Fairness in Government Debt Management
Citizens Advice Scotland response: September 2020

Introduction

In 2018-19, the Citizens Advice network helped over 270,000 clients in Scotland with almost 750,000 advice issues. With support from the network, clients had financial gains of over £131 million and our self-help website Advice in Scotland received approximately 3.7 million views.

The Citizens Advice network dealt with 110,439 debt issues around half of which were government or local authority debts. Advisers gave advice regarding benefit related debt problems, our main UK wide government debt issue on 5,557 occasions.

Citizens Advice Scotland (CAS) welcome the opportunity to provide our expertise and experience in responding to this consultation.

CAS key recommendations to ensure fairness in debt recovery include:

- A review of the Department for Work and Pensions (DWP) debt recovery process and subsequent introduction of a revised system for managing debt that better reflects people's ability to pay without experiencing hardship based on a robust holistic affordability check procedure.
- Consideration of the write-off of historic Tax Credit debt and other historic benefit overpayment debt
- A DWP Debt Management escalation line open to money and debt advisers
- Government bodies should have debt adjudicators/reviewers who are not embedded in the department concerned. They should have similar criteria to the Financial Ombudsman Service i.e. rulings are based on fairness and in this case also practicality of collection.

Consultation Questions

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.

There should be no exceptions.

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

CAS raise concern regarding the collection of debt by the Department for Work and Pensions (DWP). The vast experience of the CAS network demonstrates significant issues with the DWP debt collection process through deductions of benefit. Specifically, the management of deductions for those claiming Universal Credit is a sizeable cause of hardship for Citizens Advice Bureaux (CAB) clients.

A major contributing factor behind this hardship is the significantly higher level of deduction that can be taken from Universal Credit payments, in comparison to legacy benefit payments. Currently, the maximum rate of deduction for Universal Credit is 30% of a person's standard allowance, this effective from October 2019 – prior to this the maximum rate was 40%.[1] In October 2021 the maximum rate will reduce further to 25%.

The gradual reduction in the maximum rate of deduction suggests there is recognition that the current deductions system is creating financial hardship. Our evidence and expertise on debt recovery suggests that a a whole scale review and new process is required. We are pleased to be able to contribute to this consultation process and provide an insight into the current issues and potential solutions to enable a fairer debt recovery process within the DWP.

Currently, maximum deductions from Universal Credit are capped at a percentage of a person's standard allowance. This blanket maximum rate does not consider the financial situation of the individual affected by the debt deduction. It is the experience of CAB advisers that the maximum deduction rate of 30% is considered the default rate and applied automatically where a person has multiple deductions.

Those on Universal Credit are already living on a low income, it is our experience that deductions from Universal Credit are largely unaffordable for CAB clients. If a standard debt instrument such as the Standard Financial Statement (SFS) was used to calculate what is reasonable for a person receiving Universal Credit to repay to their debts, it is likely that only the smallest number of Universal Credit recipients would be considered in a position to make any repayments and that none would have 30% available income to spare in repayments. However currently, there is no affordability check before deductions are applied to a person's Universal Credit.

The impact of this high rate of maximum deduction coupled with a lack of affordability assessment results in significant hardship for CAB clients:

> **Citizens Alert:** A West of Scotland CAB reports of a client who has four deductions coming off their Universal Credit for advance payments and overpayments. This is leaving them with £250 for the month which is not enough for the client to make essential living costs.

> **Citizens Alert:** An East of Scotland CAB reports of a client who has been left with £190 a month to live on due to debts being deducted from their Universal Credit payment. The client has

[1] UK Government, https://www.gov.uk/guidance/universal-credit-debt-and-deductions-that-can-be-taken-from-payments#how-much-can-be-taken-from-universal-credit-payments

then taken out further advances and a budgeting loan in order to be able to live, which in due course is deducted from their benefit and has created a circle of debt which the client cannot get out of. The client is not in a good place emotionally because of this and it is affecting their mental health.

Citizens Alert: A South of Scotland CAB reports of a client is not able to heat his home or feed themself due to Universal Credit debt deductions.

