StepChange Debt Charity response to the Cabinet Office call for evidence on government debt management

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StepChange Debt Charity is the largest specialist debt advice charity operating across the UK. In 2019, over 630,000 people contacted us for advice and information on problem debt. We welcome this Cabinet Office call for evidence on government debt management practices. Current systems are not fit for purpose and changes are urgently needed to protect those who owe money to government organisations.

Clients we see with debts to government are less financially resilient and more likely to be vulnerable than other clients. The average budget of our clients with debts to government after all essential expenditure is accounted for is a deficit of £21.34 compared to a budget surplus of £89 for all clients. 57% of clients with debts to government have an additional vulnerability compared to 48% of all clients.

Despite this, government debt management practices are much worse than we see from commercial creditors in regulated markets. In a survey of clients with debts to government conducted for the call for evidence 93% had found it difficult to pay for essentials because of actions taken by government. 69% did not have an affordability assessment and only 17% felt that government took account of their vulnerability.

These failings are the result of an absence of a regulatory framework for government debt management and disjointed efforts by different government organisations to recover money owed. Despite efforts by Cabinet Office and Treasury to implement a debt management strategy, individual government departments and organisations are largely left to their own devices with no binding requirements aimed at achieving a set of positive outcomes for those in debt.

As a result, approaches to affordability, forbearance and vulnerability vary widely across government. Data capture is inconsistent and woefully insufficient to monitor outcomes for individuals with debt and adjust government practices accordingly. Data that is utilised is not shared across government and rarely used to proactively identify individuals with greater support needs or those struggling with repayment rates.

An overhaul of government practices is needed. Specific actions will provide some relief like increasing repayment time frames for benefit overpayments recovered through deductions or a pre-action protocol for council tax debts. However, these will not be enough to embed the necessary culture change within government debt management to consistently achieve positive outcomes. To achieve this, Cabinet Office must:

- Introduce binding good practice guidelines for all government debt management teams with provisions on affordability, vulnerability, redress and reporting.
- Set up a single debt aggregator within government to facilitate data sharing between departments and proactively identify vulnerability and affordability risks.
- Establish an independent regulator for bailiffs to oversee their activity and bring them into the new framework of government debt management regulation.

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.

We do not believe there are any debts that should be excluded from the consultation. For government debt management processes to be effective they need to be consistent and universal. Processes should be based on a framework of principles aimed at achieving a set of outcomes. For efficient and fair debt management these outcomes should include not making debt problems worse and making adjustments for people in vulnerable situations. By accepting the need to treat individuals in debt fairly and recognising that punitive approaches to debt management create additional social costs, the logic for including all debts should be clear.

While we recognise that some debts (like court fines or unpaid child maintenance) raise specific public policy issues, we do not believe this justifies excluding any debt owed to public sector creditors from a call for evidence on fair debt management practice. Unprovable debts which are excluded from bankruptcy are left out because of the write-off element of this debt solution. Although exclusions are often contested, they're generally for debts relating to things where writing off money owed would undermine another valid public policy aim (for instance maintenance or personal injury compensation). Preventing write-off is different from removing debts from a framework of fair debt management practices.

There's no benefit in demanding money from people in excess of their disposable income or treating them in a way that makes their debt problems worse. Fairness principles need to be adopted and embedded across-government and for all debts.

Affordability

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

Affordability is the most important aspect of effective debt management. Requiring people to repay debts at an unaffordable rate pushes them further into problem debt. In a recent survey of StepChange clients with debts to government, 93% said that government action to collect money owed had made it difficult to afford essential household costs.[1] This can lead to people missing payments elsewhere or force people to take out credit. In the same survey, 52% of respondents had taken out credit as a result of government debt management activity.[2] It's vital that payments are set at an affordable rate to prevent hardship or provoking coping strategies that push people further into trouble.

Demanding money at an unaffordable rate is also an inefficient way to collect money owed. Having long been criticised for their aggressive practices, independent regulation led to debt collection agencies developing a comprehensive code of practice which requires firms accept

[1] StepChange (2020), Client survey, base 234
[2] *Ibid,* base 225

repayment plans based on the customer's ability to pay.[3] This shift in culture and practice came through a recognition that chasing money without consideration of an individual's circumstances only pushed them further into trouble and increased the chances of recurring debt that is more difficult to manage in the future. The coping strategies people deploy when chased for money they don't have are counter productive. Borrowing from friends and family, using credit or worse high cost credit and even illegal lending options. Individuals also may end up finding themselves unable to pay or disengage from the process if they fear too much will be demanded from them.

Fair and effective debt management should be proactive in assessing affordability and be as flexible as possible with repayment plans, tailoring them to an individual's circumstances. In the context of government debt management this means utilising the data available (to DWP and HMT in particular), sharing it across government debt management teams so that a proper assessment of individual circumstances can be made before collection activity is initiated.

We continue to see evidence that affordability assessments are not conducted, or conducted poorly in public sector debt recovery. In a recent survey of StepChange clients with debts to government, 69% did not have an affordability assessment[4] while 77% had their debts collected at a rate they felt was unaffordable.[5] Practices differ in different parts of government, but overall there are major shortfalls in the public sector approaches to affordability.

Local government

When someone falls behind on their council tax they are sent a reminder giving them seven days to pay their missed installment. If they do not make a payment before this deadline they become liable for their full annual bill. At this stage efforts can be made to set up a repayment plan with the local authority. Often, the local authority then seeks a liability order from the court in order to begin collection activity. This order adds additional costs to the resident's bill and is usually followed by bailiff action which leads to costs escalating further. We are concerned that both the nature of this process and the actions of local authorities and bailiffs within it fail to adequately assess affordability or keep costs down.

Local authorities are constrained somewhat by the regulations governing this process of council tax collection. The Council Tax (Administration and Enforcement) Regulations state that if someone misses a single monthly council tax payment, they will be sent a reminder notice. Then, if they do not pay within the next week, they become liable for their entire annual bill.[6] This means that someone struggling to meet the average band D payment of £167 can quickly become liable for a £1,671 payment.[7] This rapid escalation inhibits people's capacity to repay. The regulations then require councils to get a liability order from the courts to take further action to pursue debts. The regulations stipulate that these should be 'cost reflective' but on average

[3] Credit Service Association (2017), Code of practice
[4] StepChange (2020), Client survey, base 182
[5] *Ibid*, base 297
[6] The Council Tax (Administration and Enforcement) Regulations 1992, Regulation 23
[7] MHCLG (2018), Council Tax levels set by local authorities in England 2018 to 2019 (revised)

these add a further £84 to people's bills.[8] The regulations governing council tax, therefore, are not conducive to keeping costs down and ensuring affordability is prioritised in repayment.

It is not only the regulations that do not account for affordability. Local authorities themselves generally do not assess affordability properly in the way they conduct their debt management activity. This is particularly concerning given the prevalence of financial hardship within the cohort of people who fall behind on council tax. In the last year our clients with council tax arrears had an average budget deficit of £24.19. The average deficit for those with a penalty charge notice debt was £28, while those with a fixed penalty notice debt had an average budget deficit of £62.68.[9] Clients with council tax debt are some of the most likely to have a negative budget compared to the next four most common government debt types we see.

Debt type	Number of clients	Proportion of clients with budget deficit	Proportion of clients with budget surplus
Council tax	34,344	46%	51%
UC advance	12,985	49%	49%
HMRC Tax credit overpayment	7,500	41%	56%
Social fund loan	5,399	42%	56%
DWP Benefit overpayment	4,345	45%	52%

Given this profile of people with debts to local government, affordability should be a key priority for local authority debt management teams. However, councils vary widely in their approaches and we are concerned that practices are often poor. Money Advice Trust research found that just 23% of councils use either the single or common financial statement to consider affordability.[10] In a recent survey of StepChange clients with debts to government, only 33% of people with debts to local authorities had an affordability assessment[11] while 78% felt their debt was collected at an unaffordable rate.[12] We have consistently seen these problems with council tax. In a survey of clients with council tax arrears conducted in 2015, only a quarter of respondents had been offered the option of paying in affordable instalments.[13] This suggests local authorities are not assessing affordability properly when collecting unpaid council tax. We believe this is partly driven by funding pressures faced by councils and the in-year collection

[8] Citizens Advice (2019), The cost of collection
[9] Analysis of 78,570 clients accessing debt advice through our Pulse system between 1 August 2019 and 31 July 2020. This is our new data system which has not been fully rolled out online so these stats are mostly telephone clients.
[10] Money Advice Trust (2019), Stop the Knock
[11] StepChange (2020), Client survey, base 86
[12] *Ibid,* base 152
[13] StepChange (2015), Council tax debts: How to deal with the growing arrears crisis

targets which push debt management teams to recoup as much arrears within the financial year, sacrificing affordability for those in debt.

Councils also regularly and rapidly escalate to bailiffs. In 2019, 61% (1.4m) of council tax arrears cases where councils secured a liability order were passed on to bailiffs.[14] Over 2.6 million debts were referred to bailiffs by councils last year, a 22% increase since 2015.[15] Given the additional costs added to people's bills by bailiffs and their well documented failings[16] to take account of individual circumstances, this propensity to refer cases to bailiffs is further evidence of local authorities failing to make adjustments to reduce costs and ensure affordability. We recommend reform of council tax regulations and a strong statutory pre-action protocol mandating actions councils must take before reverting to bailiffs, including provisions on assessing affordability.

