MONEY ADVICE TRUST

Levelling up

The case for reforming government debt collection

November 2020

About the Money Advice Trust

The Money Advice Trust is a national charity helping people across the UK to tackle their debts and manage their money with confidence.

We run National Debtline, offering free, independent and confidential advice on personal debt over the phone and online, and Business Debtline, the UK's only free dedicated debt advice service for the self-employed and small business owners. We are also the leading training body for UK debt advisers through our Wiseradviser service and provide training and consultancy to companies who engage with people in financial difficulty.

Beyond our frontline activity, we work closely with government, creditors and partners to improve the UK's money and debt environment.

About this report

Levelling up: The case for reforming government debt collection is an edited version of the Money Advice Trust's full response to the Cabinet Office's welcome call for evidence on fairness in government debt management, submitted in September 2020.

Our full response includes additional evidence on referral partnerships, disputes and reporting and can be accessed via http://www.moneyadvicetrust.org/researchpolicy

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Foreword

More and more people are struggling to repay debts owed to central and local government. Over the last decade, the proportion of callers to National Debtline with council tax arrears has doubled, while the proportion struggling to repay benefit or tax credit overpayments has increased more than seven fold. These trends are likely to be amplified by Covid-19 and are exacerbating long-running problems with government debt collection practices – which lag significantly behind the private sector.

In this report, we explore how we can close this gap, at a time when Westminster and Whitehall is increasingly listening to the case for reform.

This agenda has seen some progress in recent years. Government debts will be included in the forthcoming statutory Breathing Space scheme. We have seen some improvements from individual government departments, and also in some individual local authorities as a result of campaigning from the debt advice sector. The Cabinet Office-led Fairness Group has, over time, started to deliver tangible results.

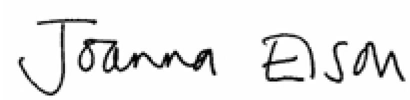
This progress is welcome and hard won – but too slow, and too slight.

Fortunately, there is now a window of opportunity to rectify this situation. The National Audit Office's *Tackling Problem Debt* report in 2018 has had a galvanizing effect in Whitehall, and increased and emboldened voices for reform within government. The Centre for Social Justice's recent work has had the same effect in Westminster, building on years of campaigning from the debt advice sector.

In this report – based on the Money Advice Trust's response to the Cabinet Office's recent call for evidence on fairness in government debt management – we make the case for the bold package of reform required to level up collection practices to catch up with those seen in the private sector, and in financial services in particular.

This includes a new Government Debt Management Bill to embed effective approaches on affordability, vulnerability and communications – as well as urgent reform of council tax collection and independent bailiff regulation, in particular. We look forward to working with government to explore these and other changes – which in the wake of Covid-19, have never been more urgent.

Levelling up government debt collection practices has been a long time coming – and the people we help cannot wait any longer.



Joanna Elson CBE

Chief Executive, Money Advice Trust

Executive summary

In recent years, we have seen debts owed to local and central government organisations become a much more common issue. In 2019, 29% of callers to National Debtline service had council tax arrears[1] up from 15% in 2009. Callers to National Debtline with benefit and tax credit overpayment debts – owed to the Department for Work and Pensions (DWP), local authorities or HM Revenue & Customs (HMRC) – have increased from just 3% of callers in 2010 to 22% in 2019. Other advice agencies report similar trends. Among the people we help through Business Debtline - the majority of whom are sole traders - around 30% owe a tax debt of some kind.[2]

The way in which government organisations collect debts and support those who owe money to them is therefore central to the resolution of many people's debt problems.

However, despite some limited progress in making improvements, government debt collection practices lag behind best practice in other sectors – including in fundamental areas such as affordability, vulnerability and communications.

Issues with current practices

We unfortunately still see significant issues whereby poor practice impacts on people in debt's physical and mental health, exacerbates their financial difficulties and makes it harder for them to resolve their debt problem.

Large majorities of National Debtline clients surveyed who held debts to central and local government organisations report collection activities had a negative impact on their wellbeing: 80% of those who had debts to DWP, 79% to local authorities and 78% to HMRC. 85% reported a negative impact from the actions of bailiffs/ enforcement agents, who are often collecting council tax debts.[3]

"They [government organisations] tend not to deal with the person. They only deal with the debt."

"There is not the same treating customers fairly approach [with government debt collection] as there is with loan and credit card companies."

Responses to sector-wide survey of debt advisers

1. National Debtline client records, Full year 2019
2. Business Debtline client records data, Q1 2020 – Tax debt includes income tax, business income tax, corporation tax and capital gains tax
3. National Debtline annual impact survey 2020. Percentages relate only to survey respondents who had at least one debt with that particular creditor. Base for each creditor was as follows: HMRC - 107; DWP – 112; Local council – 177; Bailiffs - 109.

Affordability

The evidence from people in debt and from advisers shows that principles of affordability, fairness, and support for vulnerable customers are not yet consistently embedded across government debt collection. There is still not widespread adoption of the Standard Financial Statement; people frequently report having their affordable repayment offers turned down and being pushed for higher amounts they cannot afford; and often little flexibility or account of circumstances is shown. Often, a holistic view of someone's financial situation is not undertaken, resulting in competition between government organisations to obtain payments, even where this will be unaffordable for the individual. These experiences can undermine an individual's efforts to resolve their wider financial difficulties.

Vulnerability

In terms of identifying and supporting customers in vulnerable circumstances, our research finds that government organisations continue to perform worse than private sector creditors. Among the advisers the Money Advice Trust surveyed in a sector-wide survey, just 9% said they thought DWP identified and supported vulnerable customers 'well' or 'very well'.[4] For HMRC, the figure was just 12%. Local councils performed better but still only a third (33%) of advisers surveyed said councils identified and supported vulnerable customers 'well' or 'very well'.

If vulnerability is not correctly identified, and appropriate support provided, vulnerable people can end up being subjected to inappropriate collection or enforcement processes. This can exacerbate existing vulnerabilities, such as physical or mental health conditions, and make it harder for people to engage with their creditors or resolve their debt problems.

Communications

Our evidence also suggests there is significant scope to improve communications between government organisations and people in debt, learning from the private sector – where taking a more supportive approach to communications has led to better collection outcomes. Currently, we see many examples of communications that are unclear, confusing or threatening and which leave people feeling anxious, hopeless and unable to see a solution to their situation.

Other areas

Beyond these central issues of affordability, vulnerability and communications, lie a range of other areas in which government debt collection practices could be improved – including referral mechanisms and debt advice sector partnerships, complaints and disputes and reporting and transparency.[5]

4. Money Advice Trust survey of debt advisers across the free advice sector, via our Wiseradviser training service, Base 406.

5. For issues and recommendations in areas beyond affordability, vulnerability and communications, see the Money Advice Trust's full response to the Cabinet Office call for evidence on fairness in government debt management

Summary of recommendations

Following the Cabinet Office's recent call for evidence on fairness in government debt management,[6] the government has an opportunity to level up its practices to those seen in other sectors.

We recommend a package of reforms[7] centred on a Government Debt Management Bill to embed effective approaches to affordability, vulnerability and communications – as proposed by a cross-party group of more than 50 Parliamentarians in June 2020.

The government should:

1. **Reform collection practices through a Government Debt Management Bill**, to embed effective approaches to affordability, vulnerability and communications across central and local government.
2. **Embed effective approaches to affordability**, with all government creditors adopting the Standard Financial Statement, taking steps to make it easier for people to make affordable arrangements to pay, introducing a single view of debt across departments and piloting a 'Help to Repay' payment matching scheme.
3. **Ensure fair treatment of vulnerable customers** by embedding the use of the forthcoming government Vulnerability Toolkit, improving disclosure environments, empowering staff to show flexibility and offer additional forbearance, support staff through training and establishing a cross-government Vulnerability Academy for senior policy makers.
4. **Improve communications with people in debt**, including making communications clearer and more easily understandable, developing accessible routes through which people can seek clarity on debts owed, offering a range of accessible communication channels and raising awareness of support available.
5. **Meet commitments already made on Breathing Space and Statutory Debt Repayment Plans (SDRPs)**, by including Universal Credit advances and third party deductions in Breathing Space as soon as possible after its May 2021 launch and implementing SDRPs as a priority.
6. **Reform council tax collection practices** by amending the outdated 1992 Council Tax (Administration and Enforcement) regulations, introducing a statutory 'pre-action protocol' for council tax arrears, replacing the costly and ineffective liability order process with a more effective, more flexible consumer safeguard and ensuring reporting mechanisms incentivise good practice.
7. **Introduce independent bailiff regulation** as part of a 'reduce and reform' approach to bailiff use, by establishing independent regulation of the bailiff industry and a single complaints mechanism to ensure people have a route to obtain redress.

For full recommendations see pages 65-68

6. Cabinet Office (2020), Call for evidence on fairness in government debt management

7. For full detailed recommendations see page 63.

1. Introduction

The decade following the financial crisis was marked by a significant shift in the household debt landscape, with more and more people falling into arrears with everyday household bills, and proportionally fewer falling behind with consumer credit borrowing.[8]

A particularly prominent feature of this shift, which has been reported by agencies across the debt advice sector, has been the growth in debt problems relating to government debts. In 2019, 29% of callers to National Debtline service had council tax arrears[9] up from 15% in 2009. Callers to National Debtline with benefit and tax credit overpayment debts – owed to the Department for Work and Pensions (DWP), local authorities or HM Revenue & Customs (HMRC) – have increased from just 3% of callers in 2010 to 22% in 2019. Other advice agencies report similar trends. Among the people we help through Business Debtline - the majority of whom are sole traders - around 30% now owe a tax debt of some kind.[10]

These trends follow and reflect significant increases in the level of outstanding debt owed to government. The National Audit Office's influential Tackling Problem Debt report in 2018 estimated that £13.7 billion pound was owed to government creditors.[11]

Fortunately, the government has shown an increasing focus – led by the Cabinet Office – on improving fairness in government debt collection. We have seen some welcome steps being taken as part of this agenda, including the establishment of the cross-government Fairness Group and the development of Fairness Principles.

The introduction of the Debt Market Integrator framework has provided departments with a single route to access FCA-compliant debt collection agencies. Similarly, the introduction of the new Breathing Space scheme and forthcoming Statutory Debt Repayment Plans – which include some debts to government – represent an important step in improving the treatment of people seeking to resolve their debts and increasing the options available to people with debts to government.

Despite this limited progress, however, there remain significant and widespread issues with government debt collection practices – which lag significantly behind practices found in the private sector, and in financial services in particular.

This report presents evidence from our debt advice services and the wider advice sector on issues in three central areas – affordability, vulnerability and communications[12] – and presents a package of recommendations to level up government debt collection practices.

8. For more on the post-financial crisis shift in the UK household debt landscape, see Money Advice Trust, 2018, A Decade in Debt

9. National Debtline client records, full year 2019

10. Business Debtline client records data, Q1 2020 – Tax debt includes income tax, business income tax, corporation tax and capital gains tax

11. National Audit Office, 2018, Tackling Problem Debt

12. For issues and recommendations in areas beyond affordability, vulnerability and communications, see the Money Advice Trust's full response to the Cabinet Office call for evidence on fairness in government debt management

2. Methodology

Throughout this report, we draw on a wide range of insight and evidence. This is referenced throughout, however for ease we have also summarised the key pieces of Money Advice Trust evidence in this section.

2.1. New advice sector survey on government debt collection

In August 2020, we conducted an online survey of advisers across the advice sector, including through our Wiseradviser training service, to inform our response to Cabinet Office call for evidence on fairness in government debt management. We surveyed our own advisers at National Debtline and Business Debtline, the two advice services run by the Money Advice Trust, as well as advisers and supervisors from other free-to-client debt advice providers, who are registered with the Trust's Wiseradviser service – which provides free training to debt advisers across the UK. We received a total of 413 responses – of which 348 responses were from advisers from external organisations (reached through the Wiseradviser survey) and 65 were advisers from National Debtline and Business Debtline. As the surveys were identical, we have combined the results for the purposes of reporting. Fieldwork was conducted online between 10 August – 2 September 2020. Individual bases for each question are given within the document. Unless otherwise stated, the quotes from debt advisers included in this report are taken from qualitative responses to the survey.

2.2. National Debtline and Business Debtline client records data

Our client records contain demographic and debt information for most of the people we help through National Debtline and Business Debtline. Where client record figures are used in this report, they are drawn from the full sample of people who used our services during the specified time period. This enables us to monitor the proportion of clients owing debts to different creditors – including government organisations – and to track this over time.

This report also draws on a more detailed analysis of a sample of 356 people helped by National Debtline and 504 people helped by Business Debtline between March – April 2020, for whom we had full income and expenditure data. This enabled us to complete a detailed comparison of the situation of those who had at least one debt to a government organisation against those who had no debts to government organisations. The results of this analysis are referenced throughout and included in full in box 1 and 2.

2.3. National Debtline and Business Debtline client surveys

This report also draws on findings from a range of surveys of National Debtline and Business Debtline clients.

Each year we survey National Debtline and Business Debtline clients via an online questionnaire to help evaluate our services and to understand more about the longer-term impact of their debt situation on their lives. This includes asking about the impact of different creditors' actions on their wellbeing and the extent to which different creditors offered assistance to help them resolve their debt situation. Our most recent annual impact survey, the results of which are drawn on in this report, was conducted online between 11 December 2019 – 11 February 2020. The National Debtline survey received a total of 674 respondents and the Business Debtline survey received a total of 281 respondents.

Reference is also made within the report to results on businesses' take up of digital technology. This is taken from our Business Debtline online survey which is sent to clients 6 weeks post-contact, primarily to seek views on their experience of the service and outcomes from the advice they were given. Figures are taken from Q1 and Q2 2019 aggregated results, with fieldwork conducted between 11 February – 12 August 2019. Total sample size was 207.

