

Fairness in government debt management

Citizens Advice response to the
Cabinet Office



Contents

Contents	1
Introduction	2
About Citizens Advice	2
Data	2
The impact of government debt collection on Citizens Advice clients	3
Collection related issues cause widespread problems	4
Council tax and bailiff enforcement	4
Household budgets of the people we help with debt	5
How can the government help?	5
Response to questions	7
SCOPE	7
AFFORDABILITY	7
COMMUNICATION AND PREVENTING RECURRING DEBT	12
VULNERABILITY	16
DISPUTES	19
REPORTING AND TRANSPARENCY	22
FRAUD AND NON-COMPLIANCE	24

Introduction

About Citizens Advice

Our network of independent charities offers confidential advice online, over the phone, and in person, for free. We offer help to people whoever they are, and whatever their problem. We also give advice on consumer rights on our consumer helpline, support witnesses in courts through the Witness Service and give pension guidance to people aged over 50.

We help millions of people every year. In 2019-20, this included:

- 34,500,000 visits to our website
- 1,344,000 people helped face to face
- 1,010,000 people using our phone service
- 483,000 people contacting our consumer helpline
- 436,000 people getting help by email or webchat
- 97,000 witnesses through the Witness Service

In total we helped 2.8 million people in person, by phone, email or web chat. Our advice website had over 34.5 million visits and the site had 54.5 million pageviews.

We provide support in 2,540 locations across England and Wales with 21,400 volunteers and 8,150 staff.

Data

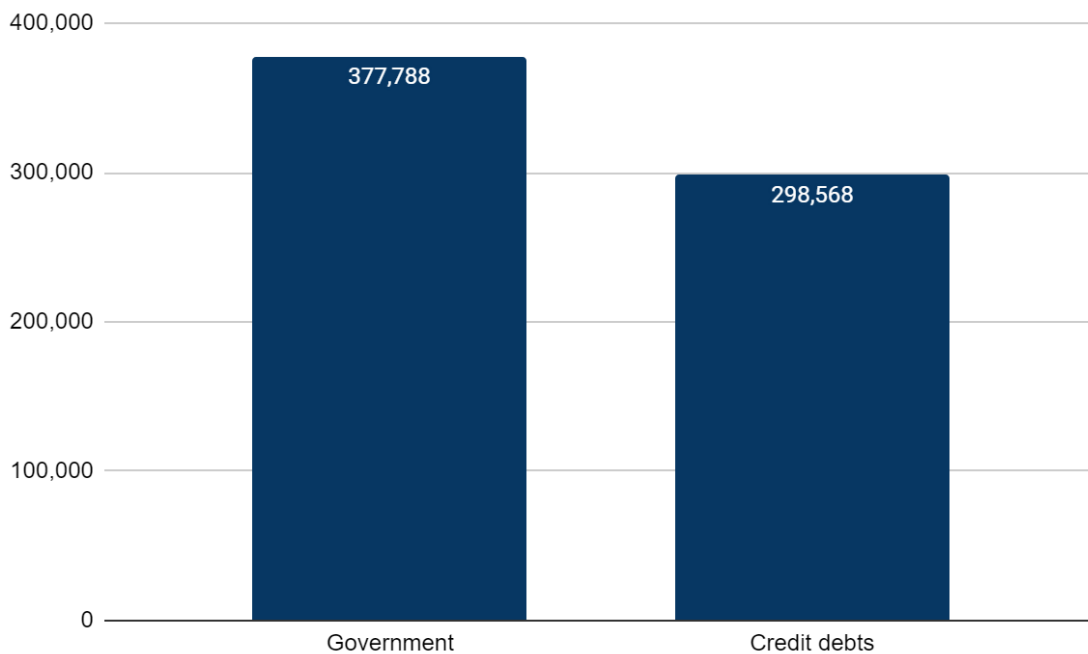
This response uses three primary data sources:

- Data based on the records made by advisers when providing advice. Unless otherwise stated we have used the numbers of 'issues' advisers helped people with.
- Evidence forms submitted by advisers and other local Citizens Advice colleagues. The forms are submitted where those in local offices want to highlight a particular issue or specific social policy related issue.
- A survey of local authorities and Citizens Advice office staff focussed on the impact of the Council Tax Collection Protocol.

The impact of government debt collection on Citizens Advice clients

Debts owed to government debts and debt collection are major sources of financial difficulty. Over the last eight years, for instance, the proportion of debt issues caused by government debts we have helped people with, have outstripped credit card and store card debt.¹ The chart below shows we helped people with more than 75,000 more government debt issues last year compared to all consumer credit issues.