We have serious concerns about bailiff practices in relation to affordability. Bailiff regulations incentivise escalation of enforcement to generate more revenue from those in arrears. Individuals are charged a compliance fee of £75 for the first letter sent by bailiffs informing them about enforcement action. There are no obvious controls at this stage on the decision to escalate enforcement and no independent affordability criteria to assess bailiff conduct at the compliance stage. Given bailiffs are often only paid out of the fees they receive, the lack of any controls make escalation common. In 2016/17 59% of cases which received a compliance letter incurred an enforcement fee of £235 for a bailiff visiting their home.[17] This significant additional cost on top of the liability order and full annual bill is not a helpful way to ensure repayments are manageable for those who fall behind. In a 2018 survey of StepChange clients 64% felt that the bailiffs had made their debt problem harder to manage.[18]

New rules introduced in 2014 were intended to ensure that when bailiffs do visit people they refer repayment offers back to councils with repayment plans set up on an affordable basis.[19] However, lack of effective enforcement of these rules means this rarely happens in practice. In a 2018 survey of StepChange clients who had had bailiff issues, 43% had an affordable payment offer rejected while 55% stated that a bailiff had asked them for an amount that they could not afford.[20] Citizens Advice research found that over a third of people who had experienced or witnessed an enforcement agent visit between 2016-2018 had seen them break a rule or national standard. Failing to accept affordable payment offers was the second most common form of rule break with 24% of these people having had an affordable payment offer refused.[21] These experiences demonstrate how bailiffs are incentivised to recover debts as quickly as possible without sufficient regard to affordability. This is driven by the demands of

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[14] Citizens Advice (2020), Council tax collection isn't efficient or affordable
[15] *Ibid.*
[16] Taking Control (2019), Call for evidence response to the Ministry of Justice
[17] Citizens Advice (2020), The cost of collection
[18] StepChange (2018), survey of clients base 36
[19] Ministry of Justice, (2014) Taking Control of Goods: National Standards
[20] StepChange (2018), survey of clients base 42
[21] Citizens Advice (2018), A law unto themselves: How bailiffs are breaking the rules

councils and the pressures they face as well as the incentives for bailiffs to secure repayment for their own remuneration. Neither council or bailiff debt management practices involve properly embedded systems of affordability assessment.

The consequences of this failure to assess affordability are predictable given the financial hardship faced by those with council tax arrears. In a survey of our clients with debts to government, 93% of those subject to council collection activity found it difficult to cover essentials as a result while 64% were forced to consider leaving their accomodation. There is also evidence of unaffordable demands leading to destructive coping strategies increasing the risk of recurring debt. 53% were forced to take out credit as a result of repayment demands.

Client experience
I am really scared of bailiffs and what they can do i.e. take what little you do have like tv etc. I have not paid because I don't want to but because I just couldn't afford the payments they wanted, they couldn't care less, really not interested in your circumstances. I'd had breast cancer and they asked me to prove it and really made me feel that cancer was nothing and I could work if I wanted to, made me feel an inch high. Ended up selling my house, paying lots of arrears off, they are still hounding me. They have left me alone during covid but they'll be back hounding me for sure.

Policy changes are needed to reduce this detriment. Council tax regulations need to be changed to give councils more flexibility in how they can recover arrears and to keep costs down. Councils need a universally applied framework for debt management with agreed approaches to affordability backed by a statutory pre-action protocol of steps they must take before instructing bailiffs. If bailiffs are to be used, independent regulation is urgently needed to oversee their practices. An independent regulator could introduce an agreed affordability framework, like the Standard Financial Statement, to ensure that bailiffs do not apply excessive pressure on individuals pushing them further into hardship.

DWP

The most common debt issues we see related to DWP are benefit overpayments and advance payment deductions from Universal Credit (UC). A third party deduction is where the DWP deducts a fixed amount from benefit payments to clear household bill arrears and other specified debts. The amount deducted is paid directly to a creditor until the debt is cleared.

54% of StepChange clients receiving UC report having at least one deduction. 40% of clients had two or more deductions in place and 15% had three or more. Deductions are most frequently Universal Credit advances, overpayments and council tax debt, followed by rent and utility arrears. The most common overpaid benefit was child/working tax credit (58%), followed by Housing Benefit (25%), Universal Credit (13%) and Employment and Support Allowance / Incapacity Benefit (12%).[22] Affordability is not well assessed in this system. In fact, deduction

[22] StepChange (2020), Problem debt and the social security system

levels are set at fixed levels by the DWP and these can be hard to challenge, even if you fall into financial hardship while repaying.

As with local authorities, clients we see with debts to DWP have severely constrained budgets which should lead to carefully arranged repayment plans to prevent hardship. In the last year 45% of clients with a DWP benefit overpayment debt had a deficit budget, the average client being £21.96 in deficit. 49% of clients with a Universal Credit Advance Payment debt had a deficit budget with the average client being £40.69 in deficit.[23] Given this, the rate of deductions people face when they owe money is concerning.

Advance payments and budgeting advances are divided by 12 to calculate a monthly repayment amount which is capped at 30% of the standard allowance.[24] The extension of this repayment period to 24 months by the end of next year is welcome and will improve affordability. However, time limited repayment approaches will always risk pushing individuals beyond their ability to repay. The rate of deduction for benefit overpayments in UC is marginally better as it takes some consideration of financial circumstances. There is a standard rate of deduction set at 25% of the standard allowance which falls to 15% if earnings are less than the work allowance. However, there’s still a higher rate of deduction set at 40% for cases relating to fraud. As demonstrated in the real client examples below, these rates of deduction are often applied without assessment of the impact it will have on an individual’s budget.

Client	Debts	Average budget surplus / deficit before deduction	Budget surplus / deficit after deduction[25]
Client A	UC advance overpayment	-£40.69	-£163.66
Client B	DWP benefit overpayment	-£21.96	-£124.18
Client C	Child benefit overpayment	£28.06	-£74.16

In a recent survey of StepChange clients with debts to government, only 33% of people with debts to DWP had an affordability assessment[26] while 74% felt their debt was collected at an unaffordable rate.[27]

This absence of affordability in deductions frequently causes hardship. In a survey we conducted earlier this year, 93% of people affected by deductions had experienced some

[23] StepChange (2020), Client data 1 August 2019 - 31 July 2020
[24] The government has committed to reducing this to 25% from October 2021 and extending the repayment period to 24 months.
[25] Based on UC Standard Allowance for single over 25 year old of £409.89
[26] StepChange (2020), Client survey base 55
[27] *Ibid,* base 82

financial difficulty or hardship as a result.[28] Nearly three in four (68%) had cut back on food or meals and over half (52%) cut back on water, electricity or heating.[29] The unaffordable rate of deductions also pushes people further into debt. Over half of those surveyed (52%) fell behind on debt repayments while nearly a third (29%) missed rent or mortgage payments. In their efforts to cope others turn to risky credit products which add more debts for them to juggle. Nearly a third (31%) were forced to use credit to pay for essentials with nearly one in ten (9%) taking a loan from an unlicensed lender / loan shark.[30]

Client experience
I suffer from anxiety and depression, bills and debt contribute to that greatly. I'm trying my best to pay them all but it's difficult as I don't seem to get anywhere. I have over £100 taken out my benefits for some of the debts and am left with £100 to pay other debts not taken out of my benefits. I am continually having to visit food banks.

The DWP does access Credit Reference Agency (CRA) in some instances to assess affordability. However, this only seems to happen when someone challenges the rate of deduction on hardship grounds when an affordability assessment should be conducted proactively using data available to the department. We also have concerns about the use of CRA data. The information does not give a complete picture of someone's capability to repay debts. The FCA recently introduced a new affordability test in its lending rules based on an income and expenditure assessment. This new test is separate from a creditworthiness check which is based on CRA data. The distinction was justified on account of CRA data being a good way to assess risk for the firm but not affordability for the individual and the risks to their wider financial situation.[31] DWP needs a more complete way to assess an individual affordability as CRA data is not sufficiently precise in diagnosing someone's ability to repay.

Individuals can claim hardship where they feel the rate of deductions is causing them to fall into financial difficulty. However, this puts the onus on individuals to come forward to have changes made and even for those who do it is rarely granted. Despite 25% of people on UC being in problem debt and the average StepChange client with debts to the department having a negative budget - only 9.2% of those who have successfully applied have seen their deduction rate reduced.[32] DWP guidance stipulates that it is the responsibility of the individual claiming hardship to provide evidence of financial difficulty.[33] Our evidence shows that people claiming benefits and having deductions made are often vulnerable.[34] It is unreasonable to require them both to challenge the level of deductions and then provide all the evidence to substantiate their claim. In a survey of our clients who had recently taken out a budgeting loan or advance had

[28] StepChange (2020), Problem debt and the social security system
[29] *Ibid*
[30] *Ibid*
[31] FCA (2018), Assessing creditworthiness in consumer credit – Feedback on CP17/27 and final rules and guidance
[32] DWP (2020), Universal Credit question - 263679
[33] Department for Work and Pensions (2019), Benefit overpayment recovery guide
[34] StepChange (2020), Problem debt and the social security system

experienced repayment difficulty only a third contacted the Department for Work and Pensions to negotiate repayment of a budgeting loan or budgeting advance, 42% did not know they could discuss repayment with a DWP official.[35]

The low proportion of hardship claims resulting in a reduced deduction rate suggests that the department takes a hardline on affordability even for those who do challenge their rate of deductions. It is notable that the DWP's own guidance states that deductions from benefits are 'almost certain to cause some hardship and upset for them and their family.'[36] A first principle of effective and fair affordability assessments in debt recovery should be to ensure people are able to repay without hardship so the DWP's open rejection of this demonstrates that its approach is way off the mark. This should be a central outcome of the call for evidence, a clear binding principle applying across government on not causing hardship with a common process using data readily available to government to make a proactive assessment of affordability.

HMRC

The HMRC's 'Time to Pay' (TTP) negotiating framework uses an income & expenditure form and officials will accept the SFS. This is positive and the debt advice sector strongly endorses the SFS as a way to consider individual affordability. We welcome the fact there is no time limit on these arrangements and that HMRC takes no more 50% of an individual's disposable income after income and expenditure with scope to flex repayments.[37] This is positive and will help individuals to build up financial resilience. However there appears to be less affordability safeguards in the escalated processes used by HMRC. Attachment of earnings orders by the County Court only leave enough in people's pay packets to 'cover essentials.'[38] This is a harder line than TTP and is likely to limit the sustainability of repayments and risks pushing people into hardship. In our outcomes research we tracked clients following debt advice. After 3 months only 6% of clients with a negative budget and a vulnerability had been able to save.[39] Without space to build financial resilience people are at risk of being knocked further into debt but the slightest shock. It's not just ability to build up resilience which is inhibited, pushing collection too far can push people into deeper financial difficulties. 15 months after debt advice 25% of clients had fallen behind or further behind on a household bill, rising to 36% of among those with a negative budget and additional vulnerability.[40]

Careful assessment of affordability and setting of repayment rates is essential given the financial circumstances of people with debts to the department. In the last year the average budget of one of our clients with a HMRC tax credit overpayment debt was £4.41 in deficit while the average for those with an HMRC tax debt was just a £5.56 surplus.[41] Despite the positive

[35] *Ibid.*
[36] Department for Work and Pensions (2019), Benefit overpayment recovery guide, p37 paragraph 5.70.
[37] HMRC (2020), How HMRC supports customers who have tax debt
[38] *Ibid*
[39] StepChange (2019), Measuring client outcomes
[40] *Ibid*
[41] StepChange (2020), Client data 1 August 2019 - 31 July 2020

elements of the department's time to pay framework, client experiences with the department do not suggest these consistently translate into appropriately assessed affordability in practice. In a recent survey of StepChange clients with debts to government, only 17% of people with debts to HMRC had an affordability assessment[42] while 73% felt their debt was collected at an unaffordable rate.[43]

Key to this disparity between policy and reality is the fact that HMRC's arrangements still require people to come forward and challenge the level of repayments. Affordability assessment should be proactive. HMRC and DWP hold a wealth of information about people's financial circumstances. This data should be shared and used to make proactive assessments of affordability. Individuals who owe money to the government are likely to be financially vulnerable which is often linked to other vulnerabilities. There are numerous factors which would inhibit someone from contacting the government. As we have mentioned, the way credit data is used often prevents people engaging with debt problems as they fear the knock on consequences on their credit file. People can be intimidated by government agencies whose communications can be opaque and stern. It's essential therefore that government departments consider affordability proactively.