We also conduct ad hoc surveys on particular topics. In 2019, we conducted an online survey of Business Debtline clients to understand more about their experience of HMRC debt collection. The survey was sent to people who had contacted Business Debtline by phone in 2018 and who had at least one debt owed to HMRC (classified as one of the following: Capital gains tax; Corporation tax; Income tax; PAYE; VAT; National Insurance). Fieldwork was conducted between 21 August – 5 September 2019. Total number of respondents was 256.

2.4. Freedom of Information requests to local authorities in England and Wales

As part of our *Stop The Knock* research series, we have issued Freedom of Information requests on debt collection practices to all local authorities in England and Wales bi-annually since 2015. The most recent Freedom of Information exercise was conducted in April 2019, and related to local authority collection practices in the 2018/19 financial year. 367 authorities (98%) responded to the request (up from 94% in 2017), with seven authorities not responding within the research period, which in all cases was longer than the statutory timeframe of 20 working days. 17 authorities responded only partially, in that they did not provide bailiff use figures for all of the debt types requested. One authority declined to respond. For more information and an interactive map of these results over time, please see www.stoptheknock.org

3. Affordability

Appropriately assessing affordability is key to securing good outcomes for both creditors and people in debt. While in recent years we have seen some limited progress on this within government debt management – such as the introduction of the HMRC Time to Pay service – overall, affordability is an area in which government organisations lag significantly behind best practice.

In the private sector, particularly within financial services, the clear focus on affordability sees widespread use of the Standard Financial Statement (an agreed, objective tool for assessing affordability, run by the Money and Pensions Service). Flexibility in accepting affordable offers of repayment and agreeing repayment plans is common, and there are clear review points and opportunities for customers to raise if payments have become unaffordable.

Unfortunately, in our experience of working with people in debt, we often do not see the same good practice from government organisations.

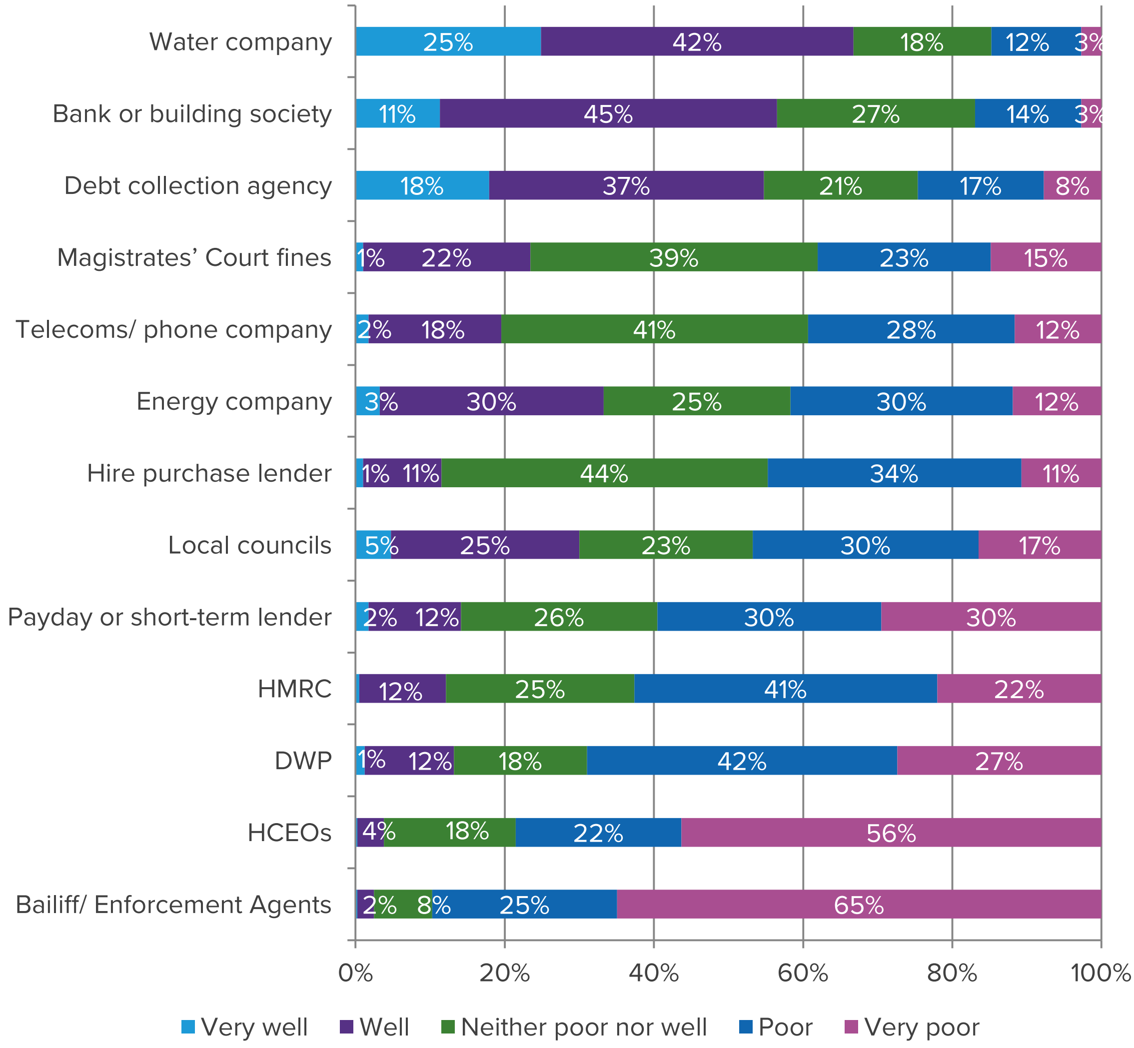
3.1. Issues with current approaches to affordability

There is still not widespread adoption, across government, of the Standard Financial Statement; people contacting debt advice agencies frequently report having their affordable repayment offers turned down and being pushed for higher amounts they cannot afford; and often little flexibility or account of circumstances is shown. In addition, a holistic view of someone's financial situation is usually not undertaken, resulting in competition between government organisations to obtain payments, even where this will be unaffordable for the individual. These experiences can undermine an individual's efforts to resolve their wider financial difficulties.

As part of the Money Advice Trust survey of debt advisers across the free advice sector,[13] we asked respondents to assess a list of creditors by how well they assessed affordability and were willing to accept affordable repayment plans, revealing the extent of perceived poor practice compared to the private sector. 69% of respondents rate the Department for Work and Pensions (DWP) as poor or very poor at assessing affordability – four times the number who said so for banks and building societies. Similarly, 63% of respondents say HMRC is poor or very poor at assessing affordability.

13. Adviser Money Advice Trust survey of debt advisers across the free advice sector, via our Wiseradviser training service, on government debt collection: Base 412.

Debt adviser perception of how well creditors assess affordability and willingess to accept affordable repayment plans



[14]

These figures are higher than every type of private sector creditor, including payday and short-term lenders, who 60% of respondents rate as poor or very poor. 47% of respondents rate local councils as poor or very poor, although a large proportion also said councils were neither poor nor good at assessing affordability – perhaps reflecting the range of practices that can be seen across the country.

Current issues with government organisations' approach to affordability can be categorised into five key areas:

- Lack of affordability assessments
- Unreasonable requests for repayment and refusal of affordable payment offers
- Pace of escalation of collection activity
- Lack of flexibility to take account of individual circumstances
- The challenge of getting unaffordable repayments reduced

14. Adviser Money Advice Trust survey of debt advisers across the free advice sector, via our Wiseradviser training service, on government debt collection: Base 412.

“The biggest challenge that people have when trying to deal with debts owed to central and local government is “the ability to negotiate a fair repayment proposal in line with the Standard Financial Statement used by other creditors. They [government organisations] completely ignore this and impose their own recovery which is standardised and rarely based on affordability and vulnerability.”

Response to sector-wide survey of debt advisers

Lack of affordability assessments

The current nature of government debt management means that often a robust affordability assessment is not conducted as part of collection processes. Where they are conducted, they are usually performed based on each individual government organisation’s own, non-standardised, Income and Expenditure (I&E) form. These often aren’t made public and there is little transparency over the spending they capture and how they assess disposable income – meaning it is impossible to assess whether these are objective and reasonable.

This challenge is not unique to government organisations and is one that other creditors in other sectors have historically faced: the need for a shared I&E that captures an accurate, fair and reasonable assessment of an individual’s financial situation and ensures that all creditors receive a fair element of any disposable income available to repay debts. The Standard Financial Statement (SFS) – and its predecessor, the Common Financial Statement – were created to address this exact issue.

The SFS is an industry-standard, objective tool developed by the Money & Pensions Service for assessing affordability as part of debt advice and debt collection and is widely used by debt advice agencies and FCA-regulated creditors. The Insolvency Service uses the SFS for statutory debt solutions – such as IVAs, DROs and bankruptcy. The Scottish government use the Common Financial Statement (the predecessor to the SFS) within Scottish debt solutions. Indeed, the Common Financial Statement is enshrined in legislation as the ‘Common Financial Tool’ which must be used to assess affordability, creating an important level of consistency.

However, we understand that the majority of government departments do not currently use the SFS to calculate affordability in debt collection. Furthermore, a Freedom of Information request by the Money Advice Trust of 340 lower tier authorities in England and Wales in 2019 found that just 23% (77 councils) reported that they used the SFS as part of their debt collection processes, with a further 14 saying they were considering adopting it.[15]

15. Money Advice Trust (2019) Stop the Knock: An update on local authority debt collection practices in England and Wales, https://www.stoptheknock.org/

This is disappointing and should be urgently addressed. As we explore further in our answer to question three, use of the SFS helps ensure that any repayments agreed will be affordable and sustainable and – crucially – that the individual has enough money set aside in their budget to pay their on-going bills and liabilities. The SFS also contains a savings element, which allows people to save up to 10% of their surplus, to a maximum of £20 a month. The inclusion of the savings element is in recognition of the benefits of building financial resilience to help people withstand future income or expenditure shocks, and supports wider government policy to increase financial resilience and support people to develop a savings habit.

It is therefore concerning that the SFS is not currently required to be used across central and local government organisations.

The lack of appropriate affordability assessments means we frequently see repayment rates set at unaffordable levels. Currently, affordability assessments are not conducted before deductions from benefits or direct earnings attachments are put in place, meaning people can be left without enough money to meet their essential costs.[16]

With direct earnings attachments (or attachment of earnings for council tax arrears), it can often be assumed these are affordable because they are taken at a set percentage based on an individual's earnings. However, affordability is based not just on income, but on expenditure too. Without an assessment which considers the individual's essential expenditure, there is no way of knowing whether the percentage being taken will leave the individual with enough money to cover these.

"The biggest challenge is agreeing affordable repayments. Often deductions are taken without any assessment of the debtor's ability to pay. Where there is an affordability assessment, it may not take into account items which are essential for the client's family or may use inconsistent rules compared to other government departments, or may be restricted by a maximum repayment time."

"The inflexibility of deduction rates from Universal Credit (and the fact that where the rates are variable, they are typically set at the maximum) regularly leaves people unable to afford their basic needs, going without food, or even being unable to pay for rent."

"The rate of deductions tend to be unaffordable and set at rates which impact on their ability to budget their priority expenditure."

"Automatic deductions from benefits or wages without affordability assessments can be incredibly harmful, leading debtors to borrow from elsewhere, thus causing recurrent and persistent debt, decreased motivation and poor mental health."

Responses to sector-wide survey of debt advisers

16. According to research by StepChange Debt Charity, 40% of people surveyed who had money deducted from benefits to repay debt said it led to them falling behind on essential household bills; and 20% had to use credit to pay essential household bills – a risk factor for problem debt. See StepChange Debt Charity (2018) Briefing on Third Party Deductions

This can be a particular problem for people with high housing costs and those with health conditions or disabilities, who often experience additional costs associated with these. We explore this further in our answer to question 5.

The lack of affordability assessments also means there is no opportunity to see a holistic view of financial circumstances, including other debts owed. Amongst National Debtline and Business Debtline clients, those with government debts had a higher number of priority debts than those without government debts.[17] In a survey of Business Debtline clients with HMRC debt, 35% had multiple debt issues just with HMRC.[18]

The failure to properly understand and account for multiple debt issues results in situations where government organisations compete to obtain payments, even where this will be unaffordable for the individual. This is highly inefficient for the government organisation – meaning they are duplicating their resources on collection activity and competing with each other for a limited pot of money that an individual has to put towards repayments. We note, for example, that HMRC states that they expect 50% of an individual's disposable income to be put towards their Time to Pay arrangement.[19] However, only if they know the customer's wider debt situation, will they know if this is affordable or reasonable.

"Where multiple debts exist different government bodies do not take account of debts owed to others when setting repayment terms."

"[Among government organisations there is] no joined up approach, departments compete for limited income."

"Local government collection practices can have a detriment on people's health and wellbeing. Different departments can be vying or competing with each other to collect money (i.e. if rent and council tax is owed to the local council). Rather than have a joined up approach, both departments will compete to try and get all the individuals available income (and more in some cases) rather than taking an equal amount."

Responses to sector-wide survey of debt advisers

17. Analysis of 365 National Debtline and 504 Business Debtline clients who contacted the service in 2019. See Box 1 and Box 2 for further information

18. Online survey of 256 Business Debtline clients who contacted Business Debtline in 2018 and had at least one debt to HMRC. Fieldwork conducted between 21 Aug – 5 Sept 2019.

19. HMRC Policy Paper: How HMRC supports customers who have a tax debt, August 2020

Unreasonable requests for repayment and refusal of affordable payment offers

"[The biggest challenge is] trying to agree a repayment schedule at a rate that is affordable and within a time frame that is acceptable to central and local governments. Council Tax is an example: often [local authorities] only want to accept an arrangement that would ensure the client is back up to date before the next tax year. Whilst this is ideal, it's not always realistic especially where a client has multiple priorities to deal with."

