

Fairness in government debt management; a call for evidence consultation

Q1: Please provide details of any debts owed to central and local government organisations you believe should not be considered as part of this call for evidence.

Answer: Our members believe that all and any debts should be considered. There should also be a clear distinction between different debt types, and the treatment of debt owed to the public sector and private sector. Best practice scenarios should be replicated where possible between these sectors, with the aim to align them as much as possible.

Q2: Do you have any concerns about the way affordability is assessed by central and local government organisations agreeing debt repayments?

Answer: With regards to vulnerability, our members have concerns that the fundamental definition of vulnerability is too vague. It is important to be mindful that a vulnerability assessment of an individual should recognise and support individuals who, due to personal circumstances, may be unable to safeguard their personal welfare, it should recognise financial and non-financial vulnerability and offer the appropriate support, and recognise that vulnerability can be permanent, temporary or transient.

Our members commented that government consumer debt collection generally is not on a level playing field as other consumer "commercial debt" collection. This uneven collection field is supported by measures such as direct recovery payments from earnings without the need for Court Proceedings.

However, when government assesses affordability, it is done in order to make recovery within a specific period and by instalments. Commercial collections agencies however are required at risk of an FCA sanction, to allow TTP arrangements to be made on what the debtor can afford to pay, without the restraint of a specified collection period.

An additional point to make is that options such as open banking could be a good start to assess affordability, however, there are factors to consider which may adversely affect this, for example, non disclosure of debts by an individual.

Q3: In your opinion, what is the best way to assess affordability of debt repayments? Please provide examples for any response you provide. This could include evidence on the role of technology.

Answer: Given the direct collections avenues open to some Government departments and tools such as Indessor, the Government appears to have all the access it (or agents) need to profile collections. The only other option that could be considered is direct access to the customers bank accounts. Affordable recovery from individuals in receipt of benefit should be considered, in line with length of payment and individual's situations.

Constructive and transparent communication with individuals will help to achieve repayments, and allow income and expenditure levels to be assessed. These routes of communication should varied, as it is recognised that each individual has their own preference – for example, speaking on the phone, accessing information online, or using an app.

Q4: How might issues of sustainability of debt repayments be addressed outside of an affordability assessment? For example, through the ongoing relationship between those in debt and the organisation that holds that debt, or through debt write-off.

Answer: Debt Collection Agents instructed by non-government business engage with debtors to establish affordable TTP arrangements. Where payments are missed due to affordability changes, then the TTP arrangement is reviewed and amended if necessary. This engagement and review is the key to sustainability in non-government consumer collections. However, if Government debt is focused on collection within a time limited, specific period, together with a requirement that the debtor does not default on other local or central government debt, then it is likely that there will be on-going sustainability issues.

On-going and open communication will assist the process, as mentioned earlier.

Q5: Do you have any evidence of how issues with central and local government organisation communication can aggravate mental and physical impacts on people in problem debt?

Answer: Not necessarily in relation to government debt collection but the effect of communication on people in debt owed to non-government creditors is encountered every day. The Credit Services Association members (debt collection agencies) reviewed their engagement several years ago (and keep reviewing them during ongoing situations (e.g. Covid)) to minimise, as much as possible, mental impact. Communication needs to be open and encouraging in order to minimise any mental or physical impacts on those in problem debt.

Q6: How can central and local government organisations most effectively communicate with people who owe them money, including people who may be vulnerable? Please include any thoughts on the role of technology in communications or how best to reach people without access to technology.

Answer: Review the communications regularly, tailor them to best suit the situation and engage with other bodies involved in consumer debt collection (including FCA, CSA and the major creditors/banks/building societies) to compare and contrast multi-channel routes for this purpose.

If mobile phone numbers and emails are known, this technology has the potential to reach the vast majority of UK citizens. A very small percentage of the population (perhaps the very elderly or the extremely financially vulnerable) will not have access, and attempted recoveries on those members of society will have diminishing returns if correspondence is ineffective in recovering the debt. Our members commented that increased access to mobile and email addresses could increase the prospect of recovery. Mobile numbers (commonly retained when changing provider) and emails are regularly captured – this would enable contact via mobile (e.g. WhatsApp) and Social media (e.g. Facebook Direct Messaging) as well as sending secure emails with protected attachments to debtors by way of service.