HMCTS

HMCTS also require individual's to come forward if they feel unable to pay. In the case of court fine where they have been unable to recover, debts are escalated to bailiffs. As mentioned, we have grave concerns about bailiff practices. Affordable repayment plans are frequently rejected by bailiffs while there is no independent body overseeing their behaviour or mandating a consistent approach.

In a recent survey of StepChange clients with debts to government, only 31% of people with debts to HMCTS had an affordability assessment[44] while 86% felt their debt was collected at an unaffordable rate.[45] In the last year the average budget of one of our clients with a criminal fine debt was a surplus of just £43.97.[46]

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.

As mentioned, an important principle before tackling the mechanisms of affordability assessment is that it is assessed proactively. The FCA's forbearance rules are a good example of what best practice looks like for assessing affordability.[47] These regulations operationalise the

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[42] StepChange (2020), Client survey base 24
[43] StepChange (2020), Client survey base 41
[44] *Ibid,* base 16
[45] *Ibid,* base 22
[46] StepChange (2020), Client data 1 August 2019 - 31 July 2020
[47] FCA (2020), [CONC 7: Arrears, default and recovery]

FCA’s core principle of treating customers fairly and help facilitate sustainable repayment plans by requiring firms to be flexible in their demands. This means monitoring how an individual is coping with repayments, leaving space open for deferment and being happy to accept token payments in order to maintain contact with an individual rather than expecting repayment in full over a fixed period. The rules provide a useful comparison to some of the practices seen in the public sector.

Regulation	Content
CONC 7.3.5	Examples of treating a customer with forbearance would include the firm doing one or more of the following, as may be relevant in the circumstances: (1) considering suspending, reducing, waiving or cancelling any further interest or charges (for example, when a customer provides evidence of financial difficulties and is unable to meet repayments as they fall due or is only able to make token repayments, where in either case the level of debt would continue to rise if interest and charges continue to be applied); (2) allowing deferment of payment of arrears: (a) where immediate payment of arrears may increase the customer's repayments to an unsustainable level; or (b) provided that doing so does not make the term for the repayments unreasonably excessive; (3) accepting token payments for a reasonable period of time in order to allow a customer to recover from an unexpected income shock, from a customer who demonstrates that meeting the customer's existing debts would mean not being able to meet the customer's priority debts or other essential living expenses

The requirement to accept token payments contrasts with practices across government where money is often sought under time limited conditions. The FCA is also explicit in its requirements for firms pressuring customers to repay too quickly.

Regulation	Content
CONC 7.3.10	A firm must not pressurise a customer: (1) to pay a debt in one single or very few repayments or in unreasonably large amounts, when to do so would have an adverse impact on the customer's financial circumstances; (2) to pay a debt within an unreasonably short period of time; or (3) to raise funds to repay the debt by selling their property, borrowing money or increasing existing borrowing.

Through these rules the FCA embeds a culture of fairness in the debt management practices of financial service providers. While these are not applied perfectly and we see many pushed into hardship by financial service products, the framework controlling good practice is far better than the public sector. Central to this is the FCA's requirement for firms to be able to demonstrate these rules are being followed. The regulator emphasises the need for relevant management information to test whether they are delivering on the principle of treating customers fairly. This measurement of outcomes is a key pillar of the framework of good practice and is severely lacking within government organisations.

It is common for people to be pushed into hardship and even destitution by the DWP's deduction regime while a majority of people faced with bailiff action experience demands for unaffordable repayments and revert to credit to get the enforcement action stopped. This culture of time-limited repayment and lack of consideration for individual circumstances only causes more problems down the line as people are plunged further into problem debt, unable to afford even essential living costs. The government should look to design a similar system to the FCA based on core principles operationalised by a framework of supporting regulations with effective monitoring of outcomes. Such a system, applied across government, requiring departments not to make unreasonable demands and to consider an individual's wider financial situation will be the first steps to facilitating more affordable repayment plans.

In terms of the mechanisms of assessing affordability, the debt advice sector has long endorsed the Single Financial Statement (SFS) as one of the most effective methods. Although a relatively basic mechanism, if completed in collaboration with a debt adviser and given enough weight in negotiation with creditors that repayments are calculated directly from the agreed budget surplus, it remains one of the best ways to ensure affordability. The methodology is also endorsed in the commercial credit sector with the SFS explicitly mentioned in CONC 7.3.13 and used by lenders across the sector. The SFS is also already used or recommended within government. Debt Relief Orders (DRO) calculate surplus income using the SFS while the draft Breathing Space regulations refer to debt advisers using the SFS as part of this process.

Open banking has the potential to provide highly accurate income and expenditure information in real time which could also allow payments to flex in real time with fluctuations in income. This potential should definitely be explored but considerable effort will be needed to ensure the people who would most benefit aren't excluded. There are an estimated 1.3m unbanked people in the UK who would not have access to online banking.[48] Many more lack the digital skills necessary to access this technology. In 2018 Lloyds research estimated that 8% of people in UK had zero digital skills (are unable to do any of the activities described in the five basic digital skills) while a further 12% (6.4 million adults) were estimated to only have limited abilities online (missing at least one of the basic digital skills).[49] We shared our client data with Experian to create 'digital personas' of our clients to better gauge their appetite for open banking. Similar

[48] FCA (2018), The financial lives of consumers across the UK
[49] Lloyds Bank, UK consumer digital index 2018

testing would be needed to understand the most appropriate way to engage individuals with debts to government.

There are challenges, therefore, that mean open banking cannot be seen as a silver bullet for assessing affordability. The government should do more to use the data and technology it has at its disposal to improve assessments and outcomes. Between the DWP and HMT the government holds excellent financial data which could be used to model affordability for debt collection across government. Part 5 of the Digital Economy Act (DEA) gives departments powers to share data for specific purposes without the need for primary legislation.[50] These powers should be utilised to improve outcomes in government debt collection. There are challenges here in relation to consumer trust which are similar to those faced in open banking. The DEA is instructive as a way to help overcome this. The act puts fairness principles on a statutory footing, explicitly stating that data sharing should only be conducted for the benefit of consumers.

These technological solutions have the potential to revolutionise government debt management but the fundamentals need to be in place first. This means setting core principles around the prevention of hardship supported by cross-government policies which establish universal affordability levels. Policies must also mandate the use of common mechanisms like the SFS and set standards for collaboration with debt advice providers through relationships based on trust and mutual understanding. On these foundations, data sharing and innovative open banking tools will be instrumental in further protecting vulnerable people and ensuring affordable repayment.

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.

In our outcomes research we tracked StepChange clients for 15 months after receiving debt advice. Our findings demonstrated that for the most vulnerable - those with both a negative budget and additional vulnerabilities - getting out of problem debt is extremely difficult even after receiving debt advice. Only 36% of these clients felt confident that they would be able to make ends meet every month compared to 73% of those with a positive budget and no vulnerabilities.[51] This presents a major challenge to public sector creditors given the much higher propensity to vulnerability among people who owe money as well as the higher rate of negative budgets.

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[50] Digital Economy Act 2017, Part 5
[51] StepChange (2019), Measuring client outcomes

	Clients with debt to government	All clients
Budget deficit	46%	32%
Average budget	-£21.34	£89
Number of debts	9	7
Vulnerability	57%	48%

The acutely at risk nature of people with government debts has a number of implications for good practice in ensuring sustainable repayment. Comprehensive pre-enforcement processes will be key in identifying these particularly at-risk groups. We have advocated a pre-action protocol for local authorities which would require a series of steps before enforcement action. Similar statutory protocols could be implemented across government to properly consider client history and circumstances before deciding how to pursue money owed. This would include setting affordable and flexible rates of repayment as well as making adjustments for vulnerability. Combined with better utilisation and sharing of data, this considered approach to choosing how to pursue debt would avoid entrenching difficulties for individuals.

The government's proposed Breathing Space scheme is a first step in taking this more considered approach to initiating enforcement action. Pausing enforcement to give individual's a chance to seek advice and negotiate with creditors is key to avoiding pushing individuals further into crisis and damaging the chances of repayment. Signposting to debt advice early in the process is also essential, receiving wider advice on income maximisation and debt consolidation are vital steps for improving the chances of an individual resolving their debts. The FCA's forbearance rules advise firms to suspend collection when an individual has made contact with debt advice and to further extend this period when there is evidence that a repayment plan is being arranged. The government should consider guidance to accompany the breathing Space regulations about how to proceed when the 60 day moratorium on enforcement action ends. Additional time should be given in cases where negotiations on repayment are soon to be finalised or when an individual is on the verge of a positive change of circumstance that will allow them to make repayments. Given the demographics of those with debts to government, further support and flexibility will be needed following Breathing Space. Channels of communication should remain open and accessible between debt advice providers and government organisations to facilitate re-negotiation during the repayment period.