Chart 1: Government and credit debt issues (Aug-Jul 2019-20)



In this response, we include the following in our definition of government debts. The total number of issues we helped people with last year for each of those issues is shown in the table below.

Table 1: Issues by government debt type (Aug-Jul 2019-20)

Debt type	Number of issues (Aug-Jul 2019-20)
Council tax	188,249
Rent arrears (LAs or ALMOs)	43,853
Unpaid parking penalty	29,840

¹ Citizens Advice, State of Debt Collection (2016)

Magistrates fines and comp orders	26,100
Overpayments of WTC & CTC	24,309
Overpayment of Housing & Council Tax Benefit	18,170
Overpayment of other benefit	10,563
Social fund debt	8,068
Arrears of income tax, VAT, or NI	6,600
Overpayments of IS/JSA/ESA	5,846
Maintenance & child maintenance arrears	4,862
UC advance payment/budgeting advance	3,364
Overpayment of universal credit	3,713

Collection related issues cause widespread problems

A disproportionate number of the debt issues we help people with are caused by the way government debts are collected. Looking at the broader category of all household bill debts - government debts and utility bill debts - we found that these debt issues were twice as likely to relate to issues caused by collection when compared with consumer credit debts.²

Council tax and bailiff enforcement

Problems caused by council tax debt and local authorities' use of bailiffs stand out as particularly common causes of debt issues. Over the last few years we have consistently highlighted the particular problems caused by issues related to the use of bailiffs by government bodies and with broader problems caused by council tax debt collection - in particular as a result of the impact of the antiquated Council Tax (Administration and Enforcement) Regulations 1992.

Last year we helped people with 188,000 council tax debt related issues - the most common debt problem we saw. Looking at bailiff issues, we helped people with 81,000 issues. 55,000 of which were related to bailiff enforcement of council tax debt.

Our research on council tax debt collection has highlighted that:

- Bailiffs regularly break the rules set out by government regulation. Our research estimates bailiffs broke the rules 850,000 times over a two year period.³
- Just 28% of people who witnessed a bailiff breaking a rule made a complaint and only 56 formal complaints had been made in 4 years.⁴
- Council tax collection is expensive and using bailiffs is often inefficient. Our research suggests bailiff fees add over £200 million a year on to people's debts.⁵

² Citizens Advice, Hidden Debts (2018)

³ Citizens Advice, A law unto themselves (2018)

⁴ Citizens Advice, The rules of enforcement (2019)

⁵ Citizens Advice, The costs of collection (2019)

Household budgets of the people we help with debt

Looking more closely at the budgets of the people Citizens Advice helps with debt highlights why so many struggle to repay money they owe to government. It also shows why there needs to be a whole government approach that prioritises fairness, affordability, and helping people out of financial difficulties.⁶ Of the people we help with debt problems;

- 4 in 5 people have less than £100 disposable income - after day to day living costs - each month. Nearly 2 in 5 have a negative budget
- 1 in 10 have no money left over after just their 'fixed costs' - that is not including things like groceries

Our clients also:

- Have an average monthly income of £1,330 - for those with a negative budget it's £1,121
- Have sustainable expenditure of £1,302 a month on average

How can government help?

We have made a number of recommendations to government on specific changes that should be made to improve the way government debt is collected.

We recommend that the government reform the Council Tax (administration and enforcement) Regulations to help councils recover debts more flexibly. That reform should build on learnings from various pilots looking at how to improve collection. Crucially, any move to more automated recovery should be done alongside improvements to affordability assessment.

We recommend that the government regulate bailiffs. A bailiff regulator should be able to license bailiffs, set rules, supervise activity, and sanction bailiffs who break the rules. We set out our views on bailiff regulation in our response to the Ministry of Justice's consultation.⁷

This consultation is a hugely positive step to looking at improving government debt collection more generally. We recommend two key changes should result from this consultation process.

We recommend that the government introduce a Debt Management Bill. Across a range of departments, debt recovery is influenced by a range of rules and regulations, cultures and practices. A single debt management bill would enable the government to look at the way debt is collected across government.

We recommend that the Debt Management Bill is used to introduce a shared understanding and approach to affordability. We think government debt collection should recognise - and proactively use - the Standard Financial Statement to assess affordable repayments.

⁶ Figures are taken from, Citizens Advice, *Negative Budgets* (2020)

⁷ Citizens Advice, Taking Control Response to the Ministry of Justice's Call for Evidence on Bailiffs (2019)

Response to questions

SCOPE

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.

