlands

"At the second appointment we finalise a financial statement, advise on any particular issues that are concerning them and we provide a supporting letter on bureau headed paper to say they have taken advice. Unfortunately creditors often don't actually read that letter and then assume that we are representing the client."

A CAB in the Midlands

"We provide a headed financial statement that says 'prepared with the help of [a CAB] but the letters will actually be from the client if they're on assisted self-help. However in some cases, creditors still refuse the offer and want it to come from the bureau."

A CAB in the south west

The problems we have outlined above with self-help debt advice are confirmed in recent research. A report by the Warwick Institute for Employment Research which looks at the long-term impact of debt advice on low income households found that all participants in their study had tried to negotiate directly with their creditors, but many had reported that that their creditors were unwilling to accept their offers of repayment, and were sometimes unreasonable, and insisted that they sought advice.[6] They found it frustrating that their offers of repayment were refused, but when the same offer was made by the advice agency, it was accepted.

This frustrating state of affairs may have its roots in several developments over the last ten years or so, namely:

- the credit and debt collection industry's confidence in the casework service provided by the free debt advice sector
- the lack of quality control for offers of reduced repayment made by customers themselves
- the development of automated and streamlined debt collection systems
- commitments in credit and debt collection industry codes of practice to identify people in financial difficulties and refer them to sources of advice
- the way in which some advice agencies deliver self-help services.

Growing confidence in the casework service provided by free debt advice agencies

The credit and debt collection industries have largely changed their attitude to the free advice sector. Until the 1990s the credit and debt collection industry and the free advice sector viewed each other with much suspicion. A number of initiatives have helped break down the barriers. For example, the MALG which aims to provide a forum for discussion between the advice sector and the credit industry has helped both sides to understand one another and has provided opportunities to work together to improve the way in which debt problems are resolved.

Another initiative which has promoted change in both advice sector and credit and debt collection industry practice is the Common Financial Statement (CFS) devised by MAT and British Bankers' Association (BBA). This is a standardised way of communicating offers of repayment, the principles of which currently only apply to negotiations between creditors and advisers. It aims to improve acceptance rates, speed up the negotiating process and reduce correspondence.[7]

Another factor may be the growth of the fee-charging debt management companies in the late 1990's. Some of

6 *The long-term impact of debt advice on low income households; project working paper 2*, Michael Orton, Warwick Institute of Employment Research, 2008.

7 See the Money Advice Trust's website, moneyadvicetrust.org, for further details of the Common Financial Statement (CFS) initiative.

these companies appeared to provide a poor and inappropriate service to people in debt. Because of this, the credit and debt collection industry began to appreciate the quality of the advice and support for people in financial difficulties provided by the free debt advice sector.

Lack of quality control

Creditors have a number of concerns about accepting offers made by borrowers themselves. Firstly, the offers they receive are not always accompanied by a financial statement. Advisers use this as a key document to show creditors why the offer they have worked out is reasonable in the client's circumstances. It shows the borrower's income, expenditure, a list of creditors and how much is owed to each, and makes offers of repayment. Without this document, it is hard for creditors who want to help people in financial difficulties to assess whether the offer is fair in light of the borrower's whole financial situation.

> "We just can't accept offers which don't have financial statements with them. It is not fair on us or the borrower."
>
> A bank

> "Some people will just write in saying they've lost their job and can only pay £10 per month. If we don't have details of their financial situation on a financial statement, we don't know if they can afford their offer to us or what they are offering their other creditors, if there are any. In these situations we have to get back to them to discuss it in more detail."
>
> A bank

Secondly, even when a financial statement was provided by the borrower, they were often poorly completed with essential items of income and expenditure missing. For example, the borrower may have missed out their TV licence payments. In some cases unsecured loan repayments were entered as items of expenditure, meaning that not all unsecured creditors where being treated fairly, with some getting their full monthly instalment, while others were expected to accept greatly reduced payments:

> "Sometimes people appear to have just pulled figures out of the air. They obviously have not worked out how much they spend on things like food and petrol."
>
> A bank