Debt Management Plans (DMPs) offer a useful example of how to ensure sustainability in repayment plans and the importance of these open channels of communication. These debt solutions require the agreement of a majority of creditors and can last up to 7 years. One of the main ways payments are sustained over this period is a requirement for individuals to notify debt advice when circumstances change. Individuals are required to report a change of circumstance which positively or negatively affects their ability to pay while debt advice providers send out regular emails and always offer a channel for individuals to get in touch. We know that this close and easy contact is central to positive outcomes for our clients. In our recent outcomes report we asked clients 15 months on from initial debt advice what has helped their chances of becoming debt free - 86% said that advice and support from StepChange has helped their chances.[52] The same cohort were hindered in their efforts by the high cost of living, unexpected costs and drops in income.[53]

Finally, to ensure sustainable repayment government organisations need to be flexible and reasonable in how it determines repayment rates. This is linked to establishing a close and trusting relationship with debt advice who may be in a better position to assess someone's financial situation and what is feasible for them to repay. In the DMP process creditors often auto accept the statements and repayment offers from debt advice agencies, trusting that their assessment has been reasonable. This requires government organisations to be flexible, strongly rejecting the idea that requesting unaffordable debt repayments that would cause hardship is an acceptable practice. They should be prepared to accept SFS statements which include a monthly savings or contingency amount, acknowledging that in doing so the individual is being encouraged to take steps towards being more financially resilient that will in turn aid the sustainability of debt repayments. The fact that 9 out of ten HMRC time to pay arrangements complete successfully demonstrates how properly considering an individual's circumstances and having flexibility in repayment targets means debts are collected more efficiently.[54]

Intrinsic to this flexibility should also be a willingness to write off some debt where it is clear an individual will not be able to repay in full. This raises bigger questions about fairness in the system and policies would need to consider the fiscal impacts of writing off money owed to government. However, aspects of write off are already accepted in the system. Council tax support provides reductions in liabilities for those on low incomes and with other vulnerabilities. Up to £2.5bn of this benefit is unclaimed and it has also faced serious cuts in recent years.[55] Expanding and promoting this benefit would help reduce the pressure on households struggling to keep up debt repayments. There are sizeable quantities of legacy benefit overpayment debt which could be considered for write-off given the time that has passed with no action being taken on them. Even within the more recent debts, government could take a more flexible approach to debt write off without threatening the overall fiscal picture too seriously. Given the demographics of those with debts to government, that the DWP only waived 10 benefit overpayment debts in 2019 suggests it is not considering individual circumstances realistically or with a view to facilitating viable repayment plans.[56] The government should set realistic parameters for individuals that have no chance of repayment and consider write-off in these cases.

[52] StepChange (2020), Measuring client outcomes project
[53] *Ibid*
[54] *Ibid*
[55] Entitledto (2017), Over £20bn remains unclaimed in means tested benefits
[56] DWP (2020), Universal Credit:Written question - 5464

St Albans Council offers a good example of good practice on breathing space, regular contact with debt advisers and a flexible approach to items on the SFS as well as the length of a repayment plan to ensure sustainability.[57]

> St Albans Council proactively refers appropriate residents in financial difficulty to Citizens Advice, StepChange Debt Charity and Business Debtline (the self-employed).
>
> They have also made a firm commitment to consider resident affordability and support the Standard Financial Statement (SFS). They now do this by:
> • Accepting financial statements from advice agencies that has been assessed using the Standard Financial Statement (SFS) household spending guidelines
> • Applying 30 days breathing space from Collections activity where a resident is engaged with a FCA regulated debt advice agency
> • Accepting that items of discretionary expenditure that exceed the SFS guidelines will be noted with an explanation from a debt adviser
> • Always aiming to recover Council Tax arrears within the current financial year but will accept longer term payment arrangements where an affordability issue can be demonstrated
> • Mandating their Enforcement Agent panel to mirror their approach to affordability and use of SFS at Enforcement contact centre stage

Communication

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?

Good communication should lead to people taking steps to resolve their debt problem. This could include engaging with creditors or advice agencies. Communication on its own has limitations for improving debt management practice. Unless there are policies and processes in place that means that engagement leads to positive outcomes like affordable repayment plans and appropriate support for vulnerabilities, communication strategies may prove useless.

However, the results of bad communication can be extremely negative for individuals and seriously inhibit the efficiency of debt management. Four in ten (37%) people who have experienced mental health problems exhibit significant levels of anxiety when dealing with essential service providers, indicative of at least a mild phobia of this situation. This is almost three times the rate amongst people who have never experienced mental health problems (13%).[58] As stated in the consultation document, NAO modelling estimates intimidating letters, phone calls or doorstep visits lead to a 22% increase in the probability of anxiety or depression levels rising. In some cases, it's a total absence of communication which causes distress. In our client survey 27% of clients in our survey did not receive notification about collection activity on

[57] Money Advice Service (2018), Supportive council tax recovery
[58] Money and Mental Health Policy Institute (2018), Access Essentials

their debts.[59] 82% of these clients experienced a significant negative impact on their mental health compared to 53% of those who were notified.

The language used in government communications about debt is not conducive to positive treatment of those at risk of negative mental and physical impacts. This consultation talks of 'TV licence evasion' rather than people in financial difficulty. Similarly, conversations around council tax often talk of 'non-payers' rather than 'can't pay' which is a more appropriate description given the evidence of the financial circumstances of those with council tax arrears. Use of the term 'debtor' also contributes to an approach that stands to aggravate rather than alleviate mental health impacts. This term can result in individuals in debt being stigmatised by debt management communications rather than giving due consideration to the complex factors that lead to people falling into 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.

The goal of communication in debt management activity should be to get people to engage. This is more likely when communication focuses on the help that is available. In this way, communications should reflect and project the fairness principles on which debt management activity should be based.

Fostering engagement with creditors and other support agencies increases the likelihood that money will be repaid in an affordable way. This can lead to significant savings for creditors. In an evaluation of Stechange's social return on investment it was found that creditors saved £82m in debt management costs through our work to establish the client's capacity to repay which leads to more sustainable repayment and higher returns.[60]

People, particularly those with a similar profile to those who are more likely to have debts to government, respond better to communication that emphasises support rather than escalation. A study conducted by the Ministry of Justice found that a key determining factor for people engaging with creditors was a feeling that their debt was manageable or that there was a path to becoming debt free.[61] Government communications should therefore emphasise the support available, helping to chart a route out of debt for people rather than threatening them with escalation. This study also found that when people have, or perceive themselves to have, absolutely no financial resources, they are likely to ignore any warning and accept the inevitability of court proceedings. Communication which emphasises support over the risks of escalation are therefore most likely to foster engagement.

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[59] StepChange (2020), Client survey base 294

[60] Baker Tilly (2014), Transforming lives: A review of the social impact of debt advice for uk individuals and families, evaluated using sroi

[61] Ministry of Justice (2007), Evaluation of pre-action notice pilot

There are various types of support government should direct people to. MMHPI research has found that people who fall into debt need emotional and practical support as well as provision of information. In a survey they conducted 72% of respondents wanted information about how their mental health condition may impact their money management and 62% wanted information on tools they could use to make this easier like budgeting apps.[62] Integrating a benefit checker on all government pages would be a useful initiative. In many cases lack of income may be down to underclaiming of benefits. In 2016/17, up to 1.3 million families missed out on housing benefit entitlements, and up to £2.4 billion of Income Support or Employment Support Allowance was unclaimed.[63] Practical tools like these can help in giving individuals a sense that their debt is manageable.

Signposting to professional help and close partnerships with professional advice agencies are also essential. Only 41% of clients in our survey were signposted to debt advice by public sector creditors contacting them about their debt.[64] At StepChange we have worked with creditor partners to integrate a 60 second debt check onto firm's websites as well as links to online debt advice. This signposting should not be hidden in text. If possible, correspondence should include logos of established advice providers while on the phone officials should be required to list names of advice agencies and offer to share contact details. Staff should also be trained to identify needs and then make positive referrals - preparing individuals for debt advice and where possible 'warm referring' by transferring calls directly across having helped individuals gather their financial details.[65] Closer partnerships can help improve this process. We partner with Mental Health UK and can pass clients directly to them when advisers identify severe issues while we have recently established a partnership with Trussell Trust to refer clients to food banks in cases of food poverty. Government systems should be set up so individuals can be transferred directly to debt advice at any point of contact.

Government organisations should be encouraged to adopt a 'test and learn' approach with nudges and more intuitive methods of communication. We worked with a firm to re-engage individuals who had stopped paying DMPs. Having helped with the tone and content of communications, we adjusted approaches over a series of pilots. By monitoring which approach triggered the greatest uptick in referrals to debt advice, we were able to hone in on the most successful tone. Government organisations should conduct similar trials with behavioural scientists to fine tune communications using a framework of outcomes aimed at increasing engagement with creditors and advice agencies.

Although these changes would improve government debt management communication, it must be stressed that the potential for improved communication alone to improve engagement is limited. The aforementioned study conducted by the Ministry of Justice found no evidence that a pre-action notice increased engagement from individuals in debt.[66] They stressed the

[62] MMHPI (2019), Information is power
[63] MMHPI (2019), The benefits assault course
[64] StepChange (2020), Client survey base 220
[65] StepChange, Our three step referral guide
[66] Ministry of Justice (2007), Evaluation of pre-action notice pilot

importance of intervening early when irregularities are noted on an individual's account and ensuring that all claims against an individual are consolidated. These practical steps in the conduct of debt management should take precedence over the style and nature of government communications.

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.

At StepChange we work with over 900 creditors and other partner organisations to help our clients negotiate and offer a sustainable repayment of their debts. We are in close contact with a core group of 40-50 creditors. This includes banks, debt collection agencies and debt purchasers. Our relationship with the banks and lenders in particular are extremely effective at agreeing repayment plans and altering terms when people have a change of circumstance. The key to these relationships is close communication and trust. When we send repayment offers to these creditors for a DMP, many will auto-accept in bulk as we have established the trust which means they are confident we have assessed affordability and sustainability accurately. These creditors also refer people in arrears to our service at every available point of the client journey. This contrasts with government organisations, local authorities in particular. We generally don't include council tax debts in DMPs outside of arrears, as they are priority debts. Many councils' determination to collect these debts within the financial year and the threat of enforcement action mean they need to be repaid more quickly than is realistically affordable . We also find that government organisations often don't trust debt affordability assessments from debt advice agencies in the way that commercial creditors do. As MaPS have noted the responsibility for managing relationships with advice agencies often lies with the Revenues Manager for whom this contact is not a priority given challenging collections targets driven by political pressure to fund public services.[67]

Part of the successful elements of the DMP model are a result of the infrastructure that has been established between debt advice providers and commercial creditors. Our relationship with banks is heavily reliant on technology which allows us to channel payments from clients into creditors. There is no similar system for debt advice providers to work with public sector creditors efficiently and at scale. A single point of debt management for public sector debt being dealt with by debt advice providers would be something to explore. The Statutory Debt Repayment Plan could be a place to trial a system which facilitates this efficient repayment.