"From time to time a client will mention how a bailiff was understanding or HMRC agreed to a repayment over a longer period of time but these positives are very few. I would go as far to say as 5 people out of 100 have a positive experience, it could be lower though depending on the debt."

Responses to sector-wide survey of debt advisers

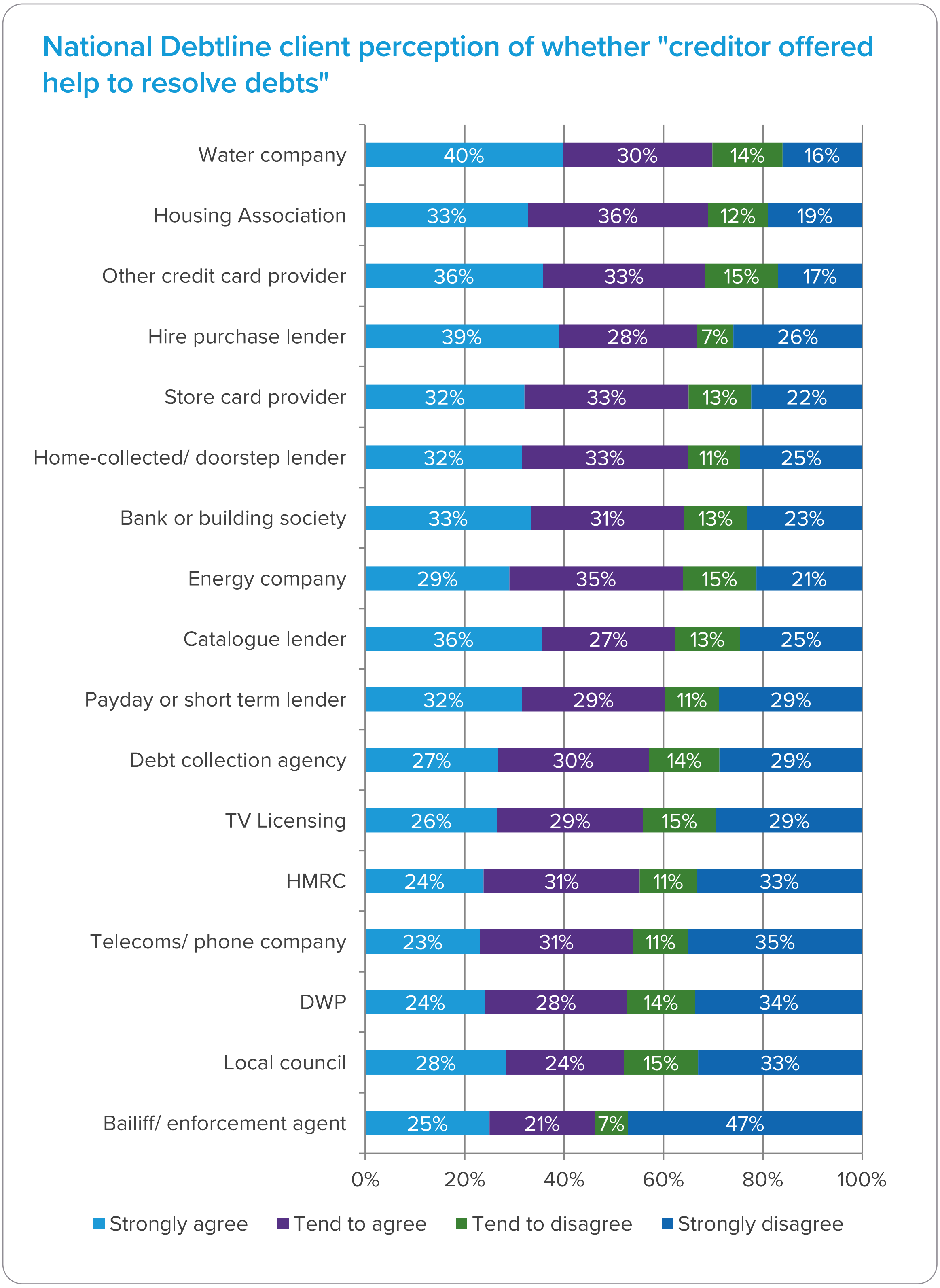
The lack of affordability assessments often leads to unaffordable demands for payment being made. The lack of recognition of the SFS from some government organisations and the inflexibility in approach also means that affordable offers of repayments – made either directly by individuals or by debt advisers on their behalf – can often be rejected. This can be a particularly challenging situation for individuals who have offered the maximum they can afford.

Just one creditor refusing an affordable payment proposal can disrupt an individual's efforts to resolve their wider debt situation and can be incredibly disheartening, often leading people to lose hope in dealing with their debt and creating the risk that people disengage. This is reflected in the low scores government organisations receive from people in debt and advisers when asked to rate how well they perceive different creditors provide assistance to resolve people's debt situations.

"I find that the biggest challenge that people have when trying to deal with debts owed to central and local government is when they are not being heard and are forced to repay back a debt with a payment plan which is not affordable for them."

"People feel intimidated and pressured into agreeing to payment plans which are not affordable, and very often circumstances and vulnerabilities are not taken into account."

Responses to sector-wide survey of debt advisers



20. National Debtline annual impact survey – respondents were asked "Please take a look at the list of creditors and other organisations below. For the ones that apply to you, please tell us to what extent you agree they offered to help you resolve your debts". Total respondents for the question was 544, percentages are shown only as a proportion of those who had debts to that creditor, so individual bases vary. Any creditors where the base was lower than 50 have been removed from the graph.

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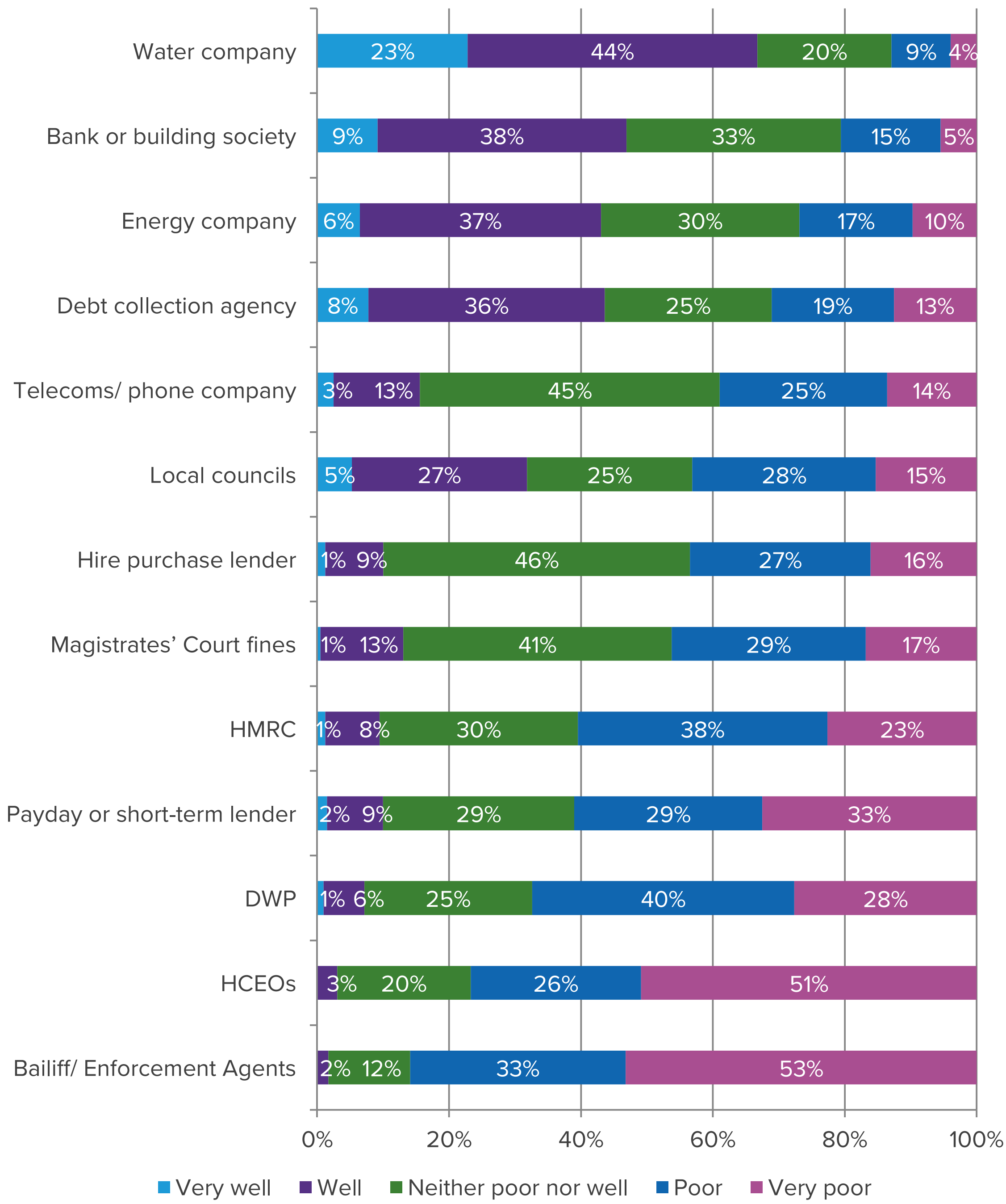
Debt adviser perception of "how well creditors provide assistance to help people to resolve their debt situation"



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21. Money Advice Trust survey of debt advisers across the free advice sector, via our Wiseradviser training service. Base 407.

Unaffordable repayment plans or collection methods have a high risk of failing. They also heighten the likelihood the individual will fall into arrears on other bills or be forced to take on credit – simply shifting the debt from government to essential service providers or financial services.

In some instances, there is no process at all by which people can offer affordable repayments to stop collection activity escalating. For example, in the magistrates' court, once a warrant of control has been issued to recover a court fine, the court has little power to postpone or delay bailiff action or to make an order to allow the charge to be paid in affordable instalments. There is no simple and easily accessible mechanism to allow people to make an application to pay in instalments based on what they can afford to pay. This in in contrast to what happens in the County Court, where the N245 procedure (which is largely paper-based) allows people to apply to the court to suspend a warrant of control and to offer affordable repayments to their creditors. In the first quarter of 2020, 7% of callers to National Debtline had a magistrates' court fine debt[22] and between February 2019 and February 2020, over 43,000 people viewed the National Debtline factsheet on magistrates' court fines, reflecting the significant number of people dealing with these type of debts.[23]

Being unwilling to accept affordable offers of repayment also stands in sharp contrast to practice within financial services, where the FCA stipulates that a firm must accept reasonable repayment offers from people in debt and debt advisers acting on their behalf.[24]

Failure to do so is considered a breach of the FCA's rules on Treating Customers Fairly:

> *"An example of where a firm* is likely to contravene *Principle* 6 *[Treating Customers Fairly] and CONC 7.3.4 R* is where the *firm* does not allow for alternative, affordable payment amounts to repay the debt due in full, where the *customer* is in default or arrears difficulties and the *customer* makes a reasonable proposal for repaying the debt or a *debt counsellor* or another *person* acting on the *customer's* behalf makes such a proposal." - FCA Handbook, CONC 7.3.8

It is recognised that some debts to government are particular obligations that the individual has to repay, and they must be encouraged to do so in the interests of fairness to other taxpayers. However, an important aspect of fair and effective debt management is recognising that if an individual simply does not have enough money to repay at that point in time, then they will not be able to – no matter how much pressure is placed on them.

It is important to distinguish between those who are non-compliant and are wilfully avoiding repaying, and those who simply cannot afford to repay at that point in time. Affordability assessments are key to identifying these two groups, and tailoring collection and forbearance strategies accordingly. This is something that is well recognised within the private sector, who understand that pursuing a higher rate than is affordable is unsustainable and only leads to increased costs of collection.

22. National Debtline client records, Q1 2020

23. Google analytics data: Between 28 February 2019 – 29 February 2020, the Magistrates' court fines Factsheet received 43,041 unique page views.

24. FCA Handbook, CONC 7.3.8

Pace of escalation

Another aspect of concern around affordability in government debt collection relates to the pace of escalation in collection activity if someone is unable to pay. The increasing demands can place significant pressure on people, particularly those in vulnerable circumstances, and mean people may agree to unaffordable options through fear of further consequences. As we explore in our answer to question five, it also has a significant negative impact on people's mental and physical health and undermines any principle of fairness in debt collection.

The rapid pace of escalation also means there can be limited opportunity for people to engage with their creditor and seek flexibility based on their circumstances or to seek debt advice. This can be particularly problematic for people in vulnerable circumstances who may find communicating and engaging with government organisations more challenging.

This means they can find their debt quickly escalating and being subject to harsher collection and enforcement action. It can also lead to a perverse situation whereby those who are unable to pay initially due to affordability issues see their debts grow further, making it even harder for them to resolve the situation.

This issue is particularly seen with council tax collection, where there are widespread concerns about affordability and the pace of escalation in collection and enforcement activity. In the first quarter of 2020, council tax arrears accounted for almost 3 in 10 (28%) callers to National Debtline,[25] up from 15% in 2009. More than 1 in 5 (22%) callers to Business Debtline have council tax arrears.[26] It is the most common priority debt we deal with, and the second most common debt overall on National Debtline, behind credit cards. Between February 2019 and February 2020, almost 54,000 people viewed the National Debtline factsheet on council tax recovery – the second most viewed factsheet behind only the factsheet on time limits for recovering debts.[27]

> *"Council debts cause more distress for clients than any other debt."*
>
> Response to sector-wide survey of debt advisers

25. National Debtline client records data, Q1 2020.

26. Business Debtline client records data, Q1 2020

27. Google analytics data: Between 28 February 2019 – 29 February 2020, the Council Tax Recovery Factsheet received 53,763 unique page views.