> "It's like some people have their favourite creditors that they want to keep using, like catalogues. They'll include repayments to them as expenses and that's just not treating everyone fairly."
>
> A bank

Consequently, the creditors felt that they could not rely on the offers made by borrowers themselves. In these situations, it is reasonable for the creditor to refer the debtor to an advice agency for expert advice on their financial situation, so long as they clearly explain why the offer is being rejected and why they are referring the borrower to seek advice. However, creditors need to be aware that if the advice agency they refer the borrower to adopts a self-help approach, these customers may return unrepresented, having completed a financial statement with the help of the agency. In these situations, we believe that the creditor should treat the offer as if it has come directly from the advice agency.

Systems-driven debt collection practices

If a borrower has followed the advice they were given, they will have analysed their income and expenditure and worked out fair and equitable offers to all their creditors. Each offer will be specific to that individual's circumstances and money owed to each creditor, but is likely to be less than the contractual payment. However, the credit and debt collection industries have adopted standard systems to deal with huge numbers of accounts. These systems are designed to deal efficiently with the majority of accounts in arrears, where the borrower has only missed a couple of payments and can resume contractual payments relatively quickly.

Getting back on track with contractual payments can be beneficial for both the borrower and the creditor in that the borrower's credit file will be less adversely affected, so they can continue to have access to a wider range of financial products and services and the arrears are paid off more quickly. This system is less effective in dealing appropriately with people in long term financial difficulties or with large numbers of creditors. If the creditor cannot persuade the borrower to repay the arrears within a set time or at a set rate, they will continue to try and make contact with the borrower in the hope that they will be able to do this. This can be the case even if the borrower has made it clear that they cannot afford to pay what the creditor wants. These contacts are designed to put pressure on the borrower because creditors will have set policies and practices which collections staff must adhere to.

For those in long-term financial difficulties, many creditors have now set up specialist teams, possibly due to changes to Banking Code guidance on dealing with customers in financial difficulties and the Office of Fair Trading's (OFT) debt collection guidance which both came into force in 2003. Because virtually all debtors represented by a third party advice agency have long-term debt problems, it is easy to pick out accounts with associated correspondence from the agency to be dealt with by a special unit who may be empowered to accept long-term repayment proposals. But this often leaves people in long-term financial difficulties who are unrepresented getting a worse deal, because there is no easy way for creditors to identify them.

These systems seem to be contrary to commitments in credit and debt collection industry self regulatory codes of practice which require subscribers not to bring 'unreasonable pressure' to bear on people in financial difficulties but to treat them 'sympathetically and positively'.[8] These systems can even breach statutory guidance, particularly if they result in creditors putting unacceptable pressure on the borrower to make higher offers of repayment, by means of numerous phone calls and letters demanding payment the borrower cannot make. Good practice in collection should be in line with commitments in codes of practice and statutory regulation. Creditors' systems should be designed so this is achieved and not be solely dictated by what is most cost-effective for the company.

Commitments in codes of practice to identify people facing financial difficulties and refer them to advice

From 2008, the Banking Code, which covers all major banks, building societies and card companies, commits subscribers, who become aware that a customer may be facing financial difficulties, to contact them to outline their approach to

8 The Banking Code and the Finance and Leasing Association (FLA) Lending Code commit subscribers to treat people in financial difficulties 'sympathetically and positively'. The Credit Services Association's Code of Practice commits subscribers not to use 'oppressive or intrusive' collections practice that bring 'unreasonable pressure' to bear on debtors and the Consumer Credit Association's code of practice commits subscribers not to 'bring unreasonable pressure to bear on a consumer' in financial difficulties.

financial difficulties, encourage them to speak to the lender if they are worried about their position, and to signpost them to sources of free, independent money advice. This commitment is very welcome.