There are elements of good practice at councils. Liverpool City Council have direct channels between advice agencies and their revenue team. This is a constructive relationship with the council trusting advice agency affordability assessments using the SFS. There is also a data sharing protocol through which the council will provide access to data relating to the arrears,

[67] MaPS (2018), Supportive council tax recovery

including notes. The council also works with advice agencies when writing letters to go to residents to ensure wording is clear and the tone is right.[68]

However, good practice from public sector creditors (local authorities in particular) is often dependent on key personnel. MaPS' own conclusions found that successful partnerships were based on a strong institutional culture within individual Local Authorities.[69] This is not a solid foundation for consistent good practice outcomes. Our positive experiences with commercial creditors is down to the fact there is a framework of independent regulation that underpins our engagement whereas within government there are multiple approaches, practices and attitudes to forbearance. There needs to be a binding framework which embeds partnership working in the practices of government debt management teams. This should include clear objectives related to partnership working with requirements to maintain transparency and regular reviews of processes. Only policy change placing statutory responsibilities on debt management teams will ensure consistent good practice.

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.

Clients we see with debts to government are less financially resilient and more likely to be vulnerable than other clients. The average budget of our clients with debts to government after all essential expenditure is accounted for is a deficit of £21.34 compared to a budget surplus of £89 for all clients. 57% of clients with debts to government have an additional vulnerability compared to 48% of all clients.

A large proportion of those who owe money to government are vulnerable and likely to be persistently at risk of debt. To avoid individuals being stuck in a recurring pattern of problem debt government needs to effectively signpost individuals to support but also devise more flexible strategies for those who regularly struggle to pay bills.

In difficult circumstances people will often put off tackling in seeking help to tackle their debt problem which often means debt escalates even further. In 2013 we found that the average total unsecured debts of StepChange clients who waited a year or more before seeking advice were over £5,000 more than those who sought advice within a month of starting to worry about their debts.[70] During this delay in seeking advice or engaging with creditors individuals will often exhaust dangerous coping strategies like using credit to pay for essentials. In a 2017 client survey one in five clients had used credit to pay for essentials as a result of third party deductions from their income.[71]

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[68] *Ibid*
[69] *Ibid*
[70] StepChange (2013), Stats yearbook
[71] StepChange (2017), The problem with third party deductions

Signposting to support and professional advice at an early stage alongside close partnerships between government organisations and debt advice agencies will help in these circumstances. However, debt advice is not a silver bullet in cases where individuals are so deep in difficulty and lacking in financial resilience. 15 months after debt advice only 36% of StepChange clients with a negative budget and vulnerabilities felt confident that they would be able to make ends meet every month compared to 73% of those with a positive budget and no vulnerabilities.[72]

For these cases, strategies of debt management need to be more flexible, with a focus on reducing costs and consideration given to how payments can be rescheduled to accommodate for the entrenched difficulties people face. There needs to be recognition that recurring debt is often the result of policy or market failures elsewhere in the system. Collection activity can push people into using high cost credit or even loan sharks. 10% of clients in a survey we conducted last year had used an unregistered lender as a result of a problem linked to the social security system.[73] Debt management teams need to understand this cause of recurring debt. For example, staff could place more focus on income maximisation. Over £20bn of means tested benefit is not claimed.[74] If people were more aware of their entitlements this would reduce strains on their budget and the likelihood of recurring debt.

Beyond income maximisation and avoiding escalation, debt management activity can flex in ways aimed at alleviating the problems caused by external market failures. Bills or repayment arrangements can be planned around pinch points in people's budgets. For example, trials of 'rentflex' initiatives which allow people to overpay and underpay through the year have shown promise. One study of housing association tenants in the south east found that tenants were less likely to say that they run out of money always or most of the time at follow-up, less likely to use credit to 'get by', and reported reduced material deprivation.[75] This approach could help those falling into arrears on regular payments like council tax. Other innovations could include matched payment schemes which recognise people's capacity to repay and risks of them falling behind by matching repayments. One water company has given customers an opportunity to clear their water bill debts more quickly by matching for every £1 that a customer contributes to their debt for six months, then, after six months, matching every £1 paid with a £2 contribution before clearing any remaining debt after two years.[76] This builds some fairness into a system of write off while also being realistic in the need to provide support for those at risk of chronic debt problems.

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[72] StepChange (2019), Measuring client outcomes
[73] StepChange (2019), Problem debt and the social security system
[74] Entitleto (2017), Over £20bn remains unclaimed in means tested benefits
[75] Centre for Responsible Credit (2018), Evaluation of the 'supported rent flexibility pilot'
[76] United Utilities, Difficulty paying your bill

Vulnerability and Financial Hardship

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

At StepChange Debt Charity, we consider all our clients to be financially vulnerable. However, many also have an additional vulnerability on top of this. This could be due to a physical or mental health condition, low literacy or numeracy skills, or other communication barriers. Vulnerable clients are more likely to be behind on household bills and to have a negative budget. Over half (57%) of vulnerable clients were behind on a household bill, compared to two fifths (40%) of all clients.[77] Almost half (45%) had a negative budget (meaning they had less money coming in than they had going out, even after having budgeting advice from one of our debt advisors) compared to 30% of all clients.[78] The challenges these individuals face mean they find it harder to manage their money and are less financial resilient.

Those with debts to government are more likely to be vulnerable, yet debt management practices often exacerbate problems people are facing. Last year, 48% of StepChange clients were in a vulnerable situation in addition to their financial difficulty.[79] This figure is higher for those with government debts with 57% of our clients with government debts in the last year having a disclosed vulnerability.[80]

These conditions are then worsened by the experience of being in debt. The experience of problem debt can have particularly dangerous impacts on people's mental health. Findings from the Money and Mental Health Institute in 2018 revealed that 13% of people in problem debt have thought about suicide in the last year, and 3% have attempted suicide. This implies that over 420,000 people in problem debt thought about suicide in England last year, and over 100,000 people in problem debt attempted suicide.[81] People with mental health problems are three times as likely to be in problem debt.[82]

Debt management activity is a central factor in exacerbating vulnerabilities once people have fallen behind. NAO analysis of StepChange survey data from 2018 modelled the effects of specific debt collection practices on debt advice clients. It estimated that intimidating letters, phone calls or doorstep visits lead to a 15% increase in the probability of debt problems becoming harder to manage, and a 22% increase in the probability of anxiety or depression levels rising. Similarly, added charges (for example, penalties or bailiff fees) increase the

[77] StepChange (2018), Breaking the link
[78] *Ibid*
[79] StepChange (2019), Statistics yearbook 2019
[80] StepChange (2020), Client data 1 August 2019 - 31 July 2020
[81] Money and Mental Health Institute (2018), A silent killer: Breaking the link between financial difficulty and suicide
[82] Jenkins R et al, (2008) Debt, income and mental disorder in the general population. Psychological Medicine 2008. 38, 1485-1493.

probability of debt problems becoming harder to manage by 29%, and the probability of anxiety or depression levels rising by 15%.[83] In a recent survey of clients with debts to government 94% of clients felt government debt management activity had a negative impact on their mental health to some or a great extent[84] with 93% of clients subject to government debt management activity felt it exacerbated their anxiety or depression.[85] 70% had to increase their use of mental health services as a result.[86]

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.

People with debts to government are more likely to be financially vulnerable and facing additional vulnerabilities than the wider population. Government organisations should therefore assume vulnerability and focus on ensuring their strategy and framework for supporting those who need extra help is effective. The most important changes government can make in identifying particular needs is through its use of data.

There is a statutory duty in the Equalities Act to prevent those with disabilities being substantially disadvantaged compared to those who are not disabled. This duty is anticipatory. At StepChange this means we do not wait until a disabled person wants to use our services but think in advance (and on an ongoing basis) about what disabled people with a range of impairments might reasonably need; such as people who are blind or partially sighted.[87] The principles of universal vulnerability and anticipatory adjustments should be embedded into government debt management practices with efforts to establish early warning systems and identification of specific needs through data.

Government organisation's too often rely on people to come forward to disclose a vulnerability, this contrasts starkly with the regulated commercial sector where the onus is on firms to monitor the activity of their customers in order to proactively identify vulnerability. In its recent consultation on vulnerability the FCA uses an illustrative case study to demonstrate its ambition for how firms would proactively use their data to identify vulnerability:

FCA vulnerability guidance good practice case study[88]
Good practice - Understanding the vulnerabilities likely to be present in the target market and customer base.

A firm analysed its own transaction data to create a customer segmentation model by financial health. The firm analysed the data to identify consumer patterns of behaviour, and signs of

[83] National Audit Office (2018), Tackling problem debt
[84] StepChange (2020), Client survey base 237
[85] *Ibid,* base 252
[86] *Ibid,* base 229
[87] StepChange policy on vulnerability
[88] FCA (2019), Guidance for firms on the treatment of vunerable consumers

stress on their account, such as a low average balance combined with heavy overdraft usage. The firm used this model to identify those in its customer base who were potentially vulnerable. The firm was able to use this to target extra help and support to potentially vulnerable customers. For example, the firm sent SMS messages with information on tools, that its customers could access.

The FCA is clear in this instance that firms should use data available to them to try and identify vulnerability rather than waiting for an individual to come forward. More than this, they expect firms to put work into establishing patterns within the data they have to improve their effectiveness of early identification. This application of data to proactively identify vulnerability is severely lacking in government.

Local government

Councils do not appear to utilise the data available to them internally to avoid aggressive enforcement action against vulnerable people. Only 30 councils exempt Council Tax Support residents from bailiff action when this demographic could be pre-assessed as financially vulnerable.[89] Bailiffs suggest this information is often not passed onto them but they themselves do not operate in a manner which anticipates vulnerability when visiting households.[90] 58% of clients with an additional vulnerability were subject to bailiff action on their council tax arrears compared with 56% of those with arrears but no vulnerability. Only 15% of clients in our survey felt their council had made adjustments for their vulnerability with 1 in 10 feeling that they were treated unfairly.[91]

Given the wealth of data councils hold internally about local residents this suggests that information is not being utilised in a way that helps revenue departments and bailiffs make an informed decision about the appropriate action to take in pursuit of arrears. Where this data falls short local authorities could be more proactive in seeking external data. The Digital Economy Act pilot is a good example of innovation in this area.[92] By giving councils access to HMRC data they can get a more well rounded picture of an individual's circumstances and retrieve money accordingly. These powers have the potential to improve outcomes for vulnerable people in council tax arrears but only if councils use it to set affordable repayment plans, with proper notice and consideration of wider vulnerabilities.