Citizens Alert: A West of Scotland CAB reports of a client who is on Universal Credit with significant debt repayment deductions. The client is struggling to feed themself.

Citizens Alert: A West of Scotland CAB reports of a client where the automatic recovery of debt by deductions from Universal Credit has left a client in hardship. The client had their who UC award (that includes rent) reduced by £40-50 per month, potentially jeopardising their ability to pay rent.

CAB advisers report difficulty in negotiating with the DWP when advocating for clients who are experiencing unaffordable deductions. This is particularly concerning as CAB advisers are have significant training, knowledge and experience working with debt – many are qualified money and debt advisors.

Whilst negotiating affordable repayments for third-party deductions is complicated by the need to negotiate directly with the third party (e.g. landlord, energy company) rather than directly with the DWP. Whilst at present these negotiations are outwith the administration of the DWP, it should be considered that it is not appropriate to allow a third party to request and have a deduction applied without any formal affordability check by the DWP who ultimately administer the deduction made to a person's benefit.

Where hardship is claimed then an affordability assessment can be completed by the DWP to consider income and expenditure. However, this puts the onus on the debtor not the debt collector. The difficulty CAB advisers have in agreeing reduced repayment rates with the DWP is concerning. More worrying is the difficulty individuals advocating on their own – without the training and experience of a CAB adviser – could have when negotiating a lower rate of deduction.

The following cases note the difficulties CAB advisers have reported when negotiating with the DWP:

Citizens Alert: An East of Scotland CAB reports of a client with large deductions in place from their Universal Credit payment. £95 per month was being deducted for DWP debts. This then led the client to accrue rent arrears and subsequently put her home at risk. The adviser called the DWP Debt Management line to reduce deductions to £15 for Social Fund and £15 for DWP overpayment for a period of six-months. This was however time consuming for the adviser who had to negotiate much more than expected. The DWP were originally only willing to reduce deduction to £30 for each despite a tenancy being at risk and the deductions being unaffordable.

One CAB reported supporting a person who was homeless and struggling to afford basics after having deductions made to his Universal Credit payment for an Advance Payment and Budgeting Advance. Without the support of the CAB this person who is homeless, would have struggled to contact the DWP Debt Management team on their own and would have continued to have their UC payment reduced by

£74.99 a month. An affordability assessment and a holistic view of this person's circumstances would have made it clear that the person was in no position to have such a large amount deducted from their monthly payment, especially when they had extremely limited means to contact the DWP.

Citizens Alert: A West of Scotland CAB reports of a client who needed help contacting the DWP Debt Management line regarding deductions being made from their Universal Credit payment for an advance payment, budgeting advance and change of circumstances. The client is unable to manage with the monthly deduction of £74.99. The client is currently homeless but is waiting for a local authority property to become available. The adviser called the Debt Management line and the client agreed with them a three-month deferral of all three of his deductions. This was a high rate of deduction for someone with limited means of accessing their journal and contacting DWP.

CAS are concerned by the impact the debt recovery process of the DWP is having on CAB clients and the hardship it is causing. As noted, CAB clients are often having multiple deductions applied at the maximum rate, reducing the total income a person has by up to 30%. The variances in the deduction process for Universal Credit – the high rate of 30% and concurrent repayments – in comparison to legacy benefits, exacerbates hardship. This, along with the lack of claimant consent for deductions and issues regarding communicating and negotiating lower repaymentsmeans thatthe deduction process for Universal Credit is concerning and requires a redesign.

CAS would welcome the opportunity to harness the experience and knowledge of the CAB network to work with the DWP to find a new holistic approach to debt recovery through direct deductions. Under Question 3 required considerations of any review are discussed in more depth.

CAS recommends:

- **The DWP introduce affordability tests that must be carried out before applying a deduction to a person's payment to ensure hardship is prevented**
- **A review of the DWP debt recovery process and subsequent introduction of a revised system for managing debt that better reflects people's ability to pay without experiencing hardship based on a robust holistic affordability check procedure.**

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.

It is the opinion of CAS that there must be robust holistic affordability assessments implemented by the DWP that are carried out before any deduction is applied.