However, this situation has presented a dilemma. On the one hand it is welcome that more people in financial difficulties are being encouraged by their creditors to get advice at an early stage. Indeed, this is a message that the advice sector has promoted for many years. On the other hand, some people will be able to deal with their own problems with some advice and information, and do not need the advice agency to negotiate with their creditors on their behalf. Nevertheless, these clients have sought advice, and, if it is clear that they have followed the advice given their offers should be treated as if they have come directly from an advice agency. The credit and debt collection industries should be able to tell if advice has been followed because the borrowers' financial statement should be fully completed and balanced with all offers worked out on an equitable basis. Subscribers to the Banking Code should already be doing this as many of the Code commitments and accompanying guidance assumes that the borrower is not represented by an advice agency.

Inconsistent delivery of self-help debt advice by the advice sector

Self-help debt advice has developed over the years and different practices have evolved. However there is no overall definition of best practice in the delivery of self-help debt advice. National Debtline have a well-developed model of telephone delivery, whereby advisers give advice on any debt related problem, exploring the client's problem and how to apply the money advice process to the caller's situation so they can resolve the problem by themselves. This is backed up with a comprehensive range of information materials on all aspects of debt.

> "The thing is, it's made clear to clients that they're not going to resolve the issues within one or two calls and it's going to take a series of calls. We'll walk through the situation with them, literally hand in hand, if you like, to help them deal with the situation."
>
> An adviser at National Debtline

Face-to-face agencies have developed different models of delivery. Some are well structured, such as the assisted model of self-help whereby the adviser will provide the client with all the letters they would need to send to their creditors and typed financial statements. Although the letters are not on the headed paper of the advice agency, they are virtually the same as the ones the advice agency would have sent if they were representing the client. This approach also allows the client to come back if they need further advice or help drafting replies to creditors' letters.

If self-help is to be successful, then advisers need to be able to identify whether clients can cope with their own negotiations. Many offer to support those clients with fairly straightforward debt problems who are willing, confident and able to do the negotiating on their own.

However, advice agencies do not always use self-help services in a consistent way which enables the clients to successfully negotiate with their creditors. For example, agencies facing increasing demand for debt advice, may try to deal with the demand by simply providing self-help materials to people with debt problems without undertaking a full assessment of their personal and financial situation. This could result in vulnerable people with complex debt problems not receiving the support they need to deal effectively with their problems.

A further problem is the proliferation and size of materials given to support people with debt problems. The MAT produce a comprehensive information pack called *Dealing with your debts* which is widely used by National Debtline, Citizens Advice Bureaux and independent advice agencies and is provided to the client free of charge. This has not stopped some advice agencies from developing their own self-help materials. Although the materials we looked at for this report provided a comprehensive source of information on dealing with debt problems, there was no common look or feel to them. Others attempted to cover every possible outcome, resulting in large packs that could be intimidating and overwhelming for some people in debt.

Creditors also felt that there were too many self-help packs with different financial statements and template letters. The way the financial statements set out a person's income and expenditure also varied. This made it hard for them to process the offers being made.

> "We receive lots of different financial statements and they are all a little bit different. For example, some include clothing and laundry in the housekeeping figure, other don't. It makes them much harder to deal with."
>
> A credit card provider

It is clear that some methods of badging and standardising letters and financial statements could help creditors assess self-help clients' offers of repayment more effectively. When we visited the collections centre of a major bank to see how they dealt with incoming post, the staff dealt with offers of repayment from customers using badged self materials, such as National Debtline's personal budget sheet, in the same way as those offers made by third parties on customers' behalf. Staff were also able to identify letters from those customers who clearly had not sought advice, for example, letters which had no supporting financial statement. They told us that they wrote to these customers explaining the problem with their offer and giving them details of free advice agencies. We believe this is an example of good practice and clearly shows that, with the systems and training in place, self-help debt advice services can be effective.

Building on existing good practice

As the previous section shows, there is good practice with self-help debt advice services. Some creditors are treating people who negotiate with their creditors themselves no differently from those who are represented by an advice agency. Indeed respondents to our online survey also reported receiving positive responses when negotiating with their creditors.