Central government

[89] MAT (2019), Stop the knock

[90] Citizens advice recorded a 35% rise in issues related to how bailiffs treat people in a vulnerable situation between 2014-2018. Their advisers report bailiffs entering the homes of visibly vulnerable individuals while requiring a high threshold for someone to prove their vulnerability, in some cases refusing to stop enforcement until medical evidence was provided.

[91] StepChange (2020), Client survey base 154

[92] Ealing Council (2019), Pilot scheme launched to help recover millions in unpaid council tax

There seems to be similarly insufficient use of data in central government as we see from local authorities. The Public Accounts Committee and the NAO both found that there is no way to see how much the same person owes to other public sector creditors (or in some cases, what else the person owes to the same public body). The Public Accounts Committee recommended "departments share information and coordinate their debt management activities with a view to developing a single view of what each debtor owes to the government as a whole."[93]

The CSJ has suggested a government debt aggregator with debt management function to facilitate the sharing of data across government. Indesser's application of its financial vulnerability indicator suggests it's technologically feasible. It would need to be supported by a strong legislative framework of good practice. If designed well and accompanied by consistent policies and well trained staff, it could ensure everything was being done to ensure that no one subject to government debt collection went through the process without their vulnerabilities being identified.

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

To be effective in supporting vulnerable individuals requires an active strategy with binding standards. Staff need to be well trained and new technologies need to be utilised. Most importantly, the successful implementation of a strategy aimed at supporting vulnerable people relies on close monitoring of data and outcomes.

Vulnerability strategy

Across regulated essential markets regulators have developed active vulnerability strategies which place responsibilities on firms to support vulnerability. In government, such a strategy is lacking.

<u>Local government</u>

Only 59% of local authorities have a vulnerability policy in place.[94] The quality of these and how well integrated they are into the processes of these councils varies widely. There are numerous good practice guides which include sections on considering vulnerability. The Department for Local government published guidance in 2013[95], the Money Advice service published a pre-action protocol in 2018[96] while Citizens Advice's protocol was published in collaboration with the Local Government Association (LGA) in 2017.[97] However, without any statutory requirement to

[93] Public Accounts Committee (2014) Managing debt owed to central government, Seventh Report of Session 2014-15, HC 555
[94] MAT (2019), Stop the knock
[95] DCLG (2013), Guidance on the enforcement of council tax arrears
[96] Money Advice Service (2018), The Supporting Council Tax Recovery Toolkit
[97] Citizens advice (2017), Council Tax Protocol

follow these procedures good practice remains patchy. Only 64 councils had signed up to Citizens Advice's Protocol by 2019 and even then there is no monitoring system to ensure its provisions are being followed even by those who have signed up. Good practice guidance should be put on a statutory footing to establish a universal baseline of good practice.

Similarly, National Standards for bailiffs that were updated in 2014 have guidance about how to support vulnerable individuals. However, without statutory backing or oversight these guidelines are not followed. Polling found 850,000 people had seen bailiffs breaking the rules between 2016-2018, 18% of those specifically experiencing or witnessing a bailiff dealing unsympathetically with someone with an illness or disability.[98] There is no way for local authority debt collection to safeguard vulnerable people if self-regulated bailiffs are used to collect debts. Unless an independent regulator is introduced or councils phase out bailiff use, there will be gaps in support due to the incentive structure for bailiffs and the lack of oversight of their activities.

Central government

The Fairness Principles developed by the group were adopted in the Code of Practice to the Digital Economy Act 2017 (DEA) but only as 'best practice guidelines' in order to 'encourage a consistent approach.'[99] This left them critically limited insofar as they recognised that individual public bodies would continue to have their own debt collection policies and that these principles only applied for those seeking to use the powers contained in the DEA. Embedding the Fairness Principles in statute and requiring all departments to apply them in their collection practices alongside the development of their own regularly updated vulnerability policies would greatly improve approaches to vulnerability within government.

Training and technology

Improving training and making it consistent across government would greatly improve support for vulnerable people. Specialists teams to deal with particularly challenging situations and to act as experts to share best practice with colleagues could transform government practices. Since 2018 Virgin Money have had a ring-fenced team supporting credit card customers with vulnerabilities – both to avoid and manage any financial difficulty. This team exists to 'provide a bespoke service, delivered with confidence by colleagues who really want to provide the right outcome.' The team received four weeks' intensive training on how to have effective conversations with vulnerable customers. This was developed with support from the Money Advice Trust and guidance from Royal College of Psychiatrists, with modules from Samaritans, Dementia Friends and StepChange. A toolkit of options was developed so that colleagues can flex their approach to a customers' circumstances, going further than offering a blanket 'breathing space' pause.[100] Officials need similarly high quality training to be ready to identify and deal with vulnerabilities.

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[98] Citizens Advice (2018), A law unto themselves: How bailiffs are breaking the rules
[99] Cabinet Office, The Digital Economy Act 2017: Code of Practice, 2018
[100] Centre for Social Justice, Collecting dust: A path forward for government debt collection

Client experience
They (water company) seem genuinely interested in their customers well being with the overall goal of establishing a solution that would help both the customer and the bill payment. They allow and see no problem in forfeiting the payment if the customer for example has no money to pay for food due to Coronavirus implications. They also offer social tariff and review meter readings to see if there is a problem inflating the monthly payments such as water leaks, broken pipe or if the boiler was replaced within the last year. So treating the customers with respect, dignity, understanding and helping to resolve the situation rather than make it more stressful for the individual.

The Fairness Group have recommended various toolkits which can help staff identify vulnerability as well as create space for a disclosure and effectively handle them when they're made. The TEXAS protocol has the potential to transform government handling of disclosures. It has been endorsed by the FCA and is industry standard practice in most commercial firms. For example, Lloyds Banking Group have trained their customer facing staff in the toolkit and have reported that it helps staff to feel confident and empowered when supporting customers in vulnerable circumstances.[101] Officials in government need to be trained in it and it should be integrated into all processes to ensure a consistent response when someone makes a disclosure. Evidence suggests government practices do not currently consistently apply these methods. 41% of respondents to our client survey who had debts to the government were not signposted to free debt advice (the 'S' in TEXAS).[102]

There are big opportunities for technology to be used to support those in vulnerable circumstances. Artificial intelligence (AI) or machine learning can play a role in picking up on a gradual pattern of activity from financial management or recognising early signs that someone may be more likely to end up in arrears.[103] Voice analytics and natural language processing tools can help identify customers requiring more support. Analysing conversations in real-time could help government organisations identify customers who may be experiencing mental health problems and allow queries to be effectively filtered to a specialist team if, for example, an individual is distressed.

Recording, measurement and learning

Recording data on vulnerability is essential for understanding what elements of support are working and where aspects of the vulnerability strategy are falling short. Monitoring data also helps establish metrics against which performance can be measured so that key personnel can be held to account.

[101] University of Bristol Personal Finance Research Centre (2017), Vulnerability: A guide for debt collection
[102] StepChange (2020), Client survey base 220
[103] Money and Mental Health Institute (2017), Fintec for good

Monitoring the outcomes of vulnerable individuals' journey through the debt management process is key to determining whether the right outcomes are being achieved and understand which activities and processes work well, and which ones need to be adapted. The FCA's most recent consultation on vulnerability emphasises the importance of management information for delivering positive outcomes for vulnerable customers. Examples of information that could be tracked included:

- Analysis of customer retention records
- Analysis of records of staff training, including remedial actions where staff knowledge or actions were found to be below expectations,
- Reviewing customer files to check for errors
- Assessing if customers were treated fairly as well as customer feedback.

They also referred to FSA guidance on management information which provides detailed guidance about what information managers might monitor to ensure they have a live picture of how well their firm is performing against the regulatory requirement to treat customers fairly.[104] These processes mean vulnerability strategies become active documents, with performance monitored in real time and changes made to improve outcomes. Government organisations need to replicate these systems in order to effectively improve support for vulnerable people. This will require large scale changes to data capture on debt management activities and a new approach for managers in how they see their role in relation to vulnerable individuals.

This recording and monitoring can help in shifting the attitude of senior management in their use as a performance management tool. The structure and performance of debt management teams need to be aligned with the goal of identifying vulnerability and supporting those in need of extra help. Senior management in particular need to be held to account for specific vulnerability outcomes. For example, OFWAT's recent proposed metrics for assessing companies included one on the number of customers contacted by the company about eligibility for vulnerability assistance options.[105] These performance metrics should help shift the culture within debt management teams. Frontline staff need to be given space to prioritise identifying and supporting vulnerability over other collection goals. For example, collection rates or call targets should be removed to allow staff to spend more time with individuals they feel may need more support. These steps are key in creating an environment where staff feel confident in identifying and supporting vulnerability and people feel more confident making a disclosure.

[104] FSA (2007), Treating customers fairly: A guide to management information
[105] Ofwat (2017), Delivering Water 2020: Our final methodology for the 2019 price review Appendix 1: Addressing affordability and vulnerability

Disputes

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

The benefits of an effective disputes process in debt management are manifold. Most importantly an effective system can:

- Build trust in the system which encourages people to engage with their debt rather than ignoring it.
- Help stamp out bad practice in a 'virtuous cycle' through interaction with an effective regulator, protecting consumers from mistreatment by holding bad actors to account.
- Foster continuous improvement in the system of debt management if disputes result in corrections and changes to practices.

Conversations with government debt management teams always involve frustrations about lack of engagement from individuals in the debt management process, engagement which would prevent problems escalating and make life easier for all those involved. Although we are keen to highlight various problems with government processes which inhibit this engagement, well publicised and effective disputes resolution can reassure individuals that they will be treated fairly instigating more constructive engagement. It is accepted in the literature on consumer markets that effective disputes resolution mechanisms can not only reduce consumer detriment but also empower consumers.[106] In debt management, individuals are too often made to feel that they have no rights, as though they are guilty of a crime by getting themselves into the predicament they are in. Knowledge of their rights and their ability to protect themselves from mistreatment can be an effective way of empowering these individuals to engage with the debt recovery process.

