

**Office of Fair Trading 'Debt management (and credit repair services) guidance' consultation**

**Response from the Consumer Credit Counselling Service**

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**Introduction**

The Consumer Credit Counselling Service (CCCS) is the UK's largest dedicated provider of independent debt advice. Last year the charity helped 418,000 people with free advice and delivery of support services, including Debt Management Plans (DMPs), bankruptcy and welfare benefit checks – we are geared up to help many more.

We welcome this opportunity to comment on the Office of Fair Trading's (OFT) consultation on debt management (and credit repair services) guidance as we were very concerned at the level of consumer detriment uncovered by its review of debt management companies published in September 2010.

While CCCS was evaluated as part of the study and found to have no problems, the review found an "unacceptable" level of non-compliance issues with its Debt Management Guidance among the fee-charging debt management sector including misleading advertising and adviser incompetence.

CCCS believes that those struggling with debt need, and are entitled to, fair and high standards of advice when seeking help and that the report revealed this is often not the case within the fee-charging debt management sector.

*Revised debt management guidance*

The revised guidance is designed to address the issues identified by the review and sets out the standards the OFT expects of debt management businesses and makes clear they must:

- be fully transparent about the service on offer and fees charged
- explain to consumers both the risks and benefits of each proposed solution
- not use misleading names or advertising, including misleading web-based adverts, and
- ensure that the advice provided is in customers' best interests.

The overall theme of the guidance is increasing transparency and ensuring that consumers have all the information they need to make an informed decision about the solution most appropriate for them.

CCCS fully endorses these standards and welcomes the increased emphasis on greater transparency as being unable to maintain your debt commitments is incredibly stressful and it can be difficult to decide what to do. It is our experience from talking to clients who have used commercial debt management companies, that when people who find themselves in this situation, it is often a case of “first port in a storm”: they are not aware of free alternatives and if someone presents them with a solution, they will not bother to shop around. That is why it is so important that those who are struggling with debt are offered services that are clear and transparent and advice that is independent and of the highest standards.

#### *Area of concern – Introducers and intermediaries*

An area that CCCS is concerned about and which is not covered by the guidance is the role of introducers and intermediaries, who refer people to debt management services for a fee.

Specifically, the introducer model gives an incentive for the introducer to make unrealistic promises to the client who the debt management company may be unable to keep (e.g. guarantees about interest and charges being stopped). There may therefore be a difference between the standard of service initially advertised and how that service actually works in practice.

Another issue is that commission payment to introducers may be based on how lucrative the debt solution is to the debt management company. This may skew the advice towards Individual Voluntary Arrangements (IVA) or debt management plans (DMP) where best advice may actually be bankruptcy. There is also an incentive on the introducer's behalf to misrepresent the client's budget to make them appear to be suitable for profitable debt solutions.

Nor is it always apparent to clients that they are being passed from an introducer to a debt management company.

In addition, it is very unlikely that the commission or fees involved will be made clear to the client. As any commission paid by the debt management company has to be recouped, this could potentially affect the level of fees the debt management company charges and/or make it more likely that clients will be directed to the profit-making debt solutions which may actually be inappropriate (e.g. very long-term DMPs with a monthly fee instead of bankruptcy).

An example of the arrangements debt management companies have with intermediaries is shown on the EuroDebt website, which states on the 'Introducer' page that: “It also doesn't matter whether a 'fact find' is completed or not, we simply require the contact details of the people you would like us to approach for a debt solution”.

- CCCS is concerned that a lack of 'fact find' may lead to people being referred to EuroDebt inappropriately. Not only may this confuse them, but it would be a waste of their time when their debts problems require urgent attention.

Its website states that all Introducers are entitled to 20 percent commission on the set-up fee paid to EuroDebt for a successful DMP referral and that the current average commission is pays is over £260 per case.

- Therefore, the average fee consumers are paying for EuroDebt's services, including the Introducer's charge, is over £1,000.

## Questions

CCCS's response to the consultation's questions are below.

### Foreword and introduction

Question 1: Do the Foreword and Introduction (including Annexe A) set out the scope and purpose of the guidance sufficiently clearly?	The Foreword and Introduction (including Annexe A) set out the scope and purpose of the guidance sufficiently clearly.
Question 2: Is the definition of who the guidance applies to clear and adequate?	Yes, the definition of who the guidance applies to is clear and adequate.
Question 3: Have we set out our approach to the assessment of fitness and potential risk sufficiently clearly?	The approach to the assessment of fitness and potential risk has been set out sufficiently clearly.
Question 4: Are there any substantive aspects with which you disagree?	No, there aren't any substantive aspects of this chapter that CCCS disagrees with.
Question 5: Do you consider that there are any significant omissions?	No, there aren't any significant omissions.
Question 6: Do you have any other suggestions for improvement?	CCCS doesn't have any other suggestions for improvement.