As set out in the introduction, we define government debts as including the debts listed in Table 1. For the purpose of this consultation the broadest possible view of individual debts to government should be the starting point. While different debts will likely need to be treated differently in terms of fairness, the approach and principles should be the same. The overriding driver should be to support people out of debt.

AFFORDABILITY

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

Looking just at debts to the government, 37% (141,000) of all issues last year (August 2019 - July 2020) related to the challenge of dealing with repayments. This is a strong marker of problems of affordability. For instance, one adviser provided the following evidence based on helping a client with an issue related to the affordability of council tax debt repayments.

A lack of affordability assessments, or even an appreciation of the need to collect debts in an affordable way, means people are regularly pushed into extreme hardship and destitution by the way government bodies recover debts.

Local authorities

The most common affordability issue raised by advisers is around local authority recovery of council tax arrears, and the way bailiffs deal with affordability in particular. The following case study is a common form of issue.

The client is unable to resolve her debt issues in a fair manner, via affordable payment arrangements. The bailiffs collecting the debt have overstated their powers and it is having a negative impact on the client's mental health. This bailiff in particular seems to act outside the bounds of regulations.

Deductions

Another common form of debt recovery which poses affordability challenges is deductions from benefits. In particular, deductions for overpayments of benefits. In addition to the issues raised by advisers around 'dealing with repayments', advisers helped people with over 10,000 issues relating to negotiating affordable repayments, and hardship experienced as a result of deductions for overpayments. The case study below highlights how unaffordable deductions for overpayment can cause hardship.

The client has two deductions from their UC - 15% each for a court fine and Tax Credit overpayment. The DWP have said they will not reduce the percentage for the Tax Credit overpayment and the court and DWP have said the same about the fine. That is despite the client being in severe financial hardship.

Lack of flexibility

Advisers also highlight that government bodies often cited a lack of flexibility in the rules available to them. That lack of flexibility was replicated in approaches to recovery where creditors sought to, or were instructed to, collect debt within a particular time frame.

One adviser was told by HMCTS that they could not reduce the payment being made by UC. But that the client could make repayments directly at a level above the unaffordable deduction. The level was set so the debt would be repaid in 24 months but was solely calculated on that basis rather than by attempting to calculate affordable repayments.

In another example the client's experience highlights how one part of government can undermine flexibility shown by another part of government.

The client was told that DWP has no discretion to reduce fine payments. The client had rent arrears with a pending eviction, so needed to focus on rent arrears repayments. DWP Debt Management and UC agreed to reduce or defer deductions, but the fine deductions are then increased to the maximum 30%

The widespread problems we see that relate to a lack of affordability result from a lack of an explicit approach to assessing affordability of debt repayments across government. Comparing the approach of the private sector to government bodies highlights the lack of emphasis placed on ensuring people are only asked to repay what they can afford. While there are some limitations on how government recovers debts - for instance lowering the maximum amount that can be deducted from benefits from 40% to 30% - these are only ad-hoc measures that seek to identify the resources people in debt have available to make repayments.

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.

The people Citizens Advice helps with debt, on average, have low income, low levels of expenditure, and low levels of disposable income to repay debts. In our report, *Negative Budgets*, we describe in detail the financial circumstances of the people in debt we help. In 2018, nearly 2 in 5 had a negative budget as shown by having conducted a Standard Financial Statement with a debt adviser.⁸ That is a problem that has worsened over the last 5 years.

The situation, our debt clients are in powerfully demonstrates the need for government bodies to adopt rigorous approaches to affordability assessments. As a particular example, the average person we helped with council tax in 2019 had just £7 disposable income and 45% had a negative budget.⁹ Using enforcement agents, who add over £200 million of fees on top of people's debts, to recover government debts - is the result of failing to consider affordability in repayment.¹⁰

Adopting the Standard Financial Statement across government would be the gold standard approach to improving the way government assesses affordability. A number of measures could be taken to work towards that. Firstly, government should adopt a cross-government affordability rule: requiring all creditors to conduct an affordability assessment when people are unable to repay their debts. People should have the ability to dispute their assessment, and government bodies should report their success in using it and establishing affordable repayments.

Secondly, government should drastically improve the ability of all government bodies to get a rapid view of someone's financial circumstances. As a minimum that could be a flagging system that uses a combination of government and credit referencing data to highlight where someone has wider financial difficulties. That approach might enable departments and bodies to use a more risk-based approach to assessing affordability.

Thirdly, the value of a new cross-government function solely to recover 'problem debts' should be assessed. Government bodies could be able - or required - to pass on debts they have deemed unaffordable to the function, where specialists could support people to make their repayments and to get the help they need.