The current council tax regulations[28] mean that missing one payment of council tax can see relatively small arrears rapidly increase due to the liability placed on the individual to pay the whole year's council tax and the additional court fees added at this stage.[29] In 2020, National Debtline clients with council tax arrears owed an average of £1,340.[30]

Given the circumstances of many financially vulnerable individuals it is highly unlikely that they will be able to afford to make this payment in one go. However, the nature of the regulations governing council tax collection mean the process is set and very little flexibility can be shown.

The pace of this escalation leaves people with little time to engage with their local authority or to seek debt advice, yet this can be key to achieving positive and fair outcomes in debt collection.

As mentioned above, there can also be challenges in arranging affordable repayments – particularly where it would mean arrears are not repaid in the financial year in which they arose.

This can leave people in a distressing situation whereby they need to repay a whole year's council tax or face further escalation– usually to bailiffs. This means that many of the debts passed to bailiffs – rather than being non-compliant payers - are vulnerable people who could not afford their bill.[31]

Use of bailiffs to collect debt can be a particularly distressing experience. Local authorities in England and Wales are the largest user of bailiffs (officially known as enforcement agents). The Money Advice Trust's Stop the Knock research shows that in 2018/19, they passed more than 2.6 million debts to bailiffs, a 7% like-for-like increase over a two year period.[32]

Debt type	**Total bailiff referrals (2018/19)**	**% of total**
Council Tax	1,417,736	54%
Parking	1,079,119	41%
Housing Benefit overpayments	39,470	1%
Business rates	79,899	3%
Commercial rents	3,665	0%
Other/ sundry debts	26,521	1%
All debt types	**2,646,410**	

28. The Council Tax (Administration and Enforcement) Regulations 1992

29. Research by Citizens Advice found the average fee for a liability order was £84. See: Citizens Advice (2019) The Costs of Collection: The high price of council tax debt collection

30. Based on 356 National Debtline clients who contacted the service in March-April 2020 and for whom we had full income and expenditure data.

31. Taking Control response to Ministry of Justice Call for evidence: Review of the enforcement agent reforms, February 2019.

32. Money Advice Trust Freedom of Information request of 367 local authorities in England and Wales, April 2019. Comparisons are based on the 291 lower-tier authorities who fully responded to our (identical) requests for information on bailiff use in both 2016/17 and 2018/19. For more information see Money Advice Trust (2019) Stop the Knock: An update on local authority debt collection practices in England and Wales, https://www.stoptheknock.org/

"Local authorities are too quick to get bailiffs involved and should look at alternative methods of recovery first."

"Quickness to send bailiffs is extremely stressful for clients."

Responses to sector-wide survey of debt advisers

Bailiffs are frequently used to collect council tax debts – with 1.4 million council tax debts being passed to bailiffs in 2018/19.[33] We are concerned that many local authorities are too quick to send debts to bailiffs and do not always give enough consideration to other collection methods and routes of engagement for customers. As the House of Commons Treasury Committee found in 2018, debts to local authorities are *'often pursued overzealously, and with routine recourse to bailiffs'*[34].

The high use of bailiffs by local authorities is a particularly problematic element of current council tax collection practices. As we explore further below, the fee structures and incentives for bailiffs encourage them to push for full payment and to move quickly to the visits stage, rather than working with the individual to resolve their debts.

Systemic problems in the bailiff industry and a lack of independent regulation means bailiffs and bailiff firms are regularly breaking the rules and the revised National Standards introduced in 2014.

Independent polling commissioned to inform the Taking Control campaign's response to the Ministry of Justice's Call for Evidence on the bailiff industry,[35] found that more than 1 in 3 people contacted by bailiffs in the last two years report an incident which would constitute rule breaking:

- 18% witnessed bailiffs treating someone with an illness or disability unsympathetically;
- 18% experienced bailiffs threatening to break into their home where they did not have the power to do so,
- 11% saw bailiffs take control of goods required for their livelihood; and
- 6% saw a bailiff actually break in where they did not have the power to do so

33. Ibid

34. House of Commons Treasury Committee (2018) Household finances: income, saving and debt

35. Polling conducted by YouGov, commissioned by StepChange Debt Charity and Citizens Advice to inform the Taking Control campaign response to Ministry of Justice Call for evidence: Review of the enforcement agent reforms, February 2019. Polling conducted in September 2018. Base: 277. Filtered to remove instances where bailiffs were collecting debts which did give them the power to use reasonable force, such as Magistrates' Court Fines.

As well as causing significant financial and emotional distress, evidence shows that use of bailiffs to collect debts is not effective for councils.[36] This may be a further indicator that much of the debt passed to bailiffs is held by those unable to pay, rather than those wilfully evading payment.

The fast pace of escalation in government debt collection – particularly for council tax arrears – is in sharp contrast to current practice in the private sector. FCA regulated creditors are required to take a proportionate response to defaults, including pausing collection activity to give the customer time to seek independent advice ('breathing space').[37] They are explicitly forbidden from threatening to commence court action 'in order to pressurise a customer in default or arrears to pay more than they can reasonably afford'.[38] They are also bound by a pre-action protocol which prescribes the steps that creditors must take to help come to an affordable repayment arrangement before they can take an individual to court. There is currently no equivalent for debt owed to central and local government organisations.

The Ministry of Housing, Communities and Local Government has produced good practice guidance on council tax collection, which briefly references affordability stating: *'Local Authorities should be willing to negotiate payments at any point in the process and should work with bill payers to agree affordable and sustainable payment plans which ensure that the debt is paid off within a reasonable period'.*[39] However, as this is only guidance rather than statutory rules, it is often overridden by the impact of the current regulations and by funding considerations, which push councils towards using harsher enforcement methods, such as bailiffs.

When the *Council Tax (Administration and Enforcement) Regulations 1992* were first introduced, they were likely intended to encourage people to pay early. However, they fail to account for those on low incomes who simply cannot afford to pay quickly or in full. These outdated regulations have failed to keep up with a changing context, where the situation for people in debt now looks very different to even ten years ago, let alone 20 or 30 years ago.

For example, an increasing number of people in debt have deficit budgets, meaning they do not have enough money coming in to cover essential costs: In 2018, 48% of people contacting National Debtline had a deficit budget, a significant rise compared to 27% in 2009.[40] Household bills account for a greater proportion of people's overall expenditure, meaning people are increasingly struggling with these priority debts, which can often be harder to deal with.[41] In addition, changes made in 2013 to replace the national Council Tax Benefit with localised Council Tax Support schemes (accompanied by a 10% reduction in funding) has led to many councils in England setting a minimum payment. This means that those on the lowest incomes – who were previously eligible for 100% support – have had to pay council tax for the first time, despite already stretched finances.[42]

36. A Freedom of Information request by Citizens Advice found that, over the last 5 years, on average bailiffs have collected just 30% of the debt they were sent. See: Citizens Advice (2019) Council tax debt collection isn't efficient or effective

37. FCA Handbook, CONC 7.3 Treatment of customers in default or arrears (including repossessions): lenders, owners and debt collectors

38. FCA Handbook, CONC 7.3.18

39. Ministry of Housing, Communities and Local Government (2013) Guidance to local councils on good practice in the collection of Council Tax arrears, paragraph 2.6.

40. Money Advice Trust (2018) A decade in debt: How the UK's debt landscape has changed from 2008 to 2018, as seen at National Debtline

41. Ibid

42. An analysis by the New Policy Institute has found that 2 million low income families were charged an average £191 more in council tax in 2017/18 than they would have if the previous national Council Tax Benefit scheme was still in place. See: New Policy Institute (2017) Key changes to Council Tax Support in 2017/18.

The current regulations have failed to keep pace with these changes. This means that, instead of encouraging effective collection, they push councils to use inefficient collection methods that can send vulnerable households further into difficulty. As we set out in more detail in a later section, urgent changes to these regulations are needed to embed fairness and affordability principles into council tax collection.

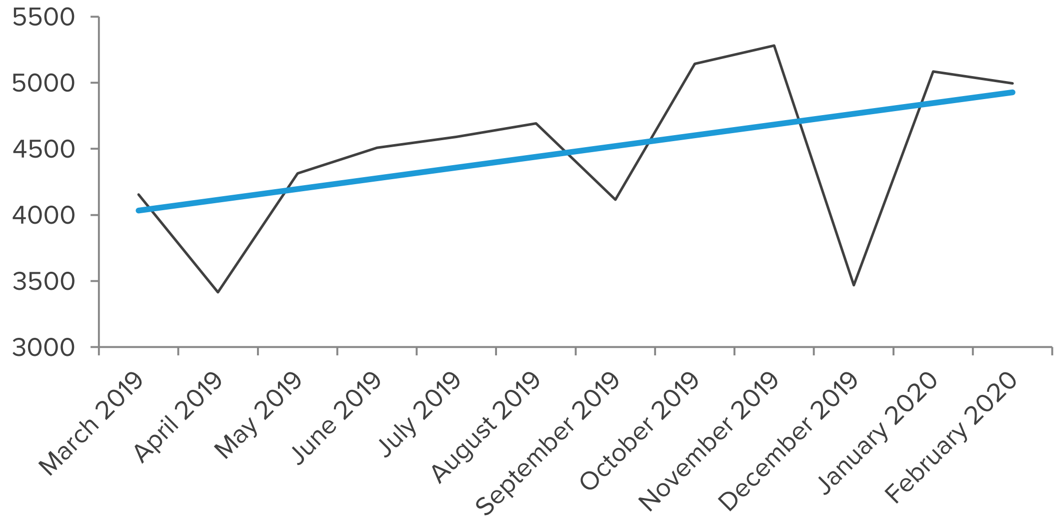
Lack of flexibility to take account of individual circumstances

From our experience, many of the problems regarding affordability in government debt management – including the pace and rigidity of escalation – are driven by an underlying inflexibility in approach. Sometimes this is caused by regulations or legislation – such as the fixed rate of certain deductions. Other times, it is driven by a stipulation that people must repay in a certain timeframe (usually linked to metrics), or by incentives to secure full payment. The experience of our clients and of advisers also suggests there is an underlying culture in which people in debt are not always trusted and staff are not empowered to offer flexibility to help secure positive outcomes.

The collection of council tax arrears is a particular example of how this plays out in practice. There are currently no consistent rules applied to encourage councils to negotiate affordable repayments and many councils require arrears to be repaid in the same year as they arise, regardless of whether this is affordable for the individual.

> *"We have named people at the council who we can approach for council tax. The decision you get varies with the individual and also with the time of year (it is harder to get a low offer accepted when the council is trying to get the council tax in before the end of March)."*
>
> *"Council Tax departments often only want to accept an arrangement that would ensure the client is back up to date before the next tax year. Whilst this is ideal, it's not always realistic especially where a client has multiple priorities to deal with."*
>
> Responses to sector-wide survey of debt advisers

Unique page views of National Debtline Council tax recovery factsheet, by month



As we explore further in our answer to question 16, this practice is partly driven by a focus on in-year collection rates as a metric for effective collection, with accounting and spending pressures also likely to be contributing factors. All this can mean that affordable repayment offers made by people in debt, or by debt advice agencies on their behalf, are frequently rejected, particularly as the year progresses. As the graph below shows, we see an overall increase in the number of people viewing the National Debtline 'Council Tax recovery' factsheet as the financial year goes on (accounting for seasonal trends).[43]

It is worth noting here that, in a survey of National Debtline clients, local authorities were ranked the third worst in terms of offering help to resolve debts. 48% of those with debts to their local council disagreed that they were offered assistance to resolve their debts, behind only bailiffs (54%).[44]

The situation often gets worse when debts are passed to bailiffs. The current fee structure for bailiffs encourages escalation of collection to increase the fees paid by people in debt. 62% of debts enforced by bailiffs go beyond the compliance stage (the initial engagement stage, before a visit can be carried out – i.e. issuing an enforcement notice requesting payment).[45]

Bailiffs are often incentivised by the local authority to push for full payment of the debt, or recovery within the financial year, meaning they are often unwilling to show flexibility in accepting lower amounts or payments over a longer time period. 90% of debt advisers surveyed by the Money Advice Trust say bailiffs are poor or very poor at assessing affordability and being willing to accept affordable repayment plans.[46]

43. Google analytics data. The drop in page views in December is attributed to usual seasonal dips in demand that are seen throughout the service around Christmas.

44. National Debtline annual impact survey 2020. Percentages relate only to survey respondents who had at least one debt with that particular creditor. Base: local council – 194; bailiffs – 104. .

45. Civil Enforcement Association (2019) Written evidence to the Justice Committee Bailiffs: Enforcement of debt inquiry (see Table one).

46. Money Advice Trust survey of debt advisers across the free advice sector, via our Wiseradviser training service. Base 412.

> *"Making a payment arrangement with the enforcement agency that is manageable seems to be the hardest situation, as is trying to get the local council to help them come to an arrangement once the debt has been passed to enforcement. Once passed most councils will not help under any circumstances, which is frustrating for the client and leaving their only option to come to an arrangement or ignore the enforcement agents. Leaving the client scared, knowing they will attend the property at any time."*
>
> Response to sector-wide survey of debt advisers

The challenge of getting unaffordable repayments reduced

The lack of initial affordability assessments is exacerbated by the fact that it can be very hard for people in debt to get unaffordable payments or deductions reconsidered or reduced – even when this is allowed for in legislation and regulations. This is most frequently experienced by our clients in relation to deductions from benefits.

For some debts, such as benefit overpayments, the current rules allow for a deduction from Universal Credit to be set within a minimum and maximum percentage rate. For these debts, the Department for Work and Pensions (DWP) says customers can get in touch to ask for a reconsideration of the amount being deducted. This is welcome.

However, despite this commitment, in practice there can be challenges for customers who try to negotiate when debt recovery is causing significant hardship. Government figures show that, in 2019/20, just ten Universal Credit claimants had their debts waived due to medical and/ or financial hardship.[47] Separate figures show that the proportion of Universal Credit claimants with a benefit overpayment, who have successfully applied for a reduction in the rate at which they are repaying that overpayment, was less than 1 in 10 (9.2%).[48]

The ability to negotiate deduction levels is often not publicised, so people may not be aware they can ask for a reconsideration. It can also be very difficult for individuals in vulnerable circumstances to take assertive action where this might lead to a long wait on the phone for an uncertain outcome.

