

## **Lloyd's Banking Foundation, Deductions: Driver of Poverty,**

### **Citizens Advice Scotland**

Citizens Advice Scotland (CAS) is broadly supportive of Lloyd's Banking Foundations recommendations but would like to provide further comment on the following areas:

- Affordability of deductions
- Support for people with mental health needs and other vulnerabilities
- Ability for advisers to amend/pause deductions where they cause financial hardship
- Treatment of historic debt
- Improved communication
- Targeted grants for Advance Payments through discretion use of the Household Support Fund

#### **Affordability of deductions**

CAS analysis of 1,928 of our complex debt clients showed that the 131 clients with benefit overpayment debt were more likely to have a negative monthly income than for other kinds of debt. This shows the unaffordable nature of the current deductions scheme. CAS has called for replacement of the DWP debt recovery process with a revised system based on a robust holistic affordability check<sup>1</sup>. Affordability checks should account for an individual's outgoings based on their individual circumstances and safeguard against people being left without enough to cover essentials<sup>2</sup>. Under a system of robust affordability checks, it is likely that very few recipients would be considered able to make any repayments and none would have 25% available income to spare in repayments.

#### **Support for people with mental health needs and other vulnerabilities**

CAS are working to create a Mental Health and Money Charter that sets out the minimum standards to expect from a creditor when disclosing a mental health issue. It will also provide practical guidance to firms and public bodies on how to achieve these standards. We would encourage the DWP, Social Security Scotland and Local Authorities to sign up to the charter and will look for endorsement from the Scottish Government once it is published. We want to co-design the Charter with fellow stakeholders. Some examples of principles we would like to see in the charter include taking a holistic view of all debts; only expecting a person to disclose a mental health issue once; and superior signposting to support services. These principles can be applied to other vulnerabilities, including homelessness and domestic abuse.

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<sup>1</sup> CAS, Research into Living on Universal Credit during the Pandemic, September 2021, Page 31 and cited in Citizens Advice Scotland, ["I am constantly penny pinching." Research into Living on Universal Credit during the Pandemic](#), 6 September 2021

<sup>2</sup> Citizens Advice Scotland, [CAS response to the Cabinet Office consultation: Fairness in Government Debt Management](#), September 2020

## **Ability for advisers to amend/pause deductions where causing financial hardship**

CAS agrees with this policy in principle but asserts that it would require a commitment to ensure frontline staff have the knowledge, training, and appropriate authority to make relevant decisions and sufficient resources to deal with people sensitively and timeously. We would also like to see improved engagement with CAB advisers who understand their client's holistic circumstances such as an escalation line for money and debt advisers supporting claimants.

## **Treatment of historic debt**

CAS agrees with the recommendation for a maximum repayment duration followed by debt write-off. This would mirror Statutory Debt Solutions which are time limited. CAS also agrees historic tax credit debt should be written off. In Scotland, commercial debts are prescribed after 6 years, yet benefit claimants are pushed into hardship to repay historic tax credit debts, this is a punitive measure which prolongs hardship.

## **Improved communication**

CAS agrees with LBF's recommendations on providing upfront information on exemptions and safeguards as well as information about the reasons for deductions, how much will be taken and for how long. This information could easily be communicated through the UC journal and be updated throughout the deduction period. Claimants should also be able to opt for this information to be communicated through other channels – such as telephone or post. If claimants are given notice of upcoming deductions, they can seek money and debt advice to mitigate against their impact. The DWP should also seek the consent of the claimant prior to any deductions being applied to ensure that they are in fact affordable.

## **Improving council tax collection**

CAS agrees with LBF's recommendations regarding council tax, which is one of Scotland's most challenging debt problems and a leading reason for clients to seek debt advice. We would like to draw the committee's attention to our response to their Low Income and Debt Inquiry where we outline how collection practices could be improved. Measures put forward include a no points of no return policy, clearer billing, and a period of breathing space in circumstances where a person in council tax debt seeks help from an advice agency.