⁸ Citizens Advice, *Negative Budgets* (2020)

⁹ Citizens Advice, *Wrong side of the Tax* (2020)

¹⁰ Citizens Advice, *Council tax collection isn't efficient or effective* (2019)

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.

As described above, there is a strong case to drastically improve the ability of government creditors to get a non-client generated view of people's finances through better data sharing. That would help with both the initial assessment of someone's ability to make debt repayments, as well as ongoing support and verifying where people identify that their circumstances have changed.

One policy change that will drastically help is the implementation of the Statutory Debt Management Plan. Bringing government debts into the first formal debt repayment mechanism will be crucial for people in debt to achieve affordable repayments, and to embed the use of the Standard Financial Statement across government.¹¹

In addition, two types of debt recovery regularly cause significant hardship for our clients that are distinct from simply unaffordable repayment levels. First, where very old debts are recovered from people. That can include overpayments, parking fines, and council tax debts. Recovering old debts can quickly push people whose finances are balanced into distress. Government should adopt a policy of limiting how long after a debt has been accrued - and the client made aware - that it can be recovered.

Second, when tax credit overpayments are discovered through migrating to Universal Credit, deductions make an already financially strained situation unmanageable for many. Failing to prioritise affordability can quickly push people into destitution. The client story below highlights how people's financial situation can be damaged by the way the government recovers debts.

¹¹ HMT, [Breathing space scheme](#)

Lucy has a large negative budget each month. Her income fell after being signed off work for several months due to a back injury. Lucy then lost her job as a carer when her employer couldn't accommodate her need for fewer manual work duties. The only source of income she was left with was child benefit. When Lucy's income reduced due to her ill health, she notified the DWP of her change in circumstances. They assured her they would have been informed of the change by her employer. As Lucy and her husband were struggling to manage day-to-day living costs as a family with young children, they applied for Universal Credit (UC). However, they were told there had been a Tax Credit overpayment and £70 a week would be deducted from the couple's UC payments. Lucy asked if DWP could decrease the deduction amount as they were struggling to manage, but she was told the deductions were within guidelines and therefore couldn't be reduced. Lucy had no other option than to approach her local Citizens Advice and ask for food bank vouchers. During the course of Lucy's health and money worries, her relationship with her husband also broke down. The UC payment was further reduced to reflect the household change, which made Lucy's financial situation worse still. Lucy couldn't afford basic living costs for her and her children and gradually fell behind on other bills with repayments pushing her further into financial difficulty. She is hoping to apply for a Debt Relief Order if she can secure a charity contribution to help her afford the £90 fee.

COMMUNICATION AND PREVENTING RECURRING DEBT

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?

For Citizens Advice, there are two distinct problems with the way government communicates with people in debt - with the people themselves and with advisers helping people in debt. Where advisers struggle to get information and communicate with people in debt it is a strong indicator that people in financial difficulty will also struggle. In 2015 advisers reported varying levels of ability to get through to government bodies on the phone, and in the way departments responded to letters.¹²

For clients, failures of communication make the process of dealing with debts more difficult and can exacerbate the financial difficulties themselves.

The client is a palliative care nurse whose car was parked on double yellow lines for 8 to 10 minutes while she attended an emergency call to an elderly sick lady. She left a laminated official card on the dashboard. She got a parking fine and wrote to the council straight away explaining the emergency call out and appealing the fine. She got no response for two months. After doing this several times, she found out the original fine had large fees added on. The client can't get through to the council and is just given automated messages instructing how to pay.

Our advisers often report that the trigger for seeking advice - and for needing support managing debt - is poor communication by government bodies. That poor communication is also a cause of stress, anxiety and uncertainty. All of which make it more difficult for people to get their finances back on track, as the case below demonstrates.

The client had a large carers allowance overpayment. The adviser sought to assist her in contacting debt management to discuss a repayment schedule. The adviser and client called 3 times, the call cut off twice and we waited on the third call until the client had to leave. The client and his wife are extremely anxious not knowing what they owe and how it is deducted from their benefits.

Those difficulties are experienced at the local government level too.

The adviser had difficulty contacting the local authority in relation to an urgent case where enforcement action is about to be taken for a vulnerable client with council tax arrears. The phone number given warns of a long wait but this is made even longer by the options available. If you select options relating to enforcement you are put through to the enforcement agents and begin another long queue. The only way to talk to someone was to make incorrect selections. However, the person you speak to is from Capita who can only put

¹² Citizens Advice, State of Debt Collection (2016)

you back through to the start of the queue. The impact is severe. The adviser is unable to halt an enforcement visit for a vulnerable client who is at risk of having fees added to their 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.