Whilst CAS do not have a firm recommendation on what the best way of assessing affordability should be, we consider possible options below. It is important to remember that when talking about debt recovery from Universal Credit, that Universal Credit payment are the person's sole income (apart from income from work where present) and is often paid at a level that is not considered to be adequate to meet living costs.[2] Therefore, any move towards having a holistic affordability assessment prior to deductions being applied by the DWP, would be welcome step towards a fairer system.

There are various existing respected debt instruments that could be considered in determining an affordability assessment.

For example, both the Standard Financial Statement and Common Financial Tool (Scotland) are used to assess income and expenditure across the debt advice sector and to determine affordability in relation to debt repayments.

There are differences between the Standard Financial Statement and the Common Financial Tool. The Standard Financial Statement currently takes it figures from the bottom quintile of expenditure on the ONS data. The current Common Financial Tool called the Common Financial Statement is based on the 2nd quintile. Whilst the Standard Financial Statement makes more provision for telecommunications it makes less provision for food, when compared to the Common Financial Tool. Whilst not perfect, these debt instruments are potential examples of what a robust affordability assessment process by the DWP could include.

A formal mechanism for assessing affordability, such as the Standard Financial Statement or Common Financial Tool, would prevent much of the hardship seen under the current system. This by avoiding the current situation of deductions from already small incomes tipping people into the destitution noted in the earlier cases under Question 2.

It is our surmise that an affordability assessment based on either of the aforementioned two debt instruments would result in significantly less people than at present having deductions for debt taken off their Universal Credit payment, as the deductions would be unaffordable.

The second potential option is to adopt a thin payment policy, where like a student loan you have a set length period for repayment of a debt. An income threshold is set under which no payment is deducted and amounts over it are deducted at a percentage. Payment will either be sufficient to clear the debt over time or written off at the end of the payment period.

Such a system would have similarities to the current debt recovery through deduction process used by the DWP. Crucially, the thin payment system would have a minimum income threshold. This relatively simple measure would protect those on the very lowest incomes from destitution by deduction. A person meeting the threshold should have the ability to negotiate the percentage of deduction – with a fixed upper limit – within the range considered affordable by a robust and holistic affordability assessment.

Affordability will be determined by setting reasonable and fair parameters with regard to, the threshold, deduction rate and period. The main benefit would be a simple, affordable and easy to maintain system with fairness embedded.

Currently Financial Conduct Authority principles note that 'A firm must not pressurise a customer: 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'.[3] This principle should be embedded in the DWP debt recovery deduction process. At present, it could be posited that the current DWP system contradicts this principle; by being unreasonably large and having an adverse impact on financial circumstances, which does not require consent from the claimant. A commercial firm implementing the same debt recovery process would be in breach of this Financial Conduct Authority principle.

Any new process to assess the affordability of debt repayments, including DWP deductions from benefits, must be holistic and robust. The Standard Financial Statement, Common Financial Tool and a

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[2] JRF, [A Minimum Income Standard for the United Kingdom in 2019](), 2019
[3] Financial Conduct Authority Handbook, https://www.handbook.fca.org.uk/handbook/CONC/7/3.html

thin payment policy suggestion are all only potential options that warrant exploration. CAS would like to see a review into DWP debt management processes focused on deductions to create a holistic and robust system that works for people claiming benefits and does not cause hardship.

Currently advice agencies including: Citizens Advice England and Wales, Citizens Advice Scotland and Step Change, are finding some 40% of all clients do not have a disposable income from which to make any payments. Given the majority of people receiving payments from the DWP will likely be on a low income and vulnerable, the percentage with no disposable income is likely to be greater by a considerable margin.

There is also the issue of greater fluctuations in income, especially important during and after the Covid 19 pandemic. The current Common Financial Statement and Standard Financial Tool have no flexibility inbuilt into these situations.

Citizens Advice Scotland is only at the start of the conceptual thinking stage as to how to address the lack of flexibility in the current financial assessment tools. The thin payment option is the first iteration in this direction.