It would be beneficial to use plain English in communication, with the ability for translation into multiple languages if needed. The communication should include a clear way for the individual to contact the organisation. Those involved in the communication process should be adequately trained in customer-facing skills.

In light of the current pandemic, communicating with government departments is perceived as being more difficult, and their accessibility more limited. This should be addressed in order to have effective lines of communication between government and debtors.

Q7: Do you have any evidence on existing effective relationships between organisations collecting debt and debt advice providers? This could include comments about referrals and treatment of repayment offers.

Answer: Please see answer 5. Non fee charging debt management companies are an integral part of the engagement process with debt collection agencies and will often lead to affordable, sustainable TTP agreements. However, fee charging debt management companies and some Consumer advice offices (where the instalment offer is a nominal £1 regardless of affordability or how much is being pay to the fee charging DMC), and some Solicitors/Public Access Barristers could be barriers to debtors being able to establish TTP arrangements that will reduce their indebtedness.

Our members are aware of some very effective relationships between enforcement agencies and debt advice providers – there is a common interest between them, to collect monies whilst ensuring this is done in the most appropriate way, with full awareness of any vulnerability issues and/or inability to pay issues. Ongoing collaboration between these relationships is key to maintaining best practice and sharing of experience.

Q8: How can central and local government organisations most effectively prevent recurring debt? Please include any thoughts on the role of partnership working in this challenge.

Answer: More realistic arrangements that take into account ongoing liabilities to central and local government would help. Clear guidance on how the debt will be handled, including any prioritising arrangements, would also assist.

Q9: In your opinion, what impact could poor debt management activity have on potential vulnerability?

Answer: Our members commented that poor debt management activity could prolong or increase the vulnerability. Impacts could include mental health issues, suicide, alcoholism/drug abuse, domestic abuse. Poor debt management could also prolong the amount of time someone is in debt and damage the relationship the individual has in the future with creditor organisations.

Q10: How can central and local government organisations recovering debt best identify potentially vulnerable people? Please provide evidence of existing effective approaches. This could include evidence on the role of technology.

Answer: The only way non-government debt collection agencies can really identify this is if it is raised by the creditors, third parties (family, friends and debt advice organisations) or as is most commonly the way, following direct engagement with the debtor and listening and reacting to what is disclosed.

Even if local/central government had direct access to medical records, this would not identify everyone with vulnerabilities.

Vulnerabilities identified at local government level should be shared across other departments, as the individual is unlikely to realise that they may need to notify different parts of government of their situation. Patterns in behaviour or changes to those patterns may signal vulnerability issues, and these may help identify individuals requiring further support.

Q11:How can central and local government organisations recovering debt best support potentially vulnerable people? Please provide evidence of existing effective approaches. This could include evidence on the role of technology.

Answer: Adopt the processes and procedures and best practices as used by, for example, CSA members, without adopting the government's specific repayment approach or having to maintain existing government debt during the period of vulnerability. Behavioural insights and assessing the best option for support thoroughly is key. Each case is individual, and should be treated as such when assessing the best support that can be provided.

Q12:In your opinion, what are the benefits of an effective disputes process in debt management?

Answer: An effective disputes process allows any complaints to be dealt with swiftly, and fairly. It allows the individual concerned to be fully aware that their dispute is being investigated and that may help reduce any further stress.

An effective dispute process also identifies and allows mistakes that may have been made to be corrected, and can identify the areas of dispute prior to any proceedings, which will allow the party claiming the debt to make a judgment call on whether to commence proceedings. The process must be fair, and can allow the customer the option for an independent review if required.

Q13:In your opinion, what is the most effective way to ensure a fair outcome to a disputes process in debt management? Please provide evidence of creditor sectors or organisations with effective disputes policies.