The official guidance on recovering benefit overpayments[49] details a high level of evidence requirements in order to secure reconsideration of the amount being recovered. Indeed, it states that evidence of hardship is not in itself enough for reconsideration: *"The recovery of an overpayment from any person in receipt of benefit is almost certain to cause some hardship and upset for them and their family. It is the level of hardship and upset which is taken into account when considering the application".*[50] This is concerning - debt recovery that causes any level of financial hardship is unlikely to be sustainable and could lead to poor outcomes for both the individual and the creditor.

47. House of Commons Written PQ 5464, 23 January 2020

48. House of Commons Written PQ 263679, 18 June 2019

49. Department for Work and Pensions (2019) Benefit overpayment recovery guide, Available: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/897689/benefit-overpayment-recovery-guide.pdf

50. Ibid, paragraph 5.71.

"It [having deductions taken from Universal Credit] has an adverse impact on their health. They are the powerless to do anything as it is so difficult to get through to debt management on the phone."

"It seems to be difficult to get the deductions reduced as they just pass you from one DWP recovery team to the next."

"Usually never hear back from DWP regarding deductions being lowered."

"There are a huge range of amounts that can be deducted from Universal Credit for magistrates' court fines, but if the rate is set too high, it's almost impossible for clients to get it reduced, even to an amount which is perfectly possible according to guidelines. The court will insist that they have to speak to the DWP, and the DWP will pass them back to the court."

Responses to sector-wide survey of debt advisers

3.2. Why affordability matters – the financial situation of people with government debts

Ensuring affordability is properly assessed is especially important, given the particular financial situations of those who owe debts to government.

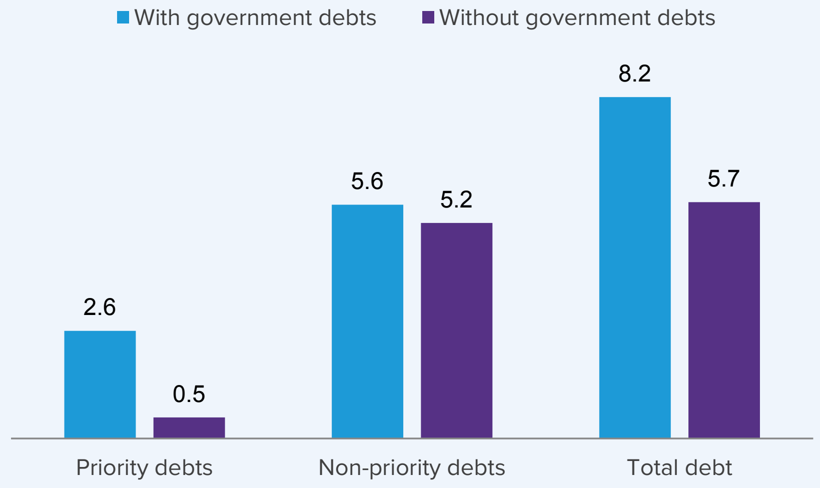
As outlined in Box 1 below, our analysis found that National Debtline callers with at least one debt owed to government had – on average – lower incomes and a higher number of debts, than those who did not owe any debt to government organisations. They were also more likely to have a deficit budget, meaning they did not have enough income to cover essential costs, and the size of this shortfall was bigger too. This means that, when affordability isn't properly assessed, the potential risk of harm is particularly high.

Box 1: National Debtline client analysis

We analysed a sample of 356 National Debtline clients who contacted the service in March – April 2020 and for whom we had full income and expenditure data, to compare the situation of those who had at least one debt to a government organisation against those who had no debts to government organisations.

- Clients who owed debt to government had **lower monthly incomes**, receiving an average of £186 less than those who did not owe any government debt.
- Clients with government debts were **more likely to have a deficit budget** meaning they did not have enough money coming in to cover essential costs. 43% of clients who owed debt to government had a deficit budget, compared to 31% of those who did not have government debt.
- On average, clients with government debt who had a deficit budget **had a shortfall of £314.** This compares to a shortfall of £274 for those who had a deficit budget but did not owe any government debt.
- For those who had a surplus in their budget, those with government debts had an average surplus of £209 compared to £248 for those without government debts.
- People with government debts have, on average, **a higher number of debts**, particularly priority debts. Priority debts can be especially difficult to deal with if all priority creditors do not take a fair and affordable approach to recovery.

Average number of debts



- People with government debts also owed, on average, **higher amounts of priority debt** – amounting to £3,013 more than those without government debts. This was often driven by large benefit overpayment debts.
- However, they had lower amounts of non-priority debts (typically consumer credit debts) which is to be expected given their lower incomes and would likely reflect that they would find it more difficult to access credit. These findings highlight again how important the approaches of priority creditors, including local and central government organisations, are to the resolution of people's debt problems.

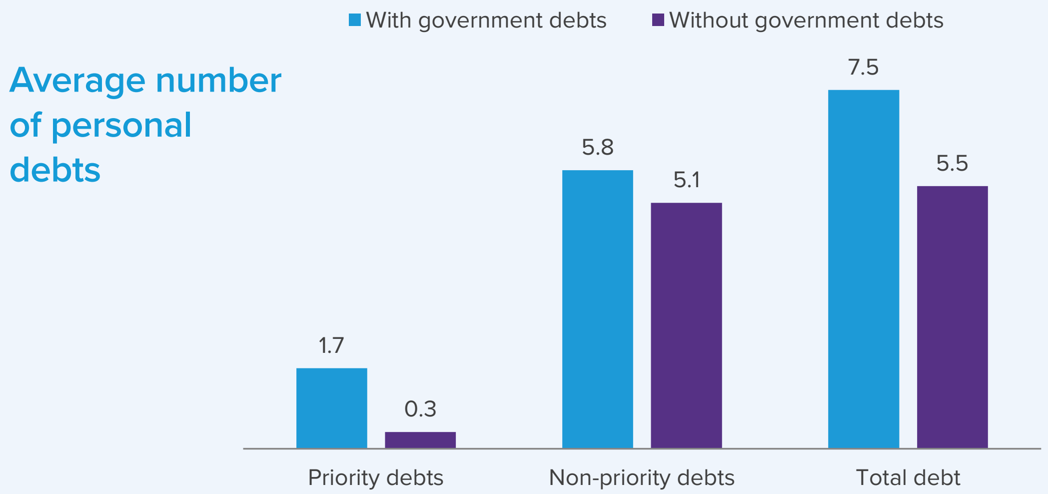
Average amount of debt

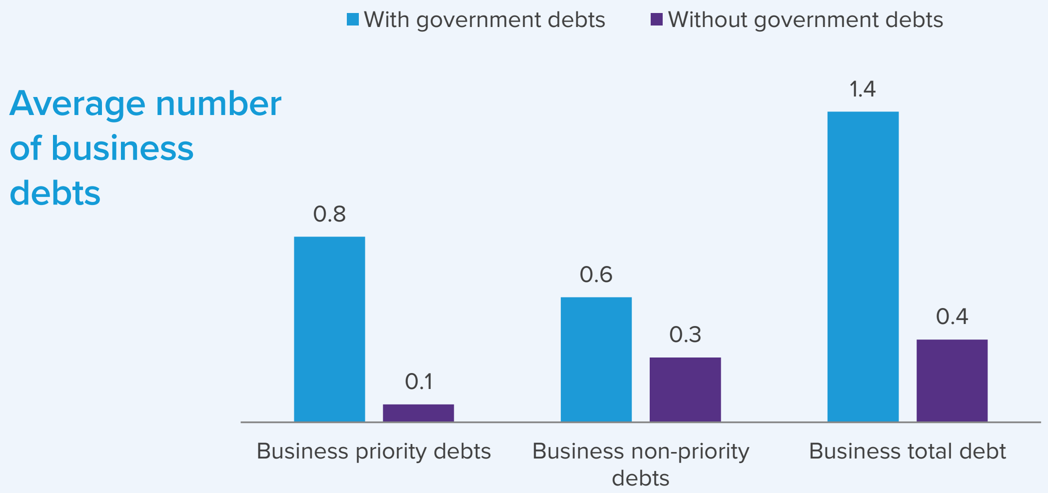
Analysis of the situation of Business Debtline clients reveals a similar picture. Business Debtline clients with debts to government are more likely to have deficit budgets (and to have bigger shortfalls when they do). They have a greater number of both priority and non-priority debts – and this is seen across both their personal and business debts. When it comes to business debts specifically, those with government debts owe more than double that of clients without debts to government – reflecting the particularly difficult financial situations that they can face.

Box 2: Business Debtline client analysis

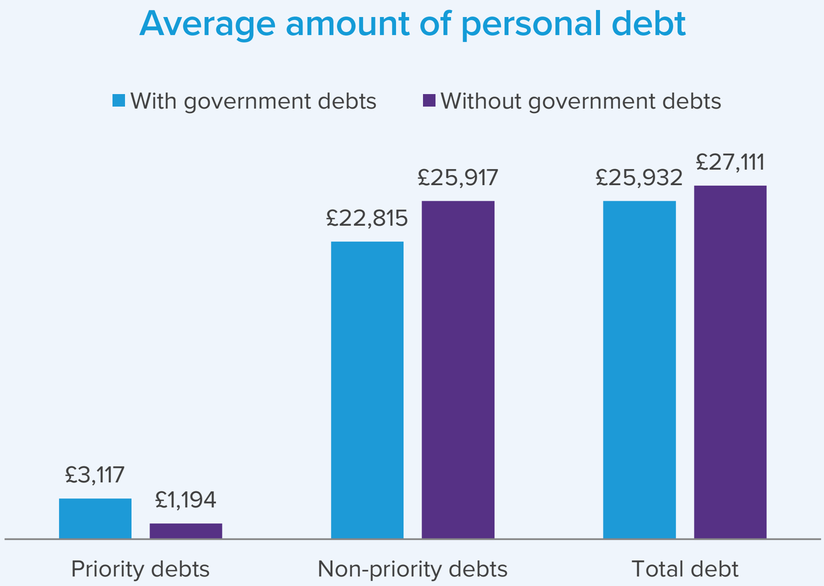
We analysed a group of 504 Business Debtline clients who contacted the service in March-April 2020 and for whom we had full income and expenditure data, to compare the situation of those who had at least one debt to a government organisation against those who had no debts to government organisations.

- Clients with debts to government are slightly **more likely to have a personal deficit budget**, by 3%.
- When they do have a deficit budget, the **shortfall is much bigger** than those without government debts: on average being £854 short, compared to £692 for those without government debts.
- Clients with government debts have, on average, **a higher number of both personal and business debts.** This is seen across both priority and non-priority debts.

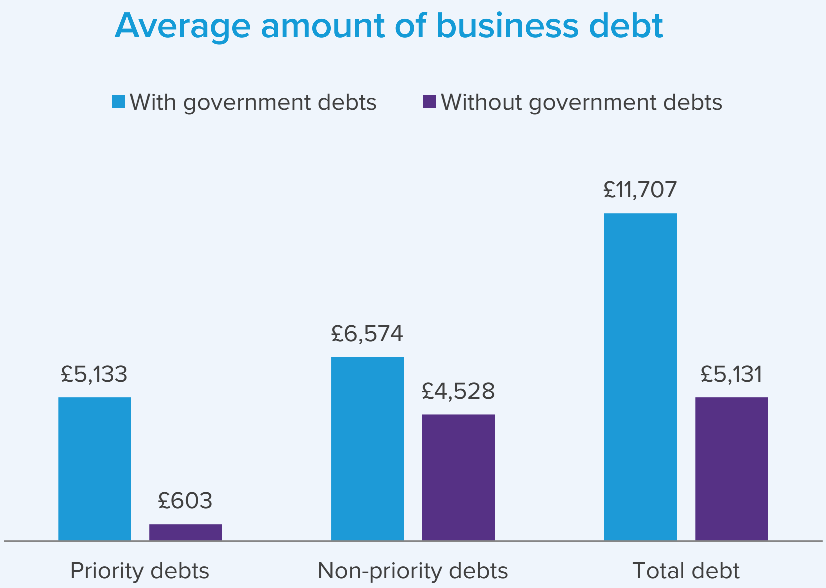




- Clients with government debts have **higher average amounts of personal priority debts.** However, as with National Debtline, they have lower average amounts of personal non-priority debts.
- The difference in average priority debt between those with government debt and those without is £1,923. For priority debts, the biggest debts are often income tax or benefit overpayment debts.



- People with debts to government have a **higher amount of business debt across both priority and non-priority debts**. In total, they owe on average £6,576 more in business debts than those who do not owe any debt to government.



3.3. Improving affordability approaches

Improving the affordability approaches used by government creditors is a key element of embedding fairness within government debt management. As the experiences of the financial services sector has shown, this has the potential to bring several benefits not just to people in debt but to government organisations, as creditors, too.

Government organisations need to consider not only improving their assessment of affordability – ideally through adoption of the Standard Financial Statement – but also how they can embed affordability throughout their entire debt management and collection strategy. In this section we set out how this could be achieved, with reference to a range of different government debts and collection methods.

Overarching improvements across government

The extent of current affordability issues in government debt management means significant changes are needed to embed fairness in collection activity. As part of a Money Advice Trust survey of debt advisers from across the free advice sector, we asked them to list the top three things central and local government could do to improve debt collection practices for people in debt. Improving the approach to affordability was mentioned most commonly by respondents. This included better use of affordability assessments to set repayment rates and/or adoption of the Standard Financial Statement (SFS) (27% of respondents), government organisations being prepared to accept affordable offers of repayments (17%), giving people longer to repay (8%) and improving the routes through which people can get a reconsideration if repayments are unaffordable (16%).[51]

51. Money Advice Trust survey of debt advisers across the free advice sector, via our Wiseradviser training service. Based on verbatim comments coded by theme and calculated as a percentage of 390 respondents who left a comment to the following question: "What are the top three things you think central and local government could do to improve debt collection practices for people in debt?"