Furthermore, successful early collaboration between advice organisations and local authorities can help address the financial impacts of non-payment. CAS, IRRV, StepChange and the Improvement Service have co-designed a Collaborative Council Tax guide to help Local Authorities and advice providers collaborate effectively. Recommendations include clear referral pathways, training or networking opportunities across partners, and an open door policy between partners.

## **Targeted grants for Advance Payments through the Household Support Fund**

In Scotland, this would likely mean targeted use of the Scottish Welfare Fund (which is currently under review) to support people at risk of problem debt due to the 5-week-wait for UC. CAS would urge against this policy recommendation as it effectively places the

responsibility for mitigating against the harms caused by this policy upon local authorities. Rather, CAS would support replacing advance payments with a grant administered by DWP.

### **Social Security Scotland**

It is essential the Social Security Scotland learns from the DWP's mistakes and delivers on its promise of a debt repayment process which is client focused. We have seen positive steps in terms of their commitment to a two-pronged approach to debt recovery of affordability tests and consideration of personal circumstances. The effectiveness of this approach in reducing hardship will be tested in due course when the debt recovery process is implemented.

We would like to thank the Committee again for inviting us to give evidence on your Inquiry into low income and debt on 12<sup>th</sup> May 2022. Following our session, you heard from representatives of mental health support charities focussing on the particular relationship between mental health and debt.

A key area of focus for Citizens Advice Scotland and our network is seek improvements in the external environment so that people with money and mental health issues achieve better support and outcomes.

Whilst we have responded to the questions on this topic within your consultation, we wanted to address some of the questions raised during the evidence session on Mental Health and Debt.

These questions were:

- Is there anything that could be done to break the cycle of debt and mental health problems?
- Whether Scotland should adopt a similar provision as England and Wales in their Breathing Space initiative for those with mental health issues within our Moratorium process?
- How could the operation of the Debt and Mental Health Evidence Form be improved upon?

### **Question 1 – is there anything that could be done to break the cycle of debt and mental health problems?**

We would like to draw the Committee's attention to the following:

- To break the vicious cycle, debt advice needs to be embedded in a person's mental health recovery.
- This needs to go beyond simply having money advisers in mental health settings
- One key issue is around the application of the Severe Mental Impairment Council Tax Exemption which when unclaimed can exacerbate the financial burden on those with low incomes.

In our evidence and within our consultation response, we emphasised the need to break the vicious cycle by truly embedding debt advice within a person's mental health recovery. This needs to go beyond simply having money advisers in mental health settings and to include finding solutions to smooth certain policies and processes within both the mental health and money advice sectors.

This is best illustrated by the issues around Severe Mental Impairment Council Tax Exemption. This is a discount for those who have a permanent condition which severely affects intellectual or social functioning. Those who are entitled to this exemption are disregarded for council tax purposes and common eligible conditions include Parkinson's, Dementia, severe learning disabilities and Alzheimer's. However, many people who are eligible for this saving aren't aware of it and therefore there is a significant difference between the numbers who claim Severe Mental Impairment and those who should claim it.

As the Committee has heard, there is a significant gap in public awareness of these savings. But it is not just the public's awareness, it is also those within the mental health sector itself. As we raised in our evidence session, if we truly want to break the cycle between mental health and money issues, including problem debt, we need to build the knowledge of mental

health professionals, so they feel confident and empowered to guide their service users to debt and money advice, as well as alert service users to ways which could help them save money, such as knowledge of our Money Map tool.

However, when it comes to Severe Mental Impairment, it is not only the lack of awareness within the general public and mental health sector, an additional barrier is the application process itself. Whilst there are overarching guidelines and rules which govern this exemption, each individual local authority has the discretion to have their own processes. This has resulted in 32 different forms and 32 different policies on how the exemption can be applied and to whom, as well as how long it can be backdated for. This adds a layer of complexity especially when trying to encourage people to apply for this exemption on behalf of family members and for mental health professionals feeling confident enough to discuss it with their service users.

Mental health already carries a significant stigma and the language around Severe Mental Impairment is problematic enough without having an extra layer of complexity to its application process.