On the possible role of technology in assessing affordability CAS would caution against a one size fits all technological fix. When considering the experience of Universal Credit deductions, there is a wealth of evidence that highlights the digital issues some people on Universal Credit have.

For example, in some rural areas there is a lack of internet connectivity, other people do not have the digital skills or personal digital devices to access their online journal. CAB have reported numerous instances where clients have been receiving a deduction and this has been marked on their journal. However, the client has not had the access or skills to be able to view this communication meaning it is missed. Any steps towards technological solutions must always have accessibility at the forefront and there should always be non-digital alternative avenues available.

In the main, CAS advocates for a full review of DWP deduction processes, which will require the implementation of a holistic and robust affordability assessment process.

CAS recommends:

- **A review of the DWP debt recovery process and subsequent introduction of a revised system for managing debt that better reflects people's ability to pay without experiencing hardship based on a robust holistic affordability check procedure.**
- **The DWP should seek the consent of individual involved prior to the deduction being applied.**
- **The DWP provide claimants with the opportunity to negotiate the rate of deduction before it is applied.**

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.

The DWP should consider areas where overpayment of benefit debt should be written-off to prevent financial hardship and the associated emotional turmoil this creates. A significant cause of deductions from Universal Credit is often the issue of historic Tax Credit overpayment debt. Often this is from many years previous and the claimant will only realise they have the debt when a new claim for Universal

Credit is triggered. The House of Lords Economic Affairs Committee in their July report has called for these arrears to be written off.[4]

Citizens Alert: A West of Scotland CAB reports of a client who was notified they had an overpayment of Tax Credits for the year 2012/13 after they applied for Universal Credit in 2019. The client was not aware they had this overpayment and had not been contacted about this in the over six years since the debt was incurred. The client is now terminally ill and is having money deducted from their current Universal Credit to repay this debt.

We urge consideration of the possible write-off of historic Tax Credit overpayment debt.

The DWP should also consider if it is appropriate and reasonable to seek recovery of debt in situations where there are questions over the responsibility of the overpayment or where the recovery involves someone who is deceased.

Citizens Alert: An East of Scotland CAB reports of a client with debt deductions that were caused by an overpayment of Severe Disability Premium and Carer's Allowance, that the client and their family member received whilst the family member was severely ill. The client's family member is now deceased, and the client is receiving deductions from their current Universal Credit for this overpayment as the client was the executor of their family member's estate. This is creating emotional and financial stress for the client. Client had been carer for her late father before he died and became executor of his estate.

In relation to maintaining sustainable debt repayments ensuring that agreements reached between the government department responsible and the debtor are maintained is vital. It is therefore concerning that CAB clients have had their agreed repayment plan revoked and overridden without the consent of the client. As experienced in the case below, where a CAB client received a letter from the DWP only five days before the increase to their deduction rate came into effect. The increase to the deduction payment appears to have been made without any thought of the impact this will have on the client's ability to cover essentials.

Citizens Alert: A North of Scotland CAB reports of a client who received a letter from the DWP dated the 18/10 that the client received on the 26/10. The DWP had written to the client to inform them that they have increased the loan repayment from his Universal Credit, with his next payment due on the 31/10. The client was not given enough time to contact the DWP; the telephone number did not seem to connect and when it does connect it then gets disconnected with no warning. CAB have unsuccessfully assisted the client in calling the number and have experienced the same issues. The increase in payment is nearly double the amount the client has already agreed to payback per month (from £20 to £38). This will place the client in further hardship when their only income is from UC.

Citizens Alert: A West of Scotland CAB reports of a client who had a six-month repayment plan for an ESA overpayment. This was unexpectedly changed after four months and the amount increase to £29.45.

[4] P6. Universal Credit isn't working: proposals for reform July 2020, House of Lords Economic Affairs Committee "The recovery of this money is leaving many households with an income well below what is needed to get by on. We call upon the Government to write off historic tax credit debt that is owed by Universal Credit claimants"

There is also the question of dispute resolution and where this fits within the maintaining sustainable debt recovery practice. An independent dispute resolution process is the best option here. The guidance and principles used by the Financial Ombudsman Service in considering what is fair in the circumstances of each individual is an example of a fair resolution system. Any independent dispute resolution process should enable the write-off of debt where this is considered appropriate.