In previous work with advisors we have set out a number of ways that government creditors can ensure their communications with people in debt are as good as possible.

¹³ They are:

1. Ensure that staff can be contacted easily by phone.
2. Enable staff to resolve customers' problems rather than use a scripted approach.
3. Reward staff for constructive engagement with people in debt rather than by amount collected.
4. Ensure that all communications are clear and easy to understand, and include all the necessary information to enable them to take action.
5. When recovering very old overpayments, provide evidence of the debt. This must include full details of the debt, how it arose and previous communications with and payments from the customer.
6. Create contact points for advice agencies so that they can get through to someone who can help and provide escalation contacts so that particularly complex or urgent cases can be resolved.
7. Respond positively to engagement at all points of your collection process.
8. Be willing to set affordable arrangements and engage with the clients whenever they make contact.
9. Enable front line staff to provide the right support for people in vulnerable situations, supported by teams who have the expertise and tools to provide more specialist support when this is needed.

We have also done partnership work - for instance with energy companies - to work with creditors to improve the way they communicate with clients. Simple measures such as using plain, simple language, avoiding jargon, and testing material with people can help improve the approach providers take to communication across a range of services.¹⁴

We have also conducted research with people with mental health problems and essential service providers to highlight where 'minimum standards' for communications and supporting people in debt would help improve outcomes for people in vulnerable situations. All of that research is potentially useful for government bodies when considering their approach to communicating and working with people in debt.¹⁵

¹³ State of debt collection

¹⁴ Citizens Advice, [What we learned from our energy hack day](#) (2019)

¹⁵ Citizens Advice, [Counting on it](#) (2019)

In particular, we recommended that all essential service providers should:

- Offer at least 2 channels through which all customers can communicate with them. One channel should be a freephone telephone line. Given the importance of essential services, all providers should operate a telephone service, particularly to enable customers to deal with emergency situations.
- Offer a telephone service for customers with mental health problems so they don't have to wait in a call queue. They could do this in 2 ways:
 - Have a publicly available direct telephone number for a team which has received specialist training to support customers with mental health problems.
 - Use intelligent call routing systems to connect customers with mental health problems directly to a specialist team.
- Ensure frontline customer service staff are trained on company policy on referring callers from the general line to the specialist team.
- Offer written follow-up when substantive changes are made to the account or contract, or the customer has agreed to take action as a result of the call.

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.

Citizens Advice works closely with a wide range of government creditors. In particular, since 2013 we have worked with the LGA and local authorities to improve communications throughout the debt collection process - from policy design to implementation - through the Council Tax Protocol. Since 2013, between 60 and 70 local authorities have signed the protocol.¹⁶

The protocol has 27 points on how local authorities can work with local Citizens Advice to improve partnership, information, and recovery. We surveyed councils and Citizens Advice staff and received 126 responses in 2019. Of the Citizens Advice responses 33 worked in areas where the Protocol had been signed, while 10 of the council respondents were from councils that had signed. The survey tested how successfully the Protocol had changed approaches to collections. We used a points system to score councils on their compliance with the Protocol. Under this scoring system, a council that is fully compliant with all aspects of the protocol would score 100%.

This survey found that councils that have signed the Protocol had a better approach to partnership working and repayments (although there is still some way to go in places). In other areas, such as vulnerability and general good practice, differences were marginal. However, often positive council practices are compromised by the approach of bailiffs once debts are passed on. This is partly the reason why scores are lower for partnership working, vulnerability and good practice than repayments where scores didn't measure bailiff actions.

¹⁶ Citizens Advice, Council tax protocol (2017)

Two things stand out from that work and the evaluation. First, partnership working is valuable, in particular where that partnership extends to the design of policies and communication about their effectiveness. Second, even good partnership can be undermined by bad policy. For instance, local authorities have limited flexibility in the way they recover debts. They are strongly incentivised to recover debt in-year and have limited tools outside of the court process.

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.

The majority of debt problems are unpredictable. 9 in 10 of the people Citizens Advice helps with debt have been through a recent change in circumstances such as ill health, relationship breakdown, or a change in employee status. The household budgets of people we help with debt highlight how fragile people's finances are. As we set out in the introduction to this response, the people we help with debt often have 'negative budgets', and overwhelmingly have very tight finances from month to month.