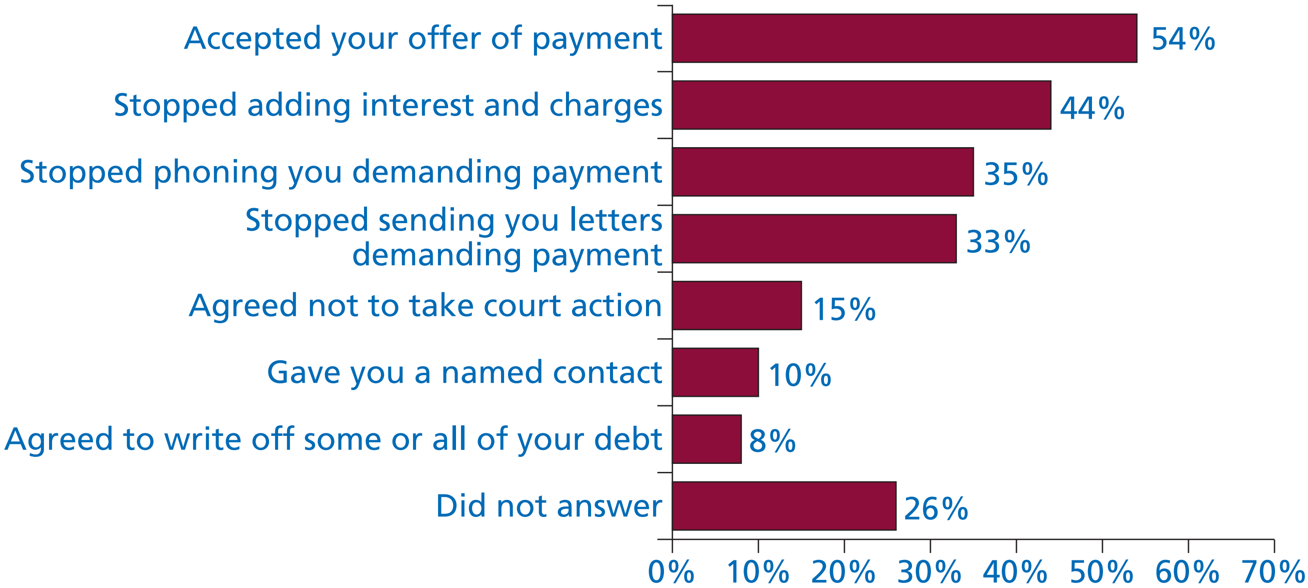
We also asked the people who completed our survey to name any firms that had treated them particularly well. Just over half of all respondents named at least one company and seven firms, Capital One, Egg, M&S Money, Mint, Tesco Personal Finance, Goldfish and Morgan Stanley were particularly singled out for praise.

These experiences show that there is good practice to be found in the credit and debt collection industry, and have informed the model of best practice which we set out below. We believe that if this model is adopted by both the advice sector and the credit and debt collection industry, people in debt will have an effective way of dealing with their own debt problems.

A model of best practice for the advice sector

In order to ensure that creditors can have confidence in the self-help process we recommend that the advice sector changes the way it delivers self-help debt advice services.

Chart 3: What positive response did you receive from your creditors?



Base: 1,042 responses to our online survey. Respondents were presented with a list of possible positive outcomes and asked to select all of those that applied to their own negotiations with creditors.

Face-to-face advice services should ensure that self-help is offered to people who can cope with it after they have been fully advised of all their options. This means considering issues such as:

- the client's level of basic skills, for example, literacy and numeracy
- whether the client has access to a computer, to word process letters and draw up financial statements
- the severity and complexity of the client's debt problems. For example, people with disputes about liability, or who are facing bailiff or possession action may be better supported by the advice agency
- the client's state of health including mental and physical illnesses. People who are extremely distressed or seriously depressed may not be able to cope with relatively, minor problems and may be better supported by an advice agency
- the client's understanding of the seriousness of being in arrears and an understanding that it might take some time to repay their debts in full.