Answer: Please see answer 12 generally. In addition, to ensure a fair outcome, consideration should be given to sharing as much information with the customer as possible, reducing jargon in communication so that the individual understands the situation, and ensure that as an organisation the government department takes responsibility for ensuring communication is transparent and the individual has been treated fairly.

Most reputable commercial creditors such as Banking, Personal finance lenders (including short term high cost), insurance companies and their appointed CSA member debt collection agencies, have and follow a fair dispute process with independent oversight. This process is regularly tested by way of audit and customer journey assessment.

Q14:Can you provide any evidence of where disputes policies interact, positively or negatively, with central and or local government organisations' debt management procedures?

Answer: We cannot provide specific evidence, however are aware that some of our members have experience the interaction outlined. From our members viewpoint, it is important that in general, complaints are initially dealt with by the body responsible for the actions, and then referred as necessary, to, for example, central or local government if applicable.

Q15: In your opinion, what advantages and challenges are there in central and local government organisations collecting and reporting data on debt management activities?

Answer: Our members believe that one of the main challenges is that local/central government debt is ongoing - commercial lending will not be advanced to someone with a poor credit history. If local/central government debt was reported, that would impact further on someone's ability to obtain access to credit. In order to draw any meaningful conclusions, it is important that those collecting and reporting data identify and have a clear understanding of all the factors at play across the landscape. Transparency of process in this area is key, particularly around the means by which the data is collected and the way in which it is interpreted.

Q16: Are there any metrics on debt management activity that you believe could be a particularly effective measure of fair policies? Conversely, are there metrics / targets you believe drive poor debt management activity?

Answer: A three lines of defence oversight of the policies, regularly independent testing and regularly policy reviews, and staff training could be effective in measuring fairness. As mentioned earlier, it is important for those involved to have a clear understanding of all the factors at play across the landscape.

Government should place assessing vulnerability, resolving disputes and signposting to support as equally important to the metrics around the amount of debt collected.

Q17: In your opinion, what is the value in central and local government organisations facilitating access to their debt management policies and processes?

Answer: Our members believe that it would reveal the differences in approach between government and commercial collection, and if this was understood by the commercial collections sector, it could lead to more holistic, sustainable TTP arrangements for the individual. Conversely, it could lead to the commercial business sector recovering less and over a longer period.

Q18: How can central and local government organisations get better at identifying and tracking debt arising from serious non-compliance or fraud?

Answer: Our members believe there should be no tolerance to debt arising from non-compliance and fraud. There should be increased resources both in terms of staffing and data gathering. No data sets should be withheld from central/local government agencies in collection and enforcement of this debt. The Courts have a very important role to play in supporting local/central government and legislation should give Courts all the powers required to support the local/central government. Our members recognise that specific determined sharing of data could be of use in this area, particularly with regards to persistent offenders, with the necessary best practice controls in place when doing so.

Q19:How can central and local government organisations prioritise the recovery of debt from those whose debt is the result of serious non-compliant or fraudulent activity?

Answer: Our members feel that serious non-compliant and fraudulent debt should be dealt and resourced entirely separate from other debt owed to central/local.

Q20:What can central and local government organisations' debt management do to discourage people from engaging in serious non-compliant or fraudulent activity?

Answer: Be more proactive in finding and investigating this, and enforcing through the Court where applicable. As fraud can carry a potential custodial sentence, the severity of its implications cannot be ignored.

Q21:How should central and local government organisations approach debt management when dealing with people who are in debt due to fraudulent activity, but may potentially be vulnerable?

Answer: See answer at Q20, with consideration also given however, to identification already made of an individual's vulnerability and ability to pay.

Q22:If you believe there are effective or ineffective debt management practices beyond central and local government organisations, please provide any evidence the government may wish to consider

Answer: The Credit Services Association <https://www.csa-uk.com/> may be a useful source of additional evidence. Contact/collaboration with debt advice providers and debt collection agencies may also assist in acquiring the full and wider picture across the whole landscape.