The best way debt collection can support people to get out of debt and avoid recurring debt issues is to ensure that debt recovery is affordable. To achieve that, government bodies should agree to use a shared approach to affordability. As we set out above, we recommend the government adopt the use and recognition of the Standard Financial Statement.

VULNERABILITY

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

The link between debt problems and wider social costs and vulnerabilities is well established. The NAO concluded in its recent report that problem debt resulted in additional costs of £248 million to the taxpayer, and estimated wider costs to be around £900 million. Those figures were based on the costs of mental health services and subsidised housing primarily, highlighting the direct impact of problem debt - and the way debt is collected - on two areas of potential vulnerability.¹⁷

As has been shown in a wide range of research around the relationship between problem debt and wider vulnerabilities, debt problems can be both a cause and consequence. For instance, the way debt is collected can make financial problems more stressful than they need to be:

The client is unable to resolve her debt issues by an affordable repayment plan. The bailiffs have overstated their powers and are frightening the client. This is having a negative impact on the person's mental health and financial capability.

It is also common for advisers to help people who are clearly in vulnerable situations where the approach to debt collection hasn't been adjusted - or the vulnerability identified at all. One adviser told us:

Local Authorities are passing responsibility to bailiffs to chase their Council tax debts, but they are doing this for clients they know are vulnerable - those renting Council properties with disabilities and mental health problems for example. bailiffs typically deal with clients in an extremely aggressive way and, as well as distress, this can make mental health problems worse, adding to the problems that Councils have to deal with.

Another example demonstrates how sharply bad practice in debt collection can interact with people's vulnerabilities.

The client is a carer for her son who suffers from schizophrenia. He has attempted suicide and is a vulnerable individual. TH]he client has several debts including council tax arrears. The council appointed bailiffs have delivered a letter saying they will remove goods. The representative said they would return accompanied by the police.

¹⁷ NAO, Tackling Problem Debt (2018)

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.

As in other areas, an effective approach to vulnerability has to be part of a wider approach to fairness that emphasises positive communication, disputes processes, and approaches to affordability. In our experience of working across a range of markets looking at how vulnerable consumers can be supported to get positive outcomes, there are three aspects to a successful vulnerability approach:

1. Some vulnerabilities are clear and need particular forms of treatment from creditors. That might be people with certain physical disabilities, who have mental health problems, or who find themselves in vulnerable situations - such as facing homelessness. Where creditors have interactions with people where specifically designed policies and procedures for certain vulnerabilities can improve outcomes, they should do that.
2. Where the needs of vulnerable people are less clear, minimum standards for treatment and policies are a straightforward way to improve outcomes for people in vulnerable circumstances. We set out in detail the minimum standards regulators should adopt when supporting vulnerable consumers. They included setting up debt support for people who fall behind on payments, helping people maximise their income, and setting up debt advice appointments for people where they agree.¹⁸
3. Minimise the risks to people who are vulnerable through well designed services and approaches. While the aim should be to tailor services to people's needs, the reality is that it will always be impossible to identify all vulnerabilities. Underpinning a good approach to identifying vulnerability should be an approach to services - in this case government debt collection - that seeks to minimise the risk posed to people. That can include ensuring that the costs of collection don't spiral out of control.

In terms of identifying vulnerability, our recent research - in particular with people with mental health problems - points to two important features of approaches to identification. First, the way people will be treated if they disclose vulnerability needs to be clearly set out. In consumer markets, where people aren't able to find information about how a potential vulnerability will affect the way they are treated by a supplier, they are less likely to make that disclosure. The same is true of government departments and bodies.

Second, data sharing should be one of the government's strengths over the private sector in identifying vulnerability. In the case study above, we highlight the case of a person we helped who lived in a local authority property but whose financial circumstances weren't considered when he faced council tax debt. The government should lead the way by establishing a taskforce for vulnerability which looks at improving data sharing both within government and between regulators.

¹⁸ Citizens Advice, [Counting on It](#) (2019)

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.

As set out above, there are a number of approaches to working with vulnerable people depending on the nature of their vulnerability and an organisation's knowledge of it. For the first category of vulnerability - where there is a clear set of needs - the best approach is to design policies for those needs. A good example of that approach would be to exempt people on low incomes - for instance those in receipt of means tested benefits - from debt recovery approaches that add fees to their debts. Such an approach would be supported by better use of data sharing and a technological solution that can be built to support government agencies to share data in a secure way.

DISPUTES

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

An effective disputes process is essential for ensuring that people are only required to pay money that they owe and be treated fairly when in debt. There are two types of dispute resolution that should be provided by creditors when recovering debts. Firstly, people need to be able to dispute their liability for a debt.