CAS recommends:

- **Consideration of the write-off of historic Tax Credit debt and other historic benefit overpayment debt**
- **The DWP are prevented from making changes to a person's agreed repayment deduction schedule without first getting the consent of the claimant**

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?

CAS has significant evidence on the impact of communication from the DWP can aggravate mental and physical impacts on people in debt.

CAB advisers report that often the waiting time for the DWP Debt Management line is significant – often advisers are unable to get through to the line during the appointment time with a CAB client. This can cause added distress for the client who is left waiting for a resolution as well as consuming a significant proportion of resource for CAB advisers.

A failure to communicate changes to debt recovery payments by the DWP, has also been experienced by CAB clients. The DWP unexpectedly increasing the rate of deduction without prior communication can aggravate mental and physical impacts, such as in the case below.

Citizens Alert: A West of Scotland CAB reports of a client who had a six-month repayment plan for £20 per month. After four months, this repayment was increased to £29.45. this increase caused financial hardship for the client and caused stress in trying to rectify the error with the DWP.

As noted under Question 2, there is reported difficulty in negotiating lower repayment terms with the DWP for some CAB clients and advisers. The case below demonstrates how taking an approach, which is not holistic and not guided by an affordability assessment can cause lasting implications for those relaying on central government in their time of need.

Citizens Alert: A North of Scotland CAB reports that a client had to take an Advance Payment when starting Universal Credit. Repayments are unaffordable and when the client contacted the DWP they have advised he sell his car, which will restrict his options for seeking work and has caused the client stress.

Clear communication of debt and repayment terms is vital. However, Citizens Advice network evidence shows that often clients are unaware of what deductions are being made from their payments. This is partly cause by the primarily digital nature of Universal Credit. For vulnerable people in debt, who do not have access to the digital world this is a significant source of mental stress and also has physical impacts through hardship. As in the case mentioned under Question 2, without the support of CAB this person who is homeless, would have struggled to contact the DWP Debt Management team on their own and would have continued to have their UC payment reduced by £74.99 a month.

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.

As noted under Question 5, currently, a lack of effective communication is a major issue for CAB clients seeking advice on deductions. The digital by default nature of Universal Credit makes managing deductions difficult for some CAB clients. Any steps towards technological solutions must be balanced against ensuring that communication is accessible to all.

People should always be asked and offered their preferred method of contact, with a recognition that this may change over time. Billing and correspondence must be clear as to what is owed with supplementary full breakdown. Correspondence should be free of jargon, recognising that the client may have difficulties in understanding. Correspondence should direct to internal sources of further information and specific sources of independent advice and help in their area. Any notice must allow sufficient time for engagement and further advice

Government departments must ensure frontline staff have the knowledge and appropriate authority to make relevant decisions and sufficient resources to deal with people timeously. Government departments should engage with advice and care agencies in developing collaborative relationships.

Access to the Debt Management team at the DWP is reported to be difficult often requiring a lengthy wait on hold and multiple phonecalls. Adequate resourcing of existing communication channels is essential.

CAS recommends:

- **A DWP Debt Management escalation line open to money and debt advisers**

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.

The following is an extract from the Citizens Advice Scotland report In Practice: Exploring Council Debt Collection:

The Southern local authority has made some significant changes to the way it works recognising "the stick" can only work so far; and sometimes, the cost of "the stick" can make matters worse. Changes made include:

- The introduction of 'breathing space' to give people time to address their debts
- Directing those in arrears to CAB
- Simplifying recovery letters and including signposts to CAB and StepChange
- Updates to the website
- Emphasising to staff that they should be more helpful
- Building relationships of trust with the CAB
- Reviewing contracts with Sheriff Officers (Bailiffs) and introducing new conditions

- Providing clear instructions to sheriff officers (Bailiffs) and putting in a minimum debt threshold so that any debt below £250 will not go to Sheriff Officers (Bailiffs)
- Creating sustainable recovery plans
- Suppressing accounts at the 'final notice' stage, if there are interruptions in income (e.g. with UC)

As a result of these changes, debt recovery levels have actually increased.