Advice agencies will need to ensure that staff have the skills and knowledge necessary to identify clients who meet these criteria.

Documentation should be standardised

As we have highlighted earlier, there is a need for a common set of self-help materials, including budget sheets and letters to send to creditors. These should be comprehensive and informative, but not so big as to be overwhelming. For the credit and debt collection industry to have confidence in these materials, it would help to have a recognisable logo which could act as a quality mark.

We believe that the standardisation of these documents could work best as a set of modular packs, available to download or in hard copy, making it suitable for all types of advice services. The main emphasis of the basic pack should be the money advice process, including how to prioritise debts, ways of increasing income and reducing expenditure and drawing up a comprehensive financial statement. There also needs to be a comprehensive section on the problems people may experience negotiating with their creditors themselves and how these can be overcome. This section should include details of all statutory letters, statements and notices which must be sent to the borrower to avoid them being misinterpreted as demands for full payment or threats of legal action. There should be further fact sheets available covering more specific areas of debt advice, for example, what to do if a creditor takes court action.

However, as some advice agencies have very specific client groups with specific information needs, the pack must be customisable. For example, students may need specific information on relevant income maximisation options like bursaries and agencies advising disabled people may need to provide them with information about grants for adaptations to their homes or specialised equipment.

This pack should also include standard letters for clients to use in their negotiations. These letters should clearly state that the person using them has received advice and which materials they have used. This will make it clear that the person is negotiating on their own behalf, but has received quality information and/or advice to enable them to do this effectively. Consequently, creditors should be confident in contacting them directly.

A model of best practice for the credit and debt collection industry

Whereas the advice sector can only help people who seek advice, the credit and debt collection industry has to deal with all accounts in arrears. This means that if the model of best practice is to be workable for the credit and debt collection industry, it needs to be relevant for both those borrowers who appear to have used the pack correctly, and those that appear to have made an offer without seeking advice or have not followed the guidance in the pack.

If the offer is made using the standard letters provided in the pack and is accompanied by a complete financial statement, creditors should accept the offer. For this to happen, creditors should change their systems to ensure that all people with long-term financial difficulties are dealt with appropriately. This might mean empowering all frontline staff with the same skills, knowledge and authority as the specialist teams we mentioned earlier that already exist in some firms, or badging the standard letters in the pack so that they are easy to identify by frontline staff who can then pass the account on to the relevant team or department. If the first department or team processing the offer declines it, the creditor should clearly explain why the offer has been declined, what will happen next and what the borrower should do in the meantime.

Once the offer has been accepted, the creditor should communicate clearly with the borrower to inform them that the offer has been agreed, how they should make payment, providing contact details of the department handling their account, and when the borrower should update them on their circumstances.

We do not expect the credit and debt collection industry to accept offers not supported by a fair financial statement, for example, where a borrower has simply written to the creditor asking to pay £10 per month because they have lost their job. In these situations, it is not clear to the creditor whether this offer is affordable or equitable or if the client has included all their creditors without further details of the borrowers' income, expenditure and other debts. However, it is clear from our survey that creditors could do more to tell people in financial difficulties why their offer of reduced payment is not acceptable and what they can do about this. We believe that the creditor should tell the borrower why their offer is being rejected, and ask them to complete a financial statement. The communication should state that they will accept the offer if they can see from the completed financial statement that the offer is reasonable and fair. The communication should signpost the borrower to appropriate sources of advice and support to help them do this.

How could the model become standard practice in both the advice and credit sectors?