Advisers regularly report that they have successfully challenged debts. Last year our debt advisers helped people with 45,000 issues related to the liability of government debts and more than 15,000 issues about the recoverability of overpayments.

Some of those issues relate very clearly to well defined processes to appeal against decisions to recover overpayments. The wider range of issues around liability for debts owed highlights the importance of the need for clear and effective dispute resolution. In general our advisers report a poor experience of interacting with government bodies when dealing with disputes. Our survey of advisers in 2015, pointed to HMRC and HMCTS in particular as being uncooperative when challenging a debt.¹⁹

The process for managing disputed debts also interacts closely with having an adequate approach to identifying and supporting people in vulnerable situations, as the case study below demonstrates.

The client is profoundly deaf with mental health issues. They have no family in the UK and no social worker. They have Housing Benefit Overpayments, some of which they were entitled to. They are being threatened with debt recovery and are facing possible eviction from their home.

Secondly, people need to be able to dispute their treatment and the approach to recovery used in debt collection. For instance, whether creditors have followed their own guidance or - going forward - whether a creditor has correctly assessed what they are able to repay.

¹⁹ Citizens Advice, [State of Debt Collection](#) (2015)

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.

As discussed above, an effective disputes process for government debts needs two parts. Each department or body needs a clear mechanism for people in debt to dispute the liability and amount of those debt. Crucially, that mechanism needs to be available to people. This is where a broader approach to fairness is crucial. Without effective communications and a well defined and delivered vulnerability approach, it is impossible to have a well functioning dispute process. The case study below highlights that even where there is a clear mechanism to challenge a debt, that mechanism often works poorly.

The client received an overpayment letter from DWP with no information what the overpayment was for or when it was accrued. The client is not currently claiming benefits and hasn't done for 7 years. The client called DWP debt centre and was on hold for over 40 minutes. The client has tried repeated times to get in touch with the DWP and was on hold at Citizens Advice with no answer.

The second area where there needs to be an effective disputes process is around the methods and approaches used for recovery. We have looked at this most closely in relation to the difficulty people have complaining about bailiffs. In 2018 we helped 41,000 people with 90,000 bailiff issues, and the bailiff pages on our website were visited more than 140,000 times. Our research found that in the previous year, 2.2 million people reported being contacted by bailiffs in the last two years, and more than a third of these - 850,000 people - have experienced bailiffs breaking the rules.²⁰

Despite that, our research found the complaints process worked incredibly poorly. We found that in the last 2 years, just 28% of people who experienced a bailiff breaking the rules made a complaint. More starkly, according to the Ministry of Justice, there were only 56 complaints through the new court-based process between 2014 and 2018.

Through research with advisers and clients with experience of making complaints about bailiffs, we have found that there are significant barriers to making complaints and, when people do, the process doesn't work:

- Both clients and advisers lack faith in the process. 31% of advisers we surveyed had not complained on occasions because clients were reluctant to, and 29% had not complained because they lack faith in the process.
- The complaints process is structurally flawed. The process isn't independent and bailiff firms are seen to shift the blame while complainants are kept in the dark. Only 11% of advisers we surveyed have had a positive experience making a complaint.

²⁰ Citizens Advice, [Rules of Enforcement](#) (2019)

- Complaints lead to unsatisfactory outcomes. Remedial action rarely leads to a bailiff being penalised for breaking the rules, and the lack of consequence serves to suppress future complaints.

As a principle, people should have clear access to effective alternative dispute resolution services. For public services and bodies, a single ombudsman, as set out in the draft Public Service Ombudsman draft bill²¹, would be an improvement on the confusing landscape of complaint processes that people who feel they have been mistreated by the government can use.

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

As in the previous two answers, there are two distinct areas where policies can interact with debt management procedures. The first is around the treatment of disputed debts. In particular advisers and clients often face the challenge of having debts recovered - particularly by HMRC - despite those debts being disputed and recovery causing material hardship. That contrasts with the FCA which requires that firms 'do not ignore or disregard a customer's claim that a debt has been settled or is disputed and must not continue to make demands for payment without providing clear justification and/or evidence as to why the customer's claim is not valid.'²²

The second is around disputing the way a debt is collected or making complaints about how someone has been treated in the debt collection process. Here people are less well served than when disputing the liability for debts. While policies vary between public bodies, the unifying feature is that complaints processes are complex and difficult to engage with. A good example is the limited powers given to the Local Government and Social Care Ombudsman (LGSCO). The LGSCO has limited powers to investigate the recovery of council tax debt - where there is no other statutory right to appeal and to look at 'maladministration'.²³

²¹ Cabinet Office, [Draft Public Service Ombudsman Bill](#) (2016)

²² Financial conduct Authority, CONC 7.5.2 (R)

²³ Local Government Act 1974

REPORTING AND TRANSPARENCY

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

Collecting and reporting data on debt management activities is essential to understanding whether government policy is working. It should be a core part of any wider debt management approach. The benefits of reporting performance data are two-fold. First, data reporting enables monitoring and, if necessary, improvement of different departments, bodies, or approaches to debt management. Second, it enables identification of good practice where different methods of debt collection are particularly effective.