In Wales, they have taken strides to combat these issues by introducing one single form to be used across all their local authorities. This has meant the form itself can be hosted not only on their council websites but also national websites including the Welsh Government, GP surgeries, third sector organisations such as mental health charities and Citizens Advice Cymru and other organisations. This helps spread the word on Severe Mental Impairment, raising awareness and actively encouraging uptake.

**Citizens Alert:** A South of Scotland CAB highlighted a client that only became aware of Severe Mental Impairment following a segment on Martin Lewis's Money Show and felt that the focus on what the benefit can do for them helped remove the stigma and was keen to apply. However, the client made it clear that the language was extremely off-putting and had they not seen it being discussed sensitively by Martin Lewis, they wouldn't not have applied for the benefit. <sup>1</sup>

**Therefore, we believe that the following measures on Severe Mental Impairment should be introduced:**

- **A common Scotland-wide Severe Mental Impairment Form so that those requiring access can do so easier and in a simpler way which should include one common backdated policy**
- **Increase public awareness and improve communications from Local Authorities and Scottish Government which specifically targets and promotes Severe Mental Impairment**

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<sup>1</sup>[https://citadvscot.sharepoint.com/:w:/r/sites/FinancialHealthTeam/\\_layouts/15/Doc.aspx?sourcedoc=%7B388DD3E2-A2C6-46AC-986E-AA20F2E520F2%7D&file=Severe%20Mental%20Impairment%20.docx&action=default&mobileredirect=true&cid=225db082-de4e-4e19-a2e4-2e3ebb45b4bc](https://citadvscot.sharepoint.com/:w:/r/sites/FinancialHealthTeam/_layouts/15/Doc.aspx?sourcedoc=%7B388DD3E2-A2C6-46AC-986E-AA20F2E520F2%7D&file=Severe%20Mental%20Impairment%20.docx&action=default&mobileredirect=true&cid=225db082-de4e-4e19-a2e4-2e3ebb45b4bc)

**Question 2: Whether Scotland should adopt a similar provision as England and Wales in their Breathing Space initiative for those with mental health issues within our Moratorium process?**

In answer to this question, we would like to draw the Committee's attention to the following:

- This has been explored by the Scottish Debt Solutions review and a recommendation has been made to introduce a Mental Health Moratorium process
- This would allow those facing a mental health crisis to pause debt collection and diligence to focus on their recovery
- The Breathing Space process in England and Wales has had significant issues and a blanket adoption would not be recommended.

As the Committee has heard in our submission to your consultation and in our evidence session, support for those with mental health issues and problem debt rarely go hand in hand. They are often treated separately and this needs to change.

One solution which has been recommended by the Scottish Debt Solutions Review currently underway by the Accountant in Bankruptcy is to introduce a similar process to England and Wales' Breathing Space Initiative of a Mental Health Crisis Moratorium.

In May 2021, the UK Government introduced Breathing Space which had a process dedicated for those receiving mental health crisis care. The mental health crisis breathing space provided similar protections to the standard breathing space under the scheme, however, there is no prescribed period of time. The length of the mental health crisis breathing space lasts as long as the applicant is in mental health crisis treatment, plus a further 30 days when this ends.

There are many benefits to such a scheme and it would be highly recommended for Scotland to have a similar process to support those in mental health crisis with their problem debt.

Unfortunately, the process in the UK Government's Mental Health Breathing Space is rather restrictive. It only applies to those in crisis care and this can have limitations on who can access the scheme. There are some debtors who would benefit from its support but are not necessarily in crisis care but rather receiving care within their community. Under the Breathing Space initiative, they would only have access to standard Breathing Space rather than a more bespoke version which would allow them the time and space to focus on their mental health recovery and placing them in a better position to deal with their problem debt.

Moreover, within the Breathing Space scheme, the list of mental health professionals who can certify the application is restricted. Whilst this was with the intention that only those who are appropriate to access the scheme can do so, it has ended up creating a barrier to those who legitimately require its protection because they are unable to secure an Approved Mental Health Professional to certify their application.

If such as Scheme is introduced into Scotland, it needs to have a more holistic approach and it is vital that we have those from the mental health profession involved in the development of such a Scheme.