If this model of best practice is to become a workable reality, advisers, creditors and debt collectors need to work together. **We recommend that a working party consisting of representatives of the credit and debt collection industry and advice sector should consider how the model of best practice we have set out in this report could be implemented.** This working party should take forward the following pieces of work:

- **Agreeing how creditors should assess offers of repayment from unrepresented people.** This already exists for advisers in the MAT/BBA Common Financial Statement (CFS). Advisers use an agreed format for their financial statement. If the client's expenditure on housekeeping, travel, children and telephone falls within agreed guidelines, creditors, who subscribe to either the Banking or Finance and Leasing Association (FLA) Codes should accept the offer of payment based on that financial statement. The expenditure guidelines have been determined using government research on average household expenditure for people in the lowest 20 per cent of income brackets. As such, they reflect modest expenditure for people living on a limited budget. Creditors are currently only required to adhere to the CFS principles when negotiating with a third party. Many creditors and debt collectors believe that applying the CFS principles more widely could lead to abuse of the system. However, as the CFS is likely to form the basis of assessing suitability for court-based multiple debt remedies such as the revised Administration Order and the new Debt Relief Order, we believe the CFS principles should also be applied to self-help debt advice services.[9]
- **Production of the new standard self-help pack and associated materials.** As the MAT is responsible for producing the self-help pack which is currently most widely used throughout the free advice sector, we believe it would be most appropriate for them to take the lead on this and develop their existing pack to meet the model of best practice which we set out in this report.
- **Providing guidance for the credit and debt collection industry on how they can identify borrowers who need advocacy and those who can deal with their own negotiations.** This would enable the credit and debt collection industry to meet commitments in codes of practice and ensure that people in financial difficulties get the right help for their circumstances.

9 People who owe less than £15,000 and have more than £50 per month available income can apply for an Administration Order which, if granted, will protect them from further recovery and enforcement action from their creditors. They will be expected to make repayments to the court for up to five years. The revised Administration Order scheme is due to be implemented in April 2010. The Debt Relief Order is a low cost form of bankruptcy aimed at people with less than £15,000 debts, assets of less than £300 and disposable income of less than £50 per month. At the end of a year, all debts will be written off. This is due to be implemented in April 2009.

- **Identifying how the advice sector can deliver self-help in the most effective way.** This might involve providing guidance to advice agencies and re-examining the current training and learning package for both generalist and specialist advisers. For example, the Citizens Advice money advice toolkit, which is a package of best practice guidance for money advisers currently being developed, could contain the model of best practice.
- **Promote the new model of best practice within both the advice sector and the credit and debt collection industry.** If this model of best practice is to work effectively, communicating it to advisers, creditors and debt collectors is vital. An effective communications strategy will encourage take up of the model, which in turn should help promote and spread its use. The working party will therefore need to develop a communications strategy, similar to that used to promote the CFS. It would also help to get the best practice model embedded, if relevant credit and debt collection industry codes of practice were to include a commitment to follow the model of best practice.
- **Establish a method of measuring change in the way in which creditors deal with people who negotiate directly with them.** This could involve commissioning further research on the experience of self-help debt advice users, advice agencies, creditors and debt collectors. The research should be carried out at least a year after the model of best practice has been implemented.

Given the current economic climate, demand for debt advice is only likely to grow. Therefore, this best practice model needs to be implemented sooner rather than later. **We recommend that the working party should complete all the tasks outlined above by December 2009 and its recommendations implemented by the credit and debt collection industry and advice sector by June 2010.**

Conclusion

The evidence set out in this report shows that self-help debt advice services are presently not working as effectively as they could. We have explored the problems this causes, proposed a model of best practice and set out how this model could be implemented. While this will take time and effort, all sides will gain:

- Creditors will have the best of both worlds, direct contact with well informed customers.
- Advice agencies will be able to concentrate their resources on those in greatest need.
- People in financial difficulties will be able to regain control of their finances.

We are confident that by working together, creditors, debt collectors and the free debt advice sector can make this model a reality.

This report was produced as part of a project run by Citizens Advice and funded by the Royal Bank of Scotland group to identify systemic issues between the financial services industry and the free independent advice sector.

Written by: Alex MacDermott

Produced by:
Citizens Advice
Myddelton House, 115-123 Pentonville Road
London N1 9LZ
Tel: 020 7833 2181 Fax: 020 7833 4371
www.citizensadvice.org.uk

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