Selected responses from sector-wide survey of debt advisers. Respondents were asked what central and local government could do to improve debt collection practices for people in debt:

"Allow more time for repayment - it is unrealistic to expect a client to repay a debt within the financial year without pushing them into an insolvency option."

"Make the client's affordability the priority and not the amount the department wants them to pay, this acts in both parties interest as they can come to a sustainable agreement- they should stop policies of debts having to be collected by a certain date, this is one of the reasons departments push for higher payments."

"Base affordability on the SFS"

"Accept payment plans people can afford to pay"

"Accept the standard financial statement in line with other creditors"

"Tailor repayments based on individual circumstances"

"Set more realistic amounts to repay according to affordability"

"Make it easier for people to ask for a reduction"

"More use of discretion and not blanket policies like debts need to be recovered in 2 years"

"Allow repayment of debts over a longer period where appropriate"

"Reduce pressure to settle in the financial year"

"Willingness to understand a person's situation and set up an affordable payment"

"Flexible and reasonable payment arrangements"

"Recognise some people simply can't afford what is being demanded"

"Exercise more flexibility in accepting repayment offers"

"Be more willing to consider financial statements and reduced offers of payment"

> *"If an agency is willing to listen, and come to an affordable agreement, it can make a huge difference"*
>
> Response to sector-wide survey of debt advisers

Improving affordability assessments: adoption of the Standard Financial Statement

In terms of an overarching approach to assessing affordability across all government debts, we would like to see all central and local government organisations adopting the Standard Financial Statement (SFS) as the means for assessing affordability of debt repayments.

All government organisations should also be prepared to accept payment offers based on SFS budgets supplied by the person in debt or a debt advice agency. We recognise that some government organisations do this already. However, as set out in our answer to question two, this is far from consistent.

In our view, use of the Standard Financial Statement is the best way for government to ensure they are following best practice in assessing affordability. The SFS is widely used by debt advice agencies and FCA-regulated creditors, who accept it as an objective assessment of an individual's ability to repay and will alter collection processes, implement forbearance and accept repayment plans based on this.

The government has also recognised the importance of the SFS by making this the tool that will be used for assessing the level of repayments under the proposed Statutory Debt Repayment Plans, which include debts owed to government organisations. Similarly, the creation of the Debt Market Integrator has seen a significant change in how some debts to government are collected, with those debts passed through now being managed by FCA-regulated debt collection agencies, where the Standard Financial Statement is used to assess affordability of repayments.

Use of the SFS has a number of benefits both for the person in debt and for creditors. By having one financial statement, with a single set of common fixed and flexible expenditure categories and a single set of spending guidelines, the SFS creates consistency in how creditors assess affordability. It also enables creditors to see the full extent of an individual's debt problems and take a holistic view of their circumstances. Individuals can complete one, common budget which can then be shared with all their creditors. This saves time and helps to get payment arrangements in place quickly. Creditors can be assured that they are getting a fair share of the money an individual has available for repayment – and priority creditors, such as government organisations, can be prioritised for payment.

> *"It would be massively time-consuming for me to deal with each creditor individually, so being able to supply one income and expenditure sheet and have it immediately accepted by all creditors is a major time saving. It also relieves the stress."*
>
> Business Debtline client[52]

Furthermore, the SFS helps ensure that any repayment arrangements that are set up are genuinely affordable and sustainable, helping to prevent debt problems recurring in the future. Social Return on Investment research by Baker Tilly and StepChange Debt Charity in 2014[53] found that support through debt advice, including securing affordable repayments, saved creditors £82 million in one year from around 110,000 over-indebted clients (in the form of higher collection rates and reduced costs). This is equivalent to an average saving of £750 per person.

There are also numerous examples of where creditors have adopted a stronger focus on affordability and seen benefits as a result. The Credit Services Association (CSA) – the trade body for debt collection agencies – reported that a greater focus on assessing affordability as a result of FCA regulation led to amounts collected by its members increasing by 10% from £2 billion in 2016 to £2.2 billion in 2017, despite being from a smaller overall pot of debt.[54] UK Asset Resolution Limited (UKAR) found that adopting the then

Common Financial Statement (now the SFS) led to a significant increase in the number of payment arrangements being maintained, from 50% to 80%.[55]

Making it easier for people to make affordable arrangements

In our answer to question two, we set out evidence of the challenges people face in getting government organisations to accept affordable offers of payment. Adoption of the SFS would assist with tackling this, as we would expect people to be able to make repayment offers based on an SFS budget and for this to be accepted by government organisations. However, for this to work effectively, there also needs to be clear and easily accessible routes for people to make these offers**,** particularly where they are in vulnerable circumstances and facing hardship. One example of this within government already is HMRC's *Time to Pay* service. HMRC figures suggest that this approach of negotiating affordable repayments based on an individual's circumstances is effective: according to HMRC data 9 in 10 Time to Pay arrangements complete successfully.[56]

This good practice should be shared across government and, as well as adopting the SFS, we would encourage all government organisations to consider how they can make it easier for people to make affordable arrangements to repay. This should include considering setting up schemes like *Time to Pay* and offering a greater range of channels through which people in debt can make contact and set up plans – such as allowing them to do so online.

52. Business Debtline client survey on HMRC debt collection- Verbatim comment from survey respondent. Fieldwork conducted between 21 Aug – 5 Sept 2019.

53. Baker Tilly (2014) Transforming Lives: A review of the social impact of debt advice for UK individuals and families, evaluated using SROI.

54. Example taken from National Audit Office (2018) Tackling Problem Debt

55. Money Advice Service (2017) Working collaboratively with debt advice agencies: A strategic toolkit for creditors

56. HMRC Policy Paper: How HMRC supports customers who have a tax debt, August 2020

The proposed introduction of Statutory Debt Repayment Plans would provide one route through which people can make affordable repayments to their debts and receive protection from collection and enforcement activity in return. The inclusion of most – although not all – debts to government in this, and in the new Statutory Breathing Space scheme going live in May 2021, is welcome. These schemes have the potential to transform outcomes for people in debt, and for government creditors too.

Given this, we would urge the Treasury, in conjunction with other government departments, to progress plans for the introduction of Statutory Debt Repayment Plans as soon as possible. In addition, it is vital that the government meets its commitment to include Universal Credit Advances and third party deductions from Universal Credit in the statutory Breathing Space scheme and Statutory Debt Repayment plans as soon as possible. The exclusion of any debt from the schemes risks destabilising an individual's efforts to resolve their debt situation.

Introducing a single customer view of debt

The introduction of affordability assessments would help government organisations to better understand the breath of an individual's financial situation and take a holistic look at their circumstances. This would help tackle the issue we identified in question two around government organisations competing with each other for repayment.

This is particularly important as we know many people owe multiple debts to different government departments. As set out in question two, National Debtline and Business Debtline clients with government debts were more likely to have multiple priority debts, compared to those who did not owe money to government.[57]

Amongst Business Debtline clients with HMRC debt, 35% had multiple HMRC debt issues.[58]

However, conducting the affordability assessments is only one part of the solution. What a government organisation then does with this information and how they adapt their collection process or repayment rates as a result is critical. We also recognise that, without further innovation, there could still be an issue where government departments are conducting multiple affordability assessments for the same individual.

We would therefore support the introduction of a single customer view of debt across government. Ideally, this would enable any government organisation to see all debts owed by an individual both to their and other government organisations. Ideally, introducing a single view of debt could also include new processes for dealing with the collection of these debts. For instance, there could be referral to a centralised debt management function which could work with the person in debt to complete a Standard Financial Statement, and create an affordable repayment plan across all government debts owed. Such a system could complement and integrate with the proposed Statutory Debt Repayment Plan scheme, which includes most but not all debts owed to government organisations. We would expect this to create significant efficiency savings for departments over the longer term.

Such a system could also bring other benefits, including: improving the consistency of support for vulnerable customers; enabling better data sharing in regards to vulnerable circumstances; and ensuring consistent treatment across departments.

57. Analysis of 356 National Debtline and 504 Business Debtline clients, who contacted the service in March-April 2020 and for whom we had full income and expenditure data. See Box 1 and 2 for more information.

58. Online survey of 256 Business Debtline clients who contacted Business Debtline in 2018 and had at least one debt to HMRC. Fieldwork conducted between 21 Aug – 5 Sept 2019.

3.4. Embedding affordability in different contexts

The above measures would help to improve the approach to affordability across government as a whole. However, there are a range of different contexts, types of debt and collection methods used across the range of government organisations.

In this section we set out how principles of fairness and affordability could be embedded in the specific context of council tax, bailiff use and deductions from benefits. In these areas, we see particular harm being caused, usually as a result of specific rules, regulations and processes. This means that specific action and changes are required.

Improving council tax collection

As we set out in our answer to question two, the collection of council tax arrears is one area where affordability concerns are particularly prevalent. The fast escalation of council tax debt and the use of harsh enforcement methods can be particularly damaging to a person's financial situation and can often destabilise their attempts to resolve their wider debt situation.

We have seen some positive changes in recent years, with a welcome trend towards increased engagement with the debt advice sector – partially as a response to continued criticism of councils' collection practices. As part of the Money Advice Trust's long-term *Stop the Knock* programme, we have engaged with local authorities in England and Wales to encourage them to sign up to our "Six Steps for Local Authorities" recommendations.[59] 39 local authorities (10% of the total in England and Wales) have committed to implementing at least one of these. These are positive moves and show that councils are willing to engage and take steps to tackle the issue. The pace of change, however, is too slow and, in the absence of changes to council tax regulations and reform of legislation on governing bailiffs, we continue to see significant issues with collection practices.

The commitment in April 2019 by the Ministry of Housing, Communities and Local Government[60] to work with charities, debt advice organisations and local authorities to improve council tax collection practices, and the announcement of a review into the guidance, was welcome. However, given – as we just mentioned – we have seen only small, incremental change in recent years, it seems clear that the impact of a voluntary approach based on guidance will always be limited.

59. Money Advice Trust, Stop the Knock: Six steps for local authorities, Available here.

60. 'Government pledges to improve the way Council Tax debt is recovered', 10 April 2019, Available: https://www.gov.uk/government/news/government-pledges-to-improve-the-way-council-tax-debt-is-recovered

The issue is that the guidance is always superseded by regulations and so has not been widely followed. As we set out in our answer to question two, this means we see widespread poor practice in council tax collection, including refusal of repayment offers, making unaffordable demands to repay within the tax year, even where this is clearly unaffordable, and a fast escalation of debts.

We would therefore urge the Cabinet Office to work with the Ministry of Housing, Communities and Local Government to bring forward their review and consultation as soon as possible**.** The review should focus not only on the guidance but also on changes to the 1992 Council Tax (Administration and Enforcement) Regulations with the aim of preventing the fast escalation of council tax and ensuring councils have more flexibility to collect debts in an affordable way.

In particular, we would encourage the government to make changes to:

- Stop people becoming liable for their entire annual bill when they fall behind
- Introduce a statutory 'pre-action protocol' for councils to follow before beginning to enforce council tax debt – including a requirement to set up an affordable repayment plan. This would, in effect, place the Good Practice Guidance for Council Tax collection on a statutory footing.
- Replace the costly and ineffective liability order process with a more effective consumer safeguard so councils have more power to collect debt flexibly.

This should be accompanied by changes to current metrics around collection targets and the introduction of statutory reporting of debt collection methods and outcomes, to incentivise good practice.

"It doesn't make sense that if a client misses [a] payment due to unaffordability that the whole tax year bill then becomes due. This is always something which has concerned me as I think it is obvious that if they can't afford the first payments then they won't be able to afford a whole year's bill. The [other] challenge is the councils themselves. As I have stated above, once it is in the hands of an enforcement agent, the councils seem to abandon the client all together which doesn't work towards getting the client debt-free."

Response to sector-wide survey of debt advisers

> *"A local authority refer clients to local citizens advice for help to manage all debts and help with budgeting advice as soon as council tax account is 1 month in arrears and be more proactive rather than reactive. Stopped using bailiffs to enforce debts but instead look to refer and support those in debt to manage affordable long term payment plan that they will be able to regularly maintain."*
>
> *"Bristol City Council are trying to limit use of bailiffs particularly in collecting Council tax and trying to focus more on getting people to budget and pay the current years council tax rather than clearing arrears."*
>
> Examples of good practice in debt collection, provided by respondents to sector-wide debt adviser survey

To support this, at a local level, we have been calling on all councils to make a clear public commitment to reduce the use of bailiffs over time by improving their debt collection practices. This commitment could take the form of a public statement, a formal decision or statement of administration policy, or a motion of Full Council. This commitment should include all debt types, not just council tax arrears.

Bailiff reform

Improving affordability and fairness in council tax collection will also require action on bailiffs. If the recommendations on council tax above were implemented, then we would expect to see a reduction in the number of people who have their debts passed to bailiffs. However, for the instances where this will still happen, it is vital that there is better protection for vulnerable individuals and that there is proper oversight of the industry. The government's objective should be to both reduce and reform bailiff use.

Concerns about affordability are just one of the reasons we and other debt advice charities have long called for the introduction of independent regulation of the bailiff industry. An independent regulator could introduce an agreed affordability framework, based on the Standard Financial Statement, to ensure that creditors and enforcement agents do not apply excessive pressure to individuals and to ensure people are offered the opportunity to repay in a genuinely affordable way.