This did not occur in England and Wales which has led to many in the mental health sector not being aware of its existence, as well as not benefitting from their expertise and insight into the mental health recovery journey. As we stated above, if we truly want to break the cycle between mental health and debt problems, we need to ensure the mental health profession's own knowledge and understanding of what is available for their service users in financial distress is fundamental and vice versa.

**Therefore, we would ask the Committee to support the introduction of a Mental Health Moratorium in Scotland which is holistic and co-designed and developed with the mental health sector ensuring that it is not too narrowly applied and delivers a less restricted process, and to press the Scottish Government to take this forward.**

### **Q3. How could the operation of the Debt and Mental Health Evidence Form be improved upon?**

As the Committee heard from the Money and Mental Health Policy Institute, this form is used to support those with debt and mental health issues to provide evidence and facilitate disclosure of their mental health issue to creditors.

It can trigger tailored support relating to the debtor's vulnerability and how it may affect their ability to pay. This can include:

- Pausing action to allow the debtor time to work with a money adviser or mental health support
- Appropriate adjustments to the debt collection process which are considerate of the debtors' needs and vulnerabilities
- In exceptional circumstances, the debt being written off

The form itself can be completed by GPs, nurses, psychologists, psychiatrists and social workers, but it is more commonly completed by GPs. However the form is considered a non-NHS service and GPs can charge a fee.

Research from the Money and Mental Health Policy Institute<sup>2</sup> found that a third of those who are already in financial difficulties were being charged for completion of this vital form with many being priced out as the fees were upwards of £150.

Fees to such support act as a barrier, not only when an individual cannot afford it but it can cause delays and further exacerbate their problem debt and in turn worsen their mental ill-health.

Without this form, debtors are faced with creditors pursuing enforcement which can add to their debts and causing their situation to spiral further into crisis.

In England and Wales, the fees for these forms were placed within the NHS fee structure and incorporated within the GP contract. This meant debtors in England and Wales can now request these forms in the knowledge that any fees will be covered by the NHS contract.

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<sup>2</sup> Polly MacKenzie and Katie Evans, "The Case for Stopping Charges for the Debt and Mental Health Evidence Form", (October 2016) Money and Mental Health Policy Institute Policy Note

This opens this valuable tool to everyone, not just to those who can afford it.

However, this is only one part of the puzzle. As we know mental health and money issues are often inter-related causing people to fall into a vicious cycle where money worries can manifest itself as stress, depression or anxiety or where existing mental illness or poor mental wellbeing causes someone's financial situation to worsen.

Therefore, it is important that someone with a mental health issue can disclose this to a creditor, both public and private, so such disclosure is met with dignity, trust and respect. The Debt and Mental Health Evidence Form is vital in facilitating such disclosures of a mental health issues. It provides creditors with a quick and easy to understand information on their customer's mental health issue and triggers methods which can support someone in debt to resolve their financial situation in a way which is more manageable based on their vulnerability.

However, it can also go a long way helping a person in debt improve their situation holistically, not solely their debt. Yet understanding and awareness of this form within the mental health profession is again sorely lacking. We need a concerted effort to raise awareness of this form across our NHS Health Boards, Integrated Health Boards and Health and Social Care Partnerships.

By spreading this awareness and increasing mental health professionals' understanding of the purpose of the form, including how to complete it, will encourage practitioners to discuss it with their services users. Additionally, if they are approached by a money adviser about the form, it will reduce the burden on our already stretched money advisers as they will not need spend time and resources explaining the form and seeking completion. Overall, this will reduce the stress for the debtor and allow them to access the benefits which this vital form can trigger.

**Therefore, we believe that the following measures for improving the Debt and Mental Health Evidence Form should be introduced:**

- **Scotland should follow England and Wales and incorporate the forms into the NHS GP contract to remove any fees**
- **Alternatively, if the fees cannot be incorporated into the NHS GP contract, a cap should be placed on the fees to limit how much they can be charged**
- **Increase awareness and improve understanding of the Debt and Mental Health Evidence form across NHS Health Boards, Integrated Health Boards and Health and Social Care Partnerships**