Interestingly this chimed with the view of the debt adviser at the Western CAB who felt that better practice would benefit the council to collect money more sustainably and overall the level of debt would come down.

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.

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

The consultation document itself highlights the link between debt and suicide. The citizens alerts in this response clearly demonstrate how vulnerable clients are affected by poor debt management.

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.

Most identification of vulnerability is normally after the fact and involves the matter being drawn to the attention of the government agency by advice, or care bodies. Therefore, it is important that departments engage with these bodies on a proactive basis, for example Edinburgh City Council, local advice agencies and CAS have a group to deal with how council tax is collected and to look at issues that arise including vulnerability.

There is self-evident vulnerability information available to some government agencies for example DWP would have detailed data regarding health vulnerabilities for PIP and even more so with financial information for UC claimants.

Generally given the amount of health, family disposition and financial information given to the main UK and local government departments administering benefits, they at least should be able to utilise data analysis to map out clients with potential and actual vulnerability issues. The issue thereafter is to use it in a sensitive way to engage with vulnerable people, their advisers, carers, or support workers.

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.

Banks in response to FCA requirements have set up policies and procedures for proactively identifying and engaging with vulnerable clients. Some have specialist units, and all are invested in training for customer facing staff to identify and deal with vulnerable clients.

Communication is a key issue and should be open across the board. Digital by default has advantages, but the downside is that vulnerable clients can have difficulty accessing a service, and the threshold for who is considered eligible for alternative access methods can be set too high. This has been the case with Universal Credit and we have seen vulnerable clients face significant barriers to establishing a phone claim. Mechanisms like the adviser line for supporting people to make claims are helpful, and we would also like to see the greater flexibility that has been shown by DWP on this issue during lockdown continued to ensure that vulnerable clients are engaged with using appropriate methods.

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

An effective disputes process resolves matters easily and quickly. At its root is fairness and impartiality, these guarantee buy in and more importantly acceptance of the decision. An independent appeal route should always be available. Trust is a key issue here and can only be gained if the dispute process itself is trustworthy.

CAS recommends: Government bodies should have debt adjudicators/reviewers who are not embedded in the department concerned. They should have similar criteria to the Financial Ombudsman Service i.e. rulings are based on fairness and in this case also practicality of collection. Any such system should replace mandatory reconsideration. It should be used as a way of looking at the sustainability of debt repayments and cover all aspects from practicability of collection to write off. An effective system is also swift with a decision in weeks. Unlike mandatory reconsideration which has no actual time limit, it must be swift if it is to be just and effective. Undue delay is a matter that reduces confidence in a review-based dispute process.

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.

An effective disputes process resolves matters easily and quickly. At its root is fairness and impartiality, these guarantee buy in and more importantly acceptance of the decision. An independent appeal route should always be available.

Trust is a key issue here and can only be gained if the dispute process itself is trustworthy and embedded in the department's culture. They should have similar criteria to the Financial Ombudsman Service i.e. rulings are based on fairness. Any such system should replace stages such as mandatory reconsideration. It could also be used as a way of looking at the sustainability of debt repayments and cover all aspects from practicability to write off.

While agreeing that the FOS system is a good method it does fall regarding quick decision process, something to be worked on.

Citizens Advice Edinburgh has a mediation project embedded at Edinburgh Sheriff Court which offers an alternative to formal court action and covers a wide range of disputes including liability issues. It is possible to adapt that model on a mainly document submission basis. Telephone, or Zoom/Skype can be used to clarify any matters with the parties prior to decision making which will be signed and agreed by both parties. The main criteria is to arrive at a fair settlement.