### Overarching principles of fair business practice

Question 7: Do you agree with the stated 'Overarching principles of fair business practice'?	CCCS agrees with the stated 'Overarching principles of fair business practice'.
Question 8: Are there any substantive aspects of this chapter with which you disagree?	No, there aren't any substantive aspects of this chapter that CCCS disagrees with.
Question 9: Do you consider that there are any significant	No, there aren't any significant omissions.

omissions?	
Question 10: Do you have any other suggestions for improvement?	Ensuring that consumers are aware of free alternatives so that they are able to make an informed choice, be it seeking free advice and services, or choosing to pay, should be an overarching principle of fair business practice.

### Unfair or improper business practices

Question 11: Are the draft guidelines on lead generation, direct marketing and personal visits sufficiently clear?	The draft guidelines on lead generation, direct marketing and personal visits are sufficiently clear.
Question 12: Are there any substantive aspects of this section with which you disagree?	No, there aren't any substantive aspects of this chapter that CCCS disagrees with.
Question 13: Do you consider that there are any significant omissions?	As mentioned in the introduction, CCCS is concerned about the role of introducers and intermediaries, who refer people to debt management services for a fee.
Question 14: Do you have any other suggestions for improvement to this section?	CCCS would like to see guidance on the role of introducers and intermediaries.

### Advertising and other communications

Question 15: Are the draft guidelines on advertising and other communications sufficiently clear?	The draft guidelines on advertising and other communications are sufficiently clear.
Question 16: Are there any substantive aspects of this section with which you disagree?	In respect to section 3.13: "The OFT considers that search engine sponsored links and online messaging forums which limit the number of characters are unlikely to be an appropriate means of providing consumers with sufficiently balanced and adequate information". It is our experience that social networks offer a useful way of communicating directly with people in distress who ask for help, whether this is through forums, social media or blogs. We are keen to safeguard this method of first contact (especially as it becomes more and more prevalent), subject to OFT

	guidelines on clarity, accuracy and truthfulness
Question 17: Do you consider that there are any significant omissions?	No, there aren't any significant omissions although we would like 'mobile marketing' to be included as a potential advertising medium.
Question 18: Do you have any other suggestions for improvement to this section?	<p>CCCS is concerned that many people turn to fee charging debt management companies as they are unaware of free independent debt advice that is provided by charities such as CCCS, National Debtline or Citizens Advice - often because charities don't have the advertising budget of the fee-chargers.</p> <p>CCCS therefore thinks that those charging for debt advice and debt management services should be obliged to inform customers of free, independent alternatives in their advertising and communications.</p> <p>CCCS is also concerned about organisations that charge for their debt advice and services and which have similar versions of its name, as well as organisations that aren't charities but pretend to be. It is concerned that consumers could end up paying for these services when they thought that they were contacting CCCS (a charity that doesn't charge for its advice or services) or another debt charity.</p> <p>While deciding if an organisation is trying to imitate another is subjective, CCCS thinks that there should be a ban on fee-charging organisations marketing themselves in a way that could mislead consumers into thinking that they are a charity. For example through the ability to advertise against our charity's name in search engine sponsored links (Pay-per-click advertising).</p>

### Advice

Question 19: Are the draft guidelines on advice sufficiently clear?	The draft guidelines on advice are sufficiently clear.
Question 20: Are there any substantive aspects of this section with which you disagree?	No, there aren't any substantive aspects of this chapter that CCCS disagrees with.
Question 21: Do you consider	No, there aren't any significant omissions.

that there are there any significant omissions?	
Question 22: Do you have any other suggestions for improvement to this section?	CCCS thinks that, when giving advice, there should be an obligation to inform consumers of free, independent alternatives.

### Charging for debt management services

Question 23: Are the draft guidelines on charging for debt management services sufficiently clear?	The draft guidelines on charging for debt management services are sufficiently clear.
Question 24: Are there any substantive aspects of this section with which you disagree?	No, there aren't any substantive aspects of this chapter that CCCS disagrees with.
Question 25: Do you consider that there are any significant omissions?	No, there aren't any significant omissions.
Question 26: Do you have any other suggestions for improvement to this section?	Like the OFT, CCCS has particular concerns where there is a lack of transparency about the fees, and the methodology surrounding the calculation of fees, that are charged for debt management services.  In addition, to a greater transparency about fees, consumers should be made aware that free debt management services are available.

### Pre-contract information

Question 27: Are the draft guidelines on pre-contract information sufficiently clear?	The draft guidelines on pre-contract information are sufficiently clear.
Question 28: Are there any substantive aspects of this section with which you disagree?	No, there aren't any substantive aspects of this chapter that CCCS disagrees with.
Question 29: Do you consider that there are any significant omissions?	No, there aren't any significant omissions.
Question 30: Do you have any	The availability of free debt management services

other suggestions for improvement to this section?	should also be included in pre-contract information.
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### **Contracts**

Question 31: Are the draft guidelines on contracts sufficiently clear?	The draft guidelines on contracts are sufficiently clear.
Question 32: Are there any substantive aspects of this section with which you disagree?	No, there aren't any substantive aspects of this chapter that CCCS disagrees with.
Question 33: Do you consider that there are any significant omissions?	No, there aren't any significant omissions.
Question 34: Do you have any other suggestions for improvement to this section?	CCCS doesn't have any other suggestions for improvement.