The government itself has already recognised the need for action. In November 2018, the Ministry of Justice launched a call for evidence on bailiffs[61], which closed in February 2019. In July 2019, the government said in a Written Ministerial Statement[62] that they "believe that regulation of this sector could be strengthened" and would take steps to do so. The emergency legislation passed this year to temporarily ban bailiff visits at the height of the Covid-19 outbreak was also welcome, particularly the recognition that that incentives in the industry and "financial pressures [from firms and creditors]" can create the risk of poor practice.[63]

61. Ministry of Justice (2018) Review of enforcement agent (bailiff) reforms: call for evidence

62. Enforcement Update: Written statement - HCWS1776, 22 July 2019

63. The Taking Control of Goods and Certification of Enforcement Agents (Amendment) (Coronavirus) Regulations 2020, Explanatory Memorandum

However, the Ministry of Justice is still yet to respond to the call for evidence – which closed more than 18 months ago. We would urge the government to seize this opportunity to respond, setting out the steps they will take to:

- Establish independent regulation of the bailiff industry, to ensure bailiff firms and individuals follow the rules which govern their behaviour.
- Put in place a free and independent complaints mechanism to ensure people can get redress when bailiffs break the rules.

The issues with bailiffs do not solely relate to council tax debt. There is a particular issue with the enforcement of parking penalty charge notices. As set out in our answer to question two, once a warrant of control has been issued in the magistrates' court to recover a court fine, the court has little power to postpone or delay bailiff action or to make an order to allow the charge to be paid in affordable instalments. This undermines principles of fairness and affordability and can severely and unnecessarily complicate an individual's debt problems.

We therefore recommend that the Cabinet Office work with local authorities and the Ministry of Justice to review the enforcement of parking penalty charge notices. The aim should be to bring this into line with the enforcement of County Court Judgments, including measures to allow the court to suspend warrants and people to apply to pay through affordable instalments.

Deductions from benefits

As we set out in our answer to question two, the use of deduction from benefits can create a high risk of financial hardship. This is particularly the case for Universal Credit, as higher percentages can be recovered from benefits than in legacy benefits. The total amount that can be deducted is also higher.

The announcement that the maximum deduction rate in Universal Credit will be reduced from 30% to 25% from October 2021 is welcome. However, this is still a significant amount to deduct from benefits, which are already set at the lowest rate that it is estimated it is possible to allow people to subsist. Any deductions taken from that amount will inevitably cause hardship as people fall below that subsistence level.

Deductions should be seen as a payment option for affordable repayment plans, set flexibly based on what the individual can afford rather than as a collection method which takes fixed rates regardless of individual circumstances.

To achieve this, the Department for Work and Pensions should ideally be conducting affordability assessments, based on the SFS, before any deduction is applied. This should be used to determine if a deduction is affordable and if so, how much should be taken. To reduce the administrative burden on the DWP, they should also be prepared to accept SFS budgets provided by the individual or a debt adviser acting on their behalf to determine deduction levels.

Where it is clear that a deduction is unaffordable, DWP should be prepared to temporarily pause recovery of government debts until the individual's income has increased (something we explore further in our answer to question four).

To safeguard against excessive deductions causing hardship, we recommend that the DWP urgently reconsider the high rates of deductions that are currently allowed under Universal Credit for benefit and tax credit overpayments, rent arrears and magistrates' court fines, which risk increasing financial difficulty for people in debt. These should be lowered to match the 5% rate of deduction applicable to other debts such as utility arrears. The maximum rate at which deductions can be made should also be reviewed and lowered further. It should be a requirement that deductions can only be taken at this maximum level where a SFS budget shows it to be affordable for the individual.

Finally, there should be clearer and more accessible routes through which people can ask for a lowering of their deductions. The DWP Debt Management and Universal Credit teams (including Work Coaches) should be empowered to show greater flexibility to amend or pause deductions where this is causing hardship.

Recovery of historical debts

A final area where there can be specific challenges in terms of fair and affordable recovery relates to historical debts – usually benefit and tax credit overpayments. Over 1 in 5 (21.6%) National Debtline clients and over 1 in 10 (12.3%) of Business Debtline clients have benefit overpayment debt.[64] Government data shows that, as of 30 April 2019, 570,000 people were repaying tax credit overpayments via Universal Credit.[65]

However, a large proportion of the total outstanding tax credit debt was incurred several years ago. According to HM Treasury figures,[66] less than a third (29%) of outstanding tax credit debt is from 2016-17 onwards, with over half (52%) related to awards between 2011-12 and 2015-16, with 16% from pre-2011, meaning it is over nine years' old.

Recovery of these historical debts can be particularly distressing for people, as they may often have no idea that the debt is owed, or even that an overpayment occurred. As we explained earlier, it can be difficult for people to successfully challenge these type of debts or even to get through to speak to someone and access accurate information about how and when the debt was incurred and about their liability to repay.

> *"Recovery of historical overpayments causes significant difficulty as the rate of recovery is often more than can be afforded. There are also issues around fairness as people do not remember the debt and so feel victimised. There is little communication before deductions are applied."*
>
> Response to sector-wide survey of debt advisers

64. National Debtline and Business Debtline client records data, Q1 2020

65. DWP, Volumes of Universal Credit claimants with tax credit overpayments, 31 May 2019

66. House of Commons Written PQ 249940, 8 May 2019

The re-emergence of old debts at a later date is out of step with rules in other sectors. There is a 6 year statute of limitation on private sector debts, and Ofgem introduced rules last year that prevent 'backbilling' if the debtor has not been notified of this in 12 months after the bill was due. We would therefore recommend that the government take steps to implement the same principles of fairness in its own debt collection by amending its own rules on historical overpayments. This should include writing off tax credit overpayments older than three years – as was originally intended during the development of Universal Credit.[67] In future, new rules should be introduced that mean people must be told of any overpayment within 12 months of it occurring, and any overpayments revealed after this time should be waived – as happens in the energy sector.

The re-appearance of historical debts at a later date can also cause issues for people seeking to resolve their debt situation through an insolvency solution. For example, tax credit debts are not currently covered by a debt relief order (DRO) if they are discovered and recovery begun by HMRC or DWP at a later date. People who have had a DRO are – by definition- likely to have very limited income with which to repay but are unable to get another DRO for six years, meaning there are few options available to them to deal with historical tax credit or benefit debts that later reappear. This is unfair and can undermine the positive steps people have taken to deal with their debt.
To address this, we recommend that changes are made to the DRO rules to enable tax credit debts to be covered by DROs even when they are discovered at a later date.

Better use of technology

Recent developments in fintech and open banking have led to greater consideration being given to how these can be used to assess affordability and set sustainable repayment arrangements. There are suggestions that this could have particular benefits for people with variable incomes, where a traditional, fixed monthly repayment plan may present challenges. We would encourage government creditors to consider how they might be able to make effective use of technology, particularly to help specific cohorts of people in debt who may not be best served by existing approaches.

However, we would also caution against an over-reliance on digital technology alone and highlight that other channels and methods of engagement are likely to continue to remain important – particularly for those with more complex or vulnerable circumstances. Adoption of digital technologies relating to finances, is still relatively low across the population. In a recent survey of Business Debtline clients, a quarter (26%) said they use mobile apps (including mobile banking) and a quarter (25%) use e-banking. A smaller proportion (10%) use online accounting, but over half (53%) do not use any of these.[68] Of those who did not use any digital technologies in relation to their finances, the majority (51%) said this was because they are not relevant to their business, while 1 in 5 (18%) said they lacked the skills to use them.[69]

67. Centre for Social Justice (2020) Collecting Dust: A path forward for government debt collection

68. Quarterly surveys of Business Debtline phone clients (January – June 2019) Sent to clients consenting to take part in an online survey 6 weeks after calling Business Debtline. Base 202.

69. Ibid. Base 97.

3.5. Affordability when circumstances change

Affordability is about more than just a one-off, point-in-time assessment. Circumstances change – and it is important to ensure there are easily accessible routes for people to ask for a review of their repayments or deduction from benefits or earnings, if these become unaffordable for them.

Government organisations should show flexibility and be willing to amend rates to keep it affordable for the individual. As is widely accepted within the private sector, adapting the level of payments on a plan to enable the individual to keep paying is always preferable to the individual stopping paying and falling off the plan altogether, which then leads to increased costs to the creditor of re-engaging and re-establishing collection activity. Similarly, while someone cannot 'stop paying' when amounts are being taken through a deduction from benefit or attachment of earnings, there is still a significant benefit to the creditor (in this case government organisations) in ensuring these are not unaffordable to the individual.

When these are taken unaffordably, they can leave people without enough money to meet their essential bills, increasing the possibility of recurring debt problems and knock-on costs to government.

Government organisations could also look at setting 'review' dates within payment arrangements (including deductions from benefits and attachments of earnings) to check if an individual's circumstances have changed and whether they need a reconsideration of their repayments. This not only protects those who need their payments lowered if their income has dropped, but also ensures that if someone's available income rises, then increased payments can be made. Such reviews are common practice within existing debt solutions: for example, Debt Management Plans include regular reviews (usually annually, but these can also be requested by the individual at any point), as will the forthcoming Statutory Debt Repayment Plan scheme.

Government organisations should also consider how they should respond when an affordability assessment shows that any level of repayment is unaffordable for the individual. Given the rise in the number of people with deficit budgets – who do not have enough money to cover essential expenditure and are therefore left with nothing to put towards their debts – it is unfortunately not uncommon that people may find themselves in this situation.

> *"Local and central government need to take into account that for a majority of people, there are peaks and troughs in financial situations, so if councils were more understanding during the troughs, they would find people more proactive when they are in a peak."*
>
> Response to sector-wide survey of debt advisers

In certain cases, for example where an individual is in a particular vulnerable situation, then write-off may need to be considered. We believe there is greater scope to make use of existing rules and legislation that allow for write-off in certain circumstances, including for benefit overpayments and on council tax arrears. Section 13a of the Local Government Finance Act 1992 allows for local authorities to make discretionary reductions and write-offs of council tax bills. However, evidence from advisers suggests there is significant inconsistency in how this is used across the country. There should be clearer and more accessible mechanisms by which people can ask for consideration to be given to writing off debts owed to government organisations, and this should be supplemented by clear and transparent guidelines to reduce inconsistency.

"I am aware of some councils using their rights to write off some council debts under Section 13A Local Government Finance Act 1992. I would like to see this applied more often on a case by case basis. Often, clients really benefit from a fresh start. Some councils have a very good practice of using their discretion."

"Local government have the discretion of Section 13A - in my 7 years working as debt worker - I have had one accepted- they could use this to help vulnerable clients."

Response to sector-wide survey of debt advisers

"A client had council tax debt and contacted the council informing them about their short term debt issues (3 months). The council adviser asked the client to pay whatever they can through the difficult time and then when the short term circumstances change, to start over paying where possible or set up an arrangement. In the meantime the council said they will not take any recovery action and this would include not getting a liability order."

"Where a debtor enters council tax debts into an insolvency solution my local authority will write-off the balance for jointly liable partners. It will also write-off the current year's balance even if not legally due. My local authority has a good relationship with its debt advice service and will accept our recommendations."

Responses to sector-wide survey of debt advisers

Where write-off is not appropriate or the conditions for it are not met, then government organisations could consider temporarily pausing collection while an individual's circumstances recover. A good example of this might be someone who is currently unemployed and receiving Universal Credit. While they are unemployed, they may find that deductions from their benefit to repay debt are unaffordable. DWP could temporarily pause their deductions (or reduce to a token amount - for example £1 a month) while they are looking for work.

When they gain employment and their income rises, then a further affordability assessment could be conducted and deductions could restart at an appropriate rate. This would be in line with other forms of government debt collection – such as student loan recovery – where repayments begin once individuals are earning a specified amount. Ideally any temporary pause until earnings reach an appropriate level for recovery should be done on an interest-free basis, otherwise individuals will still face unreasonable pressure to repay unaffordably to avoid interest accruing.

Government organisations could also look to the utilities sector where payment matching schemes, combining partial write-offs with repayment, have been used to good effect to clear arrears, create payment habits and prevent recurring debt. Payment matching schemes are common in the water sector and are also used by some energy companies (see box 3 and 4 for examples).

These schemes work on the basis of agreements between individuals to keep up with either their ongoing bill payments or a certain level of repayments on their arrears, in return for which the company write-off equivalent amounts (and usually, after a set time, any remaining debt). While we appreciate these may not be appropriate for every type of government debt, the Cabinet Office could consider working with a central government department or local authority to pilot a Help to Repay scheme for a specific debt type.

Box 3: Wessex Water 'Restart' programme[70]

The Wessex Water 'Restart' scheme began in 2004 and is aimed at getting people into a payment habit and back on track with their regular payments, while helping them to clear existing arrears. The scheme works as follows:

- The customer makes their regular payments for the current year's bills.
- If they successfully do so, at the end of the year their debt is reduced by an equivalent amount.
- If the customer continues to make all their payments for their current charges in the second year, then the remaining debt is cleared.

To be eligible, individuals may have to first access free, independent debt advice – where they will complete a Standard Financial Statement showing details of their income, expenditure, debts and savings.

Wessex Water report that the scheme is very effective in getting customers back on track with more than 90% continuing to engage and pay their ongoing water charges.[71]

Box 4: nPower Energy Fund[72]

Customers can apply to the nPower Energy Fund for help with their energy debt. If successful, the customer is required to meet their regular payments for energy consumption for three months, at which point the award from the Fund is applied to the individual's account and the debt is cleared.

70. Example sourced from Money Advice Service (2017) Working collaboratively with debt advice agencies: A strategic toolkit for creditors

71. Wessex Water Business Plan 2020-2025, Available: https://www.wessexwater.co.uk/corporate/strategy-and-reports/business-plan-2020/appendices

72. For more information see: https://www.npower.com/help-and-support/extra-support/npower-energy-fund/

4. Vulnerability

Improving the experience of, and outcomes for, people in vulnerable circumstances is a critical area – and another area in which the government could learn from the private sector. Within financial services in particular, we have seen significant improvements in terms of identifying and supporting vulnerable consumers, driven by a clear and sustained focus on this from the FCA.