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

Regarding DWP processes mandatory reconsideration does not provide an effective system as described in our response to Q13. As such it is seen as an unnecessary barrier to the appeal process. The appeal process provides a fair system, but by nature is not swift. Reform of the mandatory reconsideration process as an initial dispute resolution regarding debt is necessary. In UC only 14% of reconsiderations are changed in favour of the claimant, whereas at appeal that number rises to 60%[5] It, also must be

[5] CPAG, 19 July 2019 https://cpag.org.uk/news-blogs/news-listings/universal-credit-claimants-blocked-challenging-dwp-decisions

borne in mind that only the rate of deduction can be considered in UC appeals, not the liability for it. That has the hallmarks of an unfair process lacking natural justice.

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

Advantages are transparency regarding performance and to wasted enforcement costs. If SFS or CFS is in place it will be possible to look in detail at financial vulnerability and issues regarding the realistic ability for people on fixed incomes to repay debt and inform effective collection and write off policies.

There is also the possibility of multiple debts in government being linked and dealt with as for example recommended in the Centre for Social Justice report; Collecting Dust[6] Recommendations to similar effect were made to Scottish Local Authorities in Citizens Advice Scotland's report In Practice[7]

There needs to be agreement on the data to be collected and its use. The interpretation and application of data recording standards would have to be independently scrutinised. Like the exercise which is undertaken by FCA in relation to firms. The limits of sharing data should be scrutinised on a regular basis.

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 application of SFS/CFS data would allow for standard evidence to be gathered on ability to pay and debt, giving proximal times to settlement. There should also be plenty of data on age of debt and recovery performance. These should give good insight into effective and realistic debt management.

The use of recovery rates as a sole performance measure is a driver for poor debt management activity, leading to the detrimental outcomes already outlined in the consultation document. It must be balanced with measures requiring agreement rather than enforcement of amounts to be recovered.

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

This is crucial as a matter of public transparency. It allows consistent decisions to be made and checked against stated policy. It is very important that the public and advice agencies can access the policies and procedures to ensure fair and consistent treatment. There publication also allows advisers to communicate on common ground with governmental organisations. About 50% of Scottish local authorities publish their policies on the web.[8]

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

This depends on definition it is almost impossible to define serious non-compliance in practice, particularly with vulnerable people. For example; would an alcoholic, or someone with memory impairment who consistently is unable to pay be classed as serious non-compliant. The definition does apply to the very tiny minority of people (non fraud cases) who are deliberately evading payment, rather than missing payment from financial necessity, or vulnerability. There is no proven method of distinguishing between these cases and the question must be asked as to whether it is worth the effort where incomes are low. People on low incomes are much more likely to be vulnerable or financially stretched for everyday living costs.

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[6] P.13 Collecting Dust: a path forward for Government debt collection April 2020

[7] P6 and P22 In Practice: Exploring Council Debt Collection June 2020

[8] P33 In Practice: Exploring Council Debt Collection June 2020

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?

Criminal sanctions are available as a deterrent for fraud, debts incurred in this way do not discharge in bankruptcy. The question of effective recovery is dependent on wider matters such as social cost, community justice, rehabilitation and are still subject to ability to pay. There is an issue of balance between the degree to which prioritising recovery encourages a pathway out of fraudulent behaviour or regularises it as a lifestyle.

Fraud implies gain and if that is held as an asset then priority would normally be to those cases where the highest values can be realised, by operation of law. Low asset values are unlikely to recover much if anything against the enforcement cost.

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

As mentioned at Q18. Non-compliant is a difficult concept to define and operate. A positive approach is best and is the mainstay of FCA regulated creditors. Ensuring clear and unrestricted communication methods. Positive and helpful engagement with debtors and their advisers, appropriate referrals to advice agencies, provision for vulnerable debtors are what works.

Discouraging fraudulent activity is accomplished by clarity of information in context and learning from others in parallel areas of engagement.

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?

Consider the vulnerability first and to what degree it contributes to the problem. There may be solutions available to investigate with a wider framework of agencies. In future there may be open banking solutions that can facilitate a preventive approach.

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.

We would refer to the FCA regulated credit industry as a base line standard that governmental organisations should be operating at.

For further information on the content of this response, please contact Debbie Horne, Policy Officer, at Debbie.Horne@cas.org.uk.