Effective disputes resolution can protect consumers from bad practice. When consumers and advocacy groups highlighted malpractice by payday lenders, the Financial Ombudsman Service began receiving increased numbers of complaints about these companies. Complaints to the Financial Ombudsman Service (FOS) increased by 168% between March 2012 and May 2014 with issues ranging from fraud to debt management and treatment of vulnerable consumers.[107] As a strong, independent complaints body FOS was able to look deeper into these complaints as it had concerns that, despite the increase, the number of complaints was not reflective of the scale of issues within the industry. Following clearer regulatory expectations set by the FCA, FOS decisions were then able to influence conduct in the sector. This 'virtuous cycle' between regulator and complaints body was a significant factor in reducing detriment for consumers. 23% of StepChange clients advised in the first half of 2013 had high cost short term credit (HCSTC) debts, this had fallen to 16% of clients advised in the first half of 2016. The average

[106] Department for Business, Industry and Skills (2018), Resolving consumer disputes: Alternative dispute resolution and the court system

[107] Financial Ombudsman Service (2014), Payday lending report

total amount owed on HCSTC by clients has also fallen from £1,647 in 2013 to £1,308 in 2016.[108]

Designed correctly, effective disputes processes can facilitate continuous improvement of debt management systems. The FCA rulebook on disputes requires firms to conduct root cause analysis into complaints and make efforts to ensure malpractice is not repeated.

FCA Handbook DISP 1.3 Complaints Handling Rules[109]

DISP 1.3.3
A respondent must put in place appropriate management controls and take reasonable steps to ensure that in handling complaints it identifies and remedies any recurring or systemic problems, for example, by:
(1) analysing the causes of individual complaints so as to identify root causes common to types of complaint;
(2) considering whether such root causes may also affect other processes or products, including those not directly complained of; and
(3) correcting, where reasonable to do so, such root causes.

These provisions demonstrate how effective disputes can go beyond merely ensuring redress for individual consumers but can be an effective tool for ensuring fairness in the whole system of debt management.

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.

Firstly, dispute processes need to be clearly advertised and accessible. FCA rules require complaints information must be referred to at the first point of contact.[110] For government organisations, this should mean inclusion in all debt management communications. Individuals need to be made aware from early in the debt management process that they're able to raise a dispute and they should be able to do so via multiple mediums - phone, email, letter etc. Less than half (45%) of people in our survey of clients with debts to government who felt they had been unfairly treated by government made a complaint.[111] The FCA's dispute regulations include clear provisions requiring firms to display complaints information and ensure consumers are aware of processes:

FCA Handbook DISP 1.2 Consumer awareness rules[112]

[108] StepChange (2016), Payday loans: The next generation
[109] FCA Handbook (2018), DISP 1.3
[110] *Ibid,* DISP 1.2
[111] StepChange (2020), Client survey base 162
[112] FCA Handbook (2018), Disp 1.2

DISP 1.2.1
(4) provide information to eligible complainants, in a clear, comprehensible and easily accessible way, about the Financial Ombudsman Service including the Financial Ombudsman Service's website address:
(a) on the respondent's website, where one exists; and
(b) if applicable, in the general conditions of the respondent's contract with the eligible complainant.

The process needs to be thorough, transparent and prompt. The individual raising a dispute should be regularly updated at every stage of the dispute about how things are progressing and the process should be time limited with penalties for organisations that fail to resolve disputes in time. The debt management activity should pause while the disputes process runs its course.[113]

There need to be easy routes of escalation when an individual is unhappy with the result of a dispute or when it needs further review. Only 34% of people in our survey of clients with debts to government escalated their complaint.[114] Early on in the process of escalation there should be independent adjudication of the matter. In financial services, the FCA works closely with the Financial Ombudsman. This independent complaints body has strong powers to make determination against firms and firms are required to display their contact information to consumers.

When disputes are found in favour of the person subject to debt management action should be swift and substantive to resolve the matter. Whether that be the halting of debt management activity on their account, the granting of compensation or the sanctioning of an actor in the debt management process. On 20% of people in our client survey of clients with debts to government were satisfied with the outcome of their complaint.[115]

Disputes should trigger systematic review of debt management processes to ensure continuous improvement of activities as a whole and facilitate organisational learning. Under the FCA regime this is called root cause analysis. This goes beyond just analysing the cause of a complaint but also requires firms to have processes to look into how the root cause may affect other products and processes. Firms are also required to regularly report to senior staff about complaints and keep records on decisions made. This comprehensive regulatory framework for handling complaints and disputes is a model which government organisations should look to when trying to improve processes.

[113] The FCA CONC rulebook [7.14.1.R] requires firms to suspend debt recovery action where a debt is disputed on valid grounds
[114] StepChange (2020), Client survey base 161
[115] *Ibid*, base 103

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

Local government

Local authorities quickly revert to bailiffs to collect debts. As an unregulated sector, bailiff companies have particularly ineffective complaint procedures. Relying on these processes exacerbates issues with local authority debt management - the lack of engagement from individuals and the continued mistreatment of people in arrears.

Procedures are confusing and not well advertised meaning that many people do not make a complaint. There are multiple routes through which individuals can make a complaint - through firms to be escalated to CIVEA, direct to the courts or direct to the Local Government and Social Care Ombudsman (LGSCO). Between 2016-2018, 3 in 4 people (72%) who experienced bailiffs breaking the rules didn't complain.[116] CIVEA themselves acknowledge that the industry has "extremely low levels of complaints" and that even fewer are escalated to CIVEA for adjudication.[117] There have been only 56 complaints through the court process since it was introduced despite evidence of widespread rule breaking.[118] Alongside this, people are unclear about their rights in relation to bailiffs.[119] This combination leaves people feeling helpless in the debt management process and more likely to disengage. In our survey, over three quarters of those who made a complaint to their local authority weren't satisfied with the outcome.[120]

The process does not effectively hold bailiffs or firms to account meaning bad practice continues. Complaints to bailiff firms go through multiple levels of escalation within the firm before being independent adjudication. Prior to September 2019 the only independent party within the system complaints system was CIVEA, the trade association which represents bailiff companies. Following pressure from advice agencies and the Justice Select Committee CIVEA have now established a panel with independent members to adjudicate on complaints which are escalated through firms. CIVEA have also stated that all complaints relating to local authority debts will be passed directly to the LGSCO. However, the ombudsman has no power to directly sanction bailiffs or bailiff firms; they can only determine whether there has been 'maladministration' on behalf of councils.[121] Only 36 complaints against bailiffs had been upheld by the ombudsman between 2014-18. This is completely insufficient in holding bailiffs to

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[116] Citizens Advice (2018), The rules of enforcement: Making a complaint about the behaviour of bailiffs in a self-regulated system

[117] "Compared to many sectors, our industry has extremely low levels of complaints and few are escalated to CIVEA for adjudication" Russell Hamblin Boone, CIVEA CEO in CIVEA newsletter, July 2018.

[118] Citizens Advice (2018), The rules of enforcement: Making a complaint about the behaviour of bailiffs in a self-regulated system

[119] Citizens Advice (2018), A law unto themselves

[120] StepChange (2020), Client survey base 47

[121] LGSCO (2020), Possible outcomes

account for bad practice and protect individuals from mistreatment as seen by the continued endemic rule breaking by bailiffs in local government debt management.

Client experience
I make the complaints as a formality now. 5 years ago I went to the ombudsman serving the council with direct photographic evidence and they turned the complaint down. I had made many many complaints to the DWP and Council as It helped me log what they had been doing and I retained the evidence. I learnt on my first escalation that it was a waste of time and will just land up demoralising you more, having an impact on your mental health. You go up the chain of command first of all and they all ask you the same thing to finalise the interview, 'what would you like us to do about it'. Surely these organisations have their own disciplinary guidelines?

Central Government

As previously mentioned we have concerns about the accessibility of DWP dispute channels. In our client survey, 42% did not know they could discuss the level of their repayments with a DWP official.[122] Without awareness of processes to challenge repayment levels many people will unnecessarily be pushed into hardship. We are also concerned about how effective this system is in reviewing people's circumstances. Only 9.2% of people who have applied for a reduction in repayments have received it.[123] This seems particularly low given 25% of people on Universal Credit are in problem debt.[124]

The wider infrastructure for raising a complaint or dispute against government practices is confusing. The government ombudsman landscape has been shown to be complicated and confusing.[125] Public awareness of public sector complaint bodies is far below those in the commercial sector like FOS.[126] The Gordon Review recommended the establishment of a single Public Service Ombudsman (PSO) for all public service, able to receive complaints in writing, electronically or orally with a statutory duty on public service providers to signpost citizens to the PSO and also to require them to advertise their own complaint handling procedures.[127] At the time of this review the Government seemed to accept the need for such a cross cutting body with strong powers. The Cabinet Office itself published draft legislation for the creation of this body.[128] Similar bodies have since been established in Wales and Northern Ireland while England lags behind. The implementation of a strong and clear set of fairness principles to government debt management would provide an excellent opportunity to pilot a public sector ombudsman and address the current lack of effective consumer redress.

[122] StepChange (2020), Problem debt and the social security system
[123] DWP (2020), Written question - 263679
[124] StepChange (2020), Problem debt and the social security system (national polling)
[125] Robert Gordon (2014), Better to serve the public: Proposals to restructure, reform, renew and reinvigorate public services ombudsmen
[126] Which (2014), The complaints system across public services should be overhauled
[127] Robert Gordon (2014), Better to serve the public: Proposals to restructure, reform, renew and reinvigorate public services ombudsmen
[128] Cabinet Office (2016), Draft public sector ombudsman bill

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 pivotal in the design of a well functioning system of debt recovery. Regardless of the principles or rules that are introduced, fair outcomes will not be delivered unless there is consistent mandated data collection, analysis and transparency. Without collecting data there is no way to ensure that the principles and framework of good practice deliver the intended outcomes. Reporting and collecting data should be seen as a key element of debt management activity - from affordability and vulnerability to cost efficiency. It builds accountability into the system, allowing the performance of debt management teams to be measured against outcomes sought and action to be taken when practices are seen to be straying off course. It also allows progress to be tracked over time, to give a sense of how performance is improving or not.