### **Handling client's money**

Q35 Are the draft guidelines on handling client's money sufficiently clear?	The draft guidelines on handling client's money are sufficiently clear
Q36 Are there any substantive aspects of this section with which you disagree?	No, there aren't any substantive aspects of this chapter that CCCS disagrees with.
Q37 Do you consider that there are any significant omissions?	No, there aren't any significant omissions.
Q38 Do you have any other suggestions for improvement to this section?	CCCS doesn't have any other suggestions for improvement.

### **Debt management services**

Question 39: Are the draft guidelines on debt management services sufficiently clear?	The draft guidelines on debt management services are sufficiently clear
Question 40: Are there any substantive aspects of this	No, there aren't any substantive aspects of this chapter that CCCS disagrees with.

section with which you disagree?	
Question 41: Do you consider that there are any significant omissions?	<p>It is CCCS practice to review clients on DMPs once a year with a view to establishing if the DMP still constitutes the best advice in their circumstances. In some cases, the clients may be able to pay more and thus pay off their debts more quickly. For others, a DMP may no longer be appropriate and the clients need directing to other solutions.</p> <p>It has come to our attention, however, that recently some commercial debt management companies are reviewing their customers' DMPs every six months and charging £40 for this service.</p> <p>Clearly it is not in the best interests of people who are trying to repay their debts to be charged for such reviews. Rather reviews should be part of the service which the consumer is already paying</p>
Question 42: Do you have any other suggestions for improvement to this section?	CCCS doesn't have any other suggestions for improvement.

### **Credit information services**

Question 43: Are the draft guidelines on credit information services sufficiently clear?	The draft guidelines on credit information services are sufficiently clear.
Question 44: Are there any substantive aspects of this section with which you disagree?	No, there aren't any substantive aspects of this chapter that CCCS disagrees with.
Question 45: Do you consider that there are any significant omissions?	No, there aren't any significant omissions.
Question 46: Do you have any other suggestions for improvement to this section?	CCCS doesn't have any other suggestions for improvement.

### **Creditors' responsibilities**

Question 47: Are the draft guidelines on creditor's responsibilities sufficiently	The draft guidelines on creditor's responsibilities are sufficiently clear.
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clear?	
Question 48: Are there any substantive aspects of this section with which you disagree?	No, there aren't any substantive aspects of this chapter that CCCS disagrees with.
Question 49: Do you consider that there are any significant omissions?	No, there aren't any significant omissions.
Question 50: Do you have any other suggestions for improvement to this section?	CCCS doesn't have any other suggestions for improvement.
Question 51: Do you have any comments about the structure and format of this guidance document?	CCCS doesn't have any other suggestions for improvement.

### Complaints handling

Question 52: Are the draft guidelines on complaints handling sufficiently clear?	The draft guidelines on complaints handling are sufficiently clear
Question 53: Are there any substantive aspects of this section with which you disagree?	No, there aren't any substantive aspects of this chapter that CCCS disagrees with.
Question 54: Do you consider that there are any significant omissions?	No, there aren't any significant omissions.
Question 55: Do you have any other suggestions for improvement to this section?	CCCS doesn't have any other suggestions for improvement.

### Regulatory compliance and enforcement

Q56 Are these draft guidelines on regulatory compliance and enforcement sufficiently clear?	The draft guidelines on regulatory compliance and enforcement are sufficiently clear.
Q57 Does the section 'Licence holders' responsibilities for third parties' clearly convey our expectations?	The section 'Licence holders' responsibilities for third parties' clearly conveys the OFT's expectations.
Q58 Are there any substantive aspects with which you	No, there aren't any substantive aspects of this chapter that CCCS disagrees with.

disagree?	
Q59 Do you consider that there are any significant omissions?	No, there aren't any significant omissions.
Q60 Do you have any other suggestions for improvement?	CCCS doesn't have any other suggestions for improvement.
Q61 Do you have any other comments about the Annexes (A-D) contained in the guidance document?	No, CCCS doesn't have any other comments about the Annexes (A-D) contained in the guidance document.
Q62 Do you have any other comments about this guidance document?	No, CCCS doesn't have any other comments about this guidance document.
Q63 Do you consider that a shortened (executive summary) version of the guidance might be useful? If so, which aspects of this document do you consider should be included/omitted?	Each section of the guidance is too important in preventing consumer detriment to be omitted in a shortened version.