Currently, too little is known about the effectiveness of the way government debt is collected. A stark example is the way local authorities approach recovery of over £3 billion of council tax arrears. In 2019 we sent a FOI request to all local authorities asking them for information about different aspects of council tax arrears - how many people were behind, what recovery methods were most widely used, how successful those recovery methods were, and how much they cost. That information was not previously held by a central department, or visible between local authorities. We found, for instance, that bailiffs only recover an average of 30% of the debt referred to them and they add 53p in fees for every £1 returned to local authorities.²⁴

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?

The most harmful metrics for debt collection are measures which discourage flexibility in approaches to recovering debt. In particular policies or incentives to recover debt within a certain period of time leads to putting clients in impossible situations. Advisers regularly raise a lack of flexibility shown by local authorities, and enforcement agents in particular, regarding making repayments outside of the financial year.

The affordability of debt repayments should always be prioritised over the time taken to make repayments. Emphasizing affordability further incentivises creditors to engage with people in debt, to set repayment plans that are responsive to changing circumstances, and to support people to find the right solution for their financial situation.

Where it is necessary for information purposes, it should be made clear to creditors that in-year collection rates should not be regarded as targets and should always be contextualised against other information. A broader set of metrics would help to do

²⁴ Citizens Advice, [Council Tax collection isn't efficient or effective](#) (2019)

that. In previous work Citizens Advice has focussed closely on the collection of council tax arrears by local authorities. Taking that as an example, a number of metrics would help support effective - and fairer - approaches to debt collection:

- Number and success of repayment plans - Local authorities set up large numbers of repayment plans for people in arrears. The frequency and success of those plans should be measured and monitored by authorities and by the central government.
- Methods of debt collection used - Local authorities should report how many times they use bailiffs, deductions from benefits, and attachment of earnings orders in order to recover council tax debt.
- Costs of collection - Local authorities should assess the costs of each collection method used, including the additional costs of bailiff use as a result of fees.

More broadly, both central and local government bodies should report on aspects of their approach to debt collection, such as whether they have a vulnerability policy, whether they use and accept offers made using the standard financial statement, and how many people in debt they successfully refer to debt advice.

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

There are two reasons government departments and bodies should facilitate access to clearly written debt management policies. Firstly, from an individual perspective, giving people a clear understanding of how they will be treated by creditors has a number of benefits. On a simple level it gives a greater level of certainty, helping people to manage an inherently difficult situation. Clear information also makes disclosure of difficulties more likely. Where people know how they will be treated and the options available to them, they are more likely to communicate those difficulties with creditors. That is something we have seen evidence of in the financial services sector. Where the options available to customers are clearly communicated, customers are more likely to disclose current and potential vulnerabilities.

Secondly, from a compliance perspective, clear and public policies enable scrutiny of performance levels. That scrutiny can happen internally as well be conducted by external bodies and interested third parties.

FRAUD AND NON-COMPLIANCE

One way the government could improve the way it identifies and prioritises debt resulting from fraud and serious non-compliance would be to separate out debt functions from fraud functions in departments. The current approach of combining the fraud, error, and debt teams in one function across government means that the distinction between people in financial difficulty and those who owe money as a result of fraud is not distinct.

The government estimates that the stock of debt it is owed stands at around £22 billion. In contrast the flow of revenue lost to fraud is estimated at between £22 billion and £45 billion a year.²⁵ The far larger fiscal impact of revenue lost as a result of fraud is likely to mean that organisational incentives and priorities will tend to focus on money lost through fraud, rather than the smaller stock of debt built up largely due to financial difficulty.

For any further questions or information please get in touch with joe.lane@citizensadvice.org.uk

²⁵ <https://www.gov.uk/government/collections/fraud-error-debt-and-grants-function>, Accessed 17 September

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Published September 2020

Citizens Advice is an operating name of The National Association of Citizens Advice Bureaux.

Registered charity number 279057.