Ofgem’s vulnerability strategy establishes clear outcomes it wants to see in the energy sector. To support the successful implementation of the strategy it requires firms to collect and report on a large range of data points in its social obligations register. These data points follow from the outcomes it aims to achieve. One of the debt recovery outcomes includes a desire for ‘consumers in payment difficulty to be proactively supported, including by being put on an affordable payment plan..’[129] In order to effectively monitor how the sector is performing to specified outcomes it requires over 70 quarterly data points and even more on an annual basis. These include headline figures on the number of customers on budgeting schemes, average debt being repaid in repayment agreements, number of failed repayment plans, total number of disconnections due to debt.[130] This wealth of data is essential for ensuring all elements of the strategy are delivered, allowing the regulator to intervene effectively when firms are not making progress towards set outcomes. In its most recent review Ofgem raised concerns about how effectively these principles were being operationalised and whether the right outcomes were being achieved in debt management. As a result, it is reviewing the principles and the steps it can take to rectify bad practice.[131]

Compared to regulated markets, central and local government collect and publish patchy and limited data on debt management activities. This prevents the implementation of an effective strategy or the ability to improve outcomes. The National Audit Office has found that the government’s strategy is hampered by a lack of accountability and does not have any formal mechanism or forum to bring issues together in a coherent way, ensure common understanding of priorities, and collectively hold delivery partners to account.[132] Clearer and more

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[129] Ofgem (2019), Consumer vulnerability strategy 2025
[130] Ofgen (2019), Decision on social obligations
[131] Ofgem (2019), Consumer vulnerability strategy 2025
[132] *Ibid*

comprehensive requirements on data reporting would bring more cohesion to this strategy, giving bodies a focus to their activities.

There are challenges to realising improvements to government debt management via data. For example, IT systems and legal barriers to data-sharing, mean the government cannot identify individuals who owe money to different departments, and in one department different debts within the same department.[133] We welcome the Cabinet Office's efforts to utilise new tools and powers through the Digital Economy Act 2017 to workaround these issues.

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 metrics and targets established should relate to the outcomes that government is seeking to achieve in its debt management strategy. Government should liaise with UKRN members to understand the data they require and how it is used by other regulators in their strategies. This would also help improve understanding within government about how data is used to monitor good practices.

Good practice in debt management should mean ensuring that collection activity does not make debt problems harder to manage, that repayment rates are set at an affordable rate, that vulnerability is effectively identified and appropriate adjustments are made, that complaints systems are accessible with complaints resolved effectively and result in tangible improvements in conduct. There are a range of data points that will be relevant in measuring the success of government organisations in delivering these outcomes. Demographic data should be integrated into all data points in order to monitor how different groups experience government debt management in order to alter practices or provide support if particular groups are negatively impacted.

Affordability/forbearance

Ensuring collection activity does not make problems harder and repayment rates are affordable should be a central goal of debt management activity. To monitor performance against this goal, metrics could include:

- Overall level of debt
- Proportion of individuals on a repayment plan
- Average repayment amounts
- Average repayment amounts as a proportion of disposable income
- Average length of repayment plans
- Success rates of repayment plans
- Proportion of cases escalated to enforcement

[133] National Audit Office (2018), Tackling problem debt

- Number of clients referred to debt advice and other third party support with breakdown of types of referral (warm referrals, information given)

Vulnerability

Ensuring government organisations are supporting vulnerable people requires monitoring of numerous metrics. In their recent consultation on vulnerability OFWAT proposed common metrics which companies would be required to publish in order to assess their performance on vulnerability. These metrics were:

- Proportion of eligible customers receiving support through vulnerability assistance option(s).
- The number of customers contacted by the company about eligibility for vulnerability assistance options.
- The percentage of customers receiving vulnerability assistance option(s) who are satisfied with the assistance.

For government organisations further data points could be collected:

- Number of vulnerable individuals flagged to other departments
- Number vulnerable individuals accessing support tools
- Number of people requesting help
- Number of individuals identified as vulnerable via internal data systems

Complaints

The number of complaints is an effective measure of how accessible complaints systems are. Measuring complaints outcomes is then an effective way to assess how efficiently the system functions. Government debt management would benefit from a more consolidated system of complaints, but even in the current model the performance of individual organisations would help highlight best practice.

- Number of complaints made
- Proportion found in favour of individual
- Average time taken to resolve complaints
- Proportion of complaints escalated to higher level of adjudication

Cost effectiveness

Government also has no estimate of the extent to which problem debt leads to increased use of public services, or the resulting cost to the taxpayer. Understanding the impact of problem debt is important for policymakers across government, in considering the impact of policy design on over-indebtedness and the relationship between actions in one part of government and costs occurring elsewhere. NAO modelling indicates that the direct effect of problem debt on an individual's likelihood to experience anxiety or depression or to be in state-subsidised housing results in an additional cost to the taxpayer of at least £248 million a year, and to the economy as a whole of around £900 million a year. They were unable to model other effects, including on employment and benefits, because of gaps in the data available so the actual figure is likely to be much higher.[134] Accurate estimates on the cost to the tax payer will help demonstrate and determine the appropriate level of investment needed to improve debt management practices. Currently, HMT monitors indicators of over-indebtedness, and some specific areas such as debt advice. However, it does not have data to assess the effectiveness of government's interventions, and does not know how much government spends on those interventions. It therefore cannot know what actions represent good value for money, or whether value could be improved by, for example, putting more resources into particularly effective areas.[135]

This problem is particularly acute in local government where there seems to be a lack of data gathered from the bailiff firms by local authorities. Councils largely contract bailiff companies at no direct cost, bailiffs taking their fees directly from individuals. There are substantial concealed costs, however as bailiffs recoup their fees before any money owed to councils. This seems to have led to a lack of scrutiny of bailiff practices. In an FOI of councils Citizen Advice found that bailiffs collected only 27p per pound referred to them despite costing councils an average of £600,000 per year in admin costs, knock on costs to the taxpayer and in money recovered that goes to bailiffs in fees.[136] If data on collection rates and the true cost of bailiffs was properly reviewed by councils it seems unlikely they would persist with this costly and inefficient method of collection.

Metrics that drive bad practice

Metrics which incentivise quicker recovery or escalation can drive bad practice. Any metrics or performance targets are not balanced by good practice targets risk corrupting systems of debt management and leading to negative outcomes for those in debt which in turn lead to entrenched problems and higher costs of debt recovery and for wider society. In particular metrics to be avoided include:

- Time-limited collection targets
- Remuneration linked mainly or solely to debt recovery
- League tables based solely on debt recovery and drive competitive collection
- Targets for frontline staff which limit their flexibility when dealing with individuals e.g call targets

[134] National Audit Office (2018), Tackling problem debt
[135] *Ibid*
[136] Citizens Advice (2019), Council tax collection is efficient or effective

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

Currently, government debt management processes suffer from a lack of collaboration with key actors in the debt recovery process and disjointed, inconsistent practices between departments. By opening up policies and processes it can rectify these inconsistencies and foster the collaboration necessary for fair practices.

StepChange holds a multitude of constructive relationships with creditors with channels open for easy communication and negotiation. These constructive relationships allow for a standardisation of practices. All the creditors accept SFS submissions from StepChange advisers and generally auto accept repayment offers. Advisers report finding it much harder to negotiate with government organisations. Opening up a more transparent and constructive dialogue about internal processes would help to improve this partnership working and deliver better, more consistent debt management outcomes.

Fraud

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?

We would stress the need for confidence in the system of identifying fraud. There is a fine line between fraud and accidental misreporting in the benefits system. The legacy tax credit system is a prime example of how complex bureaucratic processes can lead to large numbers of people failing to correctly comply with regulations and receiving overpayments as a result. The system for reporting changes of circumstances and the annualised nature of payments is universally agreed to have been challenging for individuals to navigate and been a significant driver of erroneous payments.[137]

Legacy overpayments stemming from this old tax credit system should be deprioritised and in some cases written off. There is over £6.2bn worth of tax credit overpayment debt in the system. It’s not clear how much of this is classed as fraud but much of it will relate to errors in calculation. Nearly £1bn of it relates to overpayments from before 2011/12.[138] The FCA regulations include a statutory bar on claims for debts on which no action has been taken for 6 years.[139] We would advocate for a similar view to be taken by HMRC on these debts. People are often completely unaware of them and they push people into further hardship. It would improve the UC system if these debts were removed and would allow the government to focus on more obvious cases of fraud in the system.

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[137] Prospect Magazine (2007), Tax credits: The success and failure
[138] CSJ (2010), Collecting dust: A path forward for government debt collection
[139] FCA Handbook (2018), CONC 7.15

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?

Government debt management should be based on universally recognised principles aimed at achieving consistent outcomes across government. These should be aimed at ensuring debt management activity does not make people's problems worse, that repayments are set at an affordable rate and adjustments are made to ensure vulnerable people are treated fairly. For this to happen, there needs to be recognition across government that the purpose of debt management is not to punish those in debt, no matter what the reason is they've fallen behind. This approach damages the individual being pursued and is also an inefficient way to collect debt. Not only are government organisations likely to collect less money owed using punitive methods but the knock on costs for society of dealing with exacerbated vulnerabilities and problem debt outweigh any benefits. Debt management activity should be seen as separate from public policy designed to punish fraudulent activity. It should be based on a set of its own principles with specific outcomes based on the fair treatment of all of those in debt.

Other creditor sectors

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.

Government should engage with other sectors to assist in its design of a regulatory framework and binding good practice guidelines for government debt management.

We have quoted the FCA rulebook frequently, particularly CONC 7 on forbearance. Although we still see problems in the regulated financial services sector, the regulatory structure lends it to more consistent approaches and outcomes. It also allows for much better monitoring of outcomes through management information requirements and complaints systems. This means problems are more likely to be identified and acted on when they arise.

The Credit Service Association's Code of Practice provides a useful example of good practice guidelines across a range of debt management outcomes. Alongside independent regulation, it has been effective at drastically reducing the number of problems our advisers have seen relating to debt collection agencies over the last 10 years.

There is a lot of good work happening in essential markets on vulnerability. Ofgem's 2025 vulnerability strategy illustrates how rules should follow from clear outcomes with reporting requirements to monitor performance. Government should engage with UKRN to learn from sector regulator's efforts to introduce vulnerability strategies and enforce consistent approaches.