It is welcome that the government has increasingly recognised in recent years that support for vulnerable customers should be a key focus in improving government debt management. One recent example in which the Money Advice Trust has been involved is the creation, through the collaborative efforts of the Cabinet Office-led Fairness Group, of a Vulnerability Toolkit for use across government. The forthcoming Toolkit draws on some of the common tools currently in widespread use in financial services and other sectors, and we hope to see this rolled out within debt management and collection teams across central and local government as part of future steps to improve practice.

Government creditors are, however, relatively early on in their journey towards ensuring that vulnerable customers receive fair and supportive treatment. In the absence of a clear driver for change – as we have seen with regulators' focus on vulnerability in the financial services and energy industries, in particular – progress has remained slow.

In this section of the report, we identify issues with current approaches to vulnerability. In presenting recommendations we have also drawn on the Money Advice Trust's expertise in having trained over 22,260 staff in 269 creditor organisations through our growing vulnerability training and consultancy work.[73]

73. For more information on the Money Advice Trust's work with creditors on vulnerability see www.moneyadvicetrust.org/vulnerability

4.1. Issues with current vulnerability approaches

If vulnerability is not correctly identified at all, or only identified at a very late stage of the collection and enforcement process, vulnerable people can end up being subjected to inappropriate collection or enforcement processes. This can exacerbate existing vulnerabilities, such as physical or mental health conditions, and make it harder for people to engage with their creditors or resolve their debt problems.

It may also mean that important elements that would go into understanding the reason for the debt – which can help inform the best way to resolve the situation – can be missed.

In a survey of Business Debtline clients who owed debt to HMRC, 1 in 5 (19%) said the main reason they fell into debt was due to ill health or disability, with a further 12% citing mental health problems.[74]

Identifying vulnerability is also linked to appropriately assessing affordability. For example, the additional costs of a health condition may mean someone cannot afford the same repayment rate as someone else with a similar level of income. Failure to identify this issue could lead to unaffordable and unsustainable repayment requests. It can also mean that opportunities to offer wider support that could prevent recurring debt (such as by identifying eligibility to health-related benefits or support) could be missed.

> *"They [HMRC] were generally unhelpful and unsympathetic to my situation. I felt they believed I was being dishonest about not being able to pay the debt. I didn't feel they had any supportive measures in place, I wasn't offered any extra support even though I explained I have been diagnosed with anxiety and depression."*
>
> Business Debtline client[75]

> *"Central and local government seem more focused on enforcing debt recovery than seeing the bigger picture including the client's health issue. There appears to be little flexibility in the approaches taken, particularly where clients' health issues are affected by deductions from benefits that cause further hardship."*
>
> *"Current debt collection practices exacerbate existing illnesses and we have seen people with no pre-existing issues spiral into depression and anxiety as council tax collection escalates from reminders to committal hearings in the space of a few months."*
>
> Responses to sector-wide survey of debt advisers

74. Online survey of 256 Business Debtline clients who contacted Business Debtline in 2018 and had at least one debt to HMRC. Fieldwork conducted between 21 Aug – 5 Sept 2019.

75. Business Debtline client survey on HMRC debt collection- Verbatim comment from survey respondent. Fieldwork conducted between 21 Aug – 5 Sept 2019.

We recognise that central government organisations have worked to improve their support for vulnerable customers, including through the Fairness Group as outlined previously. There are also positive examples of specialist support being put in place for customers where vulnerability is identified in individual government organisations, such as through the HMRC Extra Support Unit.

However, the experiences of our clients and advisers suggests that poor debt management activity by central and local government organisations can cause significant harm. As we have outlined in the previous section, a large majority of National Debtline clients surveyed who held debts with public sector creditors report that these creditors' actions had a negative impact on their wellbeing: 80% of clients who had debts to DWP, 79% to local authorities and 78% to HMRC – with 85% reporting a negative impact from the actions of bailiffs/enforcement agents, who are often collecting council tax debts or magistrates' court fines.[76]

The situation is similar for Business Debtline clients: 58% of clients who had debts to HMRC and 70% of clients who had debts to their local council reported that the actions of these creditors had a negative impact on their wellbeing.[77]

Evidence from advisers also shows that, in terms of identifying and supporting customers in vulnerable circumstances, government organisations continue to perform worse than private sector creditors. Among debt advice sector advisers surveyed by the Money Advice Trust, just 9% said they thought DWP identified and supported vulnerable customers 'well' or 'very well'.[78] For HMRC, the figure was 12%. Local councils performed better but still only a third (33%) of advisers survey said councils identified and supported vulnerable customers 'well' or 'very well'. Bailiffs were rated the worst at identifying and supporting vulnerable customers, with just 1% of advisers respectively saying they did so 'well' or 'very well'.

These figures stand in sharp contrast to other sectors. 46% of debt advisers from the free sector surveyed by the Money Advice Trust said bank and building societies identified and supported vulnerable customers 'well' or 'very well', with 45% saying the same for energy companies. The highest rated for support for vulnerable customers were water companies, with 68% of debt advisers surveyed saying they did this 'well' or 'very well'.

"The use of enforcement methods before finding out about a client's physical or mental health capacity can be devastating to clients. It causes further anxiety and depression and they are more likely to offer unaffordable arrangements just to attempt to appease the pursuing party and then cause themselves more hardship."

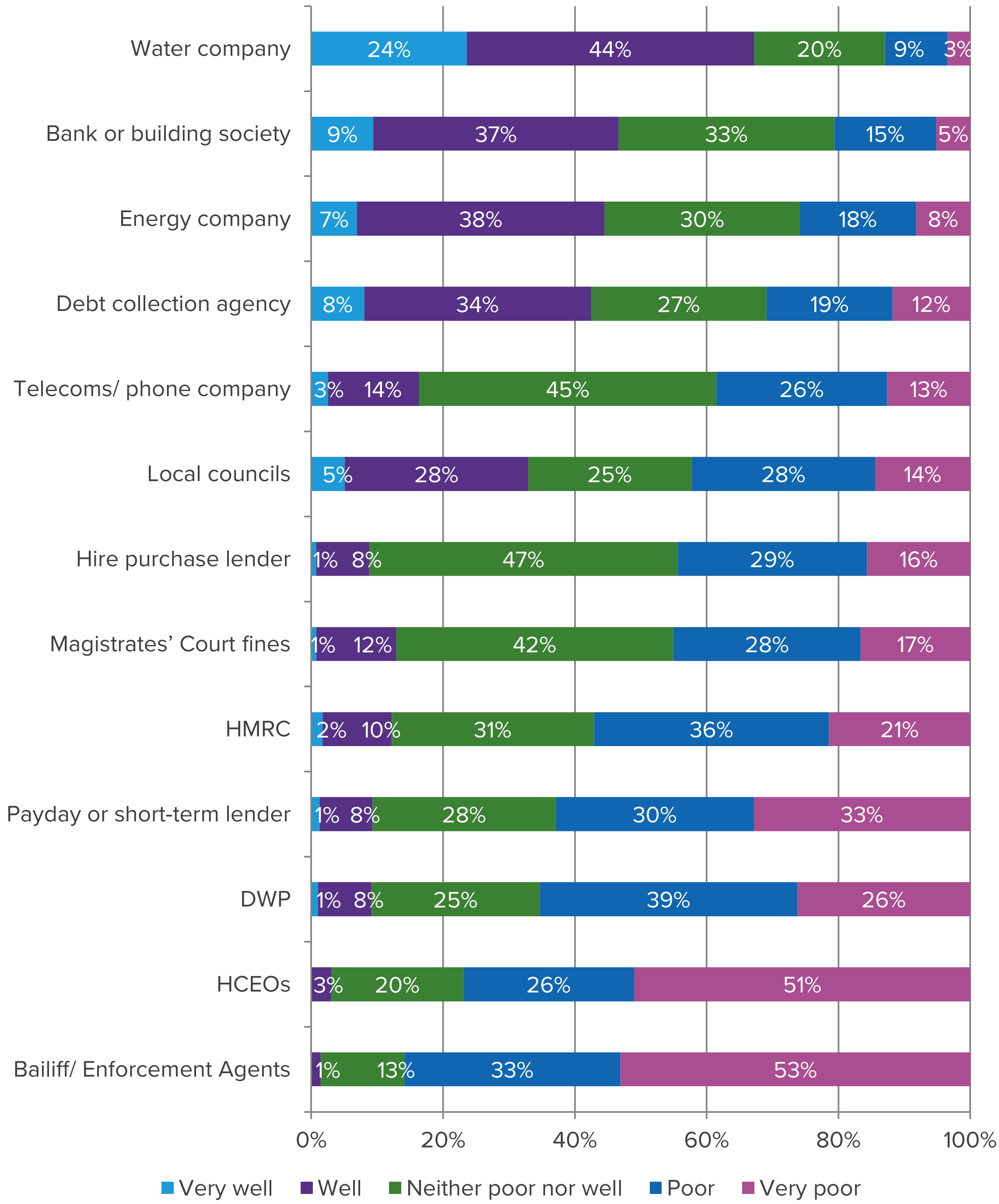
Response to sector-wide survey of debt advisers

76. Question asked as part of our 2020 impact survey, conducted between 11 December 2019 – 11 February 2020. Percentages relate only to survey respondents who had at least one debt with that particular creditor. Base for each creditor was as follows: HMRC - 107; DWP – 112; Local council – 177.

77. Ibid – bases as follows: HMRC – 66; Local council – 80. Figures for DWP and enforcement agents not included for Business Debtline clients due to low base.

78. Money Advice Trust survey of debt advisers across the free advice sector, via our Wiseradviser training service, Base 406.

Debt adviser perception of "how well creditors identify and support vulnerable customers"



79

79. Money Advice Trust survey of debt advisers across the free advice sector, via our Wiseradviser training service. Base 406.

4.2. Identifying vulnerability

Creating disclosure environments

Firstly, action is needed from all government creditors to create a positive disclosure environment, where customers feel encouraged and supported to disclose any vulnerable circumstances they may be facing to their creditor. Central and local government organisations should give people plenty of opportunities to self-disclose, through whichever channel they choose to use (including digital channels). This could include agents asking polite but direct questions over the phone, or building in questions about vulnerability to digital channels.

Many people are put off telling government organisations, and other creditors, about any vulnerabilities they may have as they do not know what support the organisation can offer them and, in some cases, are worried it may even be used against them. To counter this, government organisations need to clearly promote the support available to customers in vulnerable circumstances. Frontline staff should regularly tell all customers that a disclosure of vulnerability could result in further help or flexibility being able to be shown. This messaging should be included in all written communications, promoted on websites and covered in conversations between staff and individuals.

> *"[The biggest challenge for people dealing with debts to central and local government] is trust - most clients don't think/ know that they will get any support or help."*
>
> *"There is no clear guidance to clients about the vulnerable teams that exist in central and local government. The above information should be available to people with central and local government debts. It should be included in the demand letters."*
>
> Responses to sector-wide survey of debt advisers

Staff skills and training

Any approach to identifying vulnerability should be underpinned by a clear vulnerability policy and comprehensive staff training. Staff should understand potential signs of vulnerability, including being able to recognise and probe passing comments about difficulties a customer may be facing. Staff should collect relevant and accurate information and government organisations should have systems in place to ensure this information is stored securely and is available to other staff in future interactions. This is critical in ensuing that an individual's communication and support needs are met, as well as making sure they do not have to repeatedly disclose each time they speak to the organisation, which can be hugely distressing.

There are a variety of existing tools that can support frontline staff to identify vulnerability, respond to disclosures and gather relevant information about a customer's circumstances. *Vulnerability: a guide for debt collection – 21 questions, 21 steps*[80] – for example – sets out a range of tools that can be used to help identify and support customers in vulnerable circumstances. There is substantial scope for these to be more widely embedded in the practices of government debt management teams, and we hope the Fairness Group's Vulnerability Toolkit will assist with this.

It is important for staff to establish not just the particular vulnerability, or vulnerabilities, a customer may have but what this means in terms of the support they need from the organisation – such as receiving communications in a certain form, needing staff to take more time in explaining and checking understanding, or showing flexibility in collection processes..

In many cases, staff training will need to go beyond generic 'awareness' training on specific vulnerable circumstances. Instead, government organisations should look to implement training that is practical, operationally-focused, and reflective of the challenges and demands that staff face when attempting to identify, engage, understand, and support vulnerable consumers.

We would also note the importance of ensuring that frontline staff are supported and encouraged to identify and act on vulnerability. Monitoring call quality, tracking successful identification of vulnerable customers and rewarding staff when they show the correct flexibility to secure positive outcomes for these individuals are all important in creating the right culture within debt management teams.

80. Fitch, C., Evans, J., and Trend, C. (2017) Vulnerability: a guide for debt collection – 21 questions, 21 steps

Embedding fair treatment of vulnerable customers in the culture of organisations

While frontline staff play a key role in the outcomes of customers in vulnerable circumstances, the responsibility for fair treatment of vulnerable customers does not, and cannot, lie solely with them. In our experience of working with creditors, significant changes – for customers, staff and the organisation itself – are realised when support for vulnerable customers is embedded throughout the organisation and becomes a key part of their culture. This means senior staff have a critical role to play and is something we have seen within the private sector, where the FCA have set clear expectations that *"the fair treatment of vulnerable consumers [must] be taken seriously by firms, and embedded into their culture, policies and processes throughout the whole consumer journey.... Senior leaders in firms should create and maintain a healthy culture in which all staff take responsibility for reducing the potential for harm to vulnerable consumer."* [81]

We believe that senior staff in government organisations have a similarly important role to play in improving the identification and support of vulnerable customers. While the need to embed cultural change can sometimes feel particularly challenging or abstract, there are practical steps senior staff can take to achieve this. In response to the increasing focus on vulnerability within financial and other essential services, the Money Advice Trust and UK Finance developed the Vulnerability Academy.

81. Financial Conduct Authority (2020) GC20/3 Guidance Consultation and feedback statement: Guidance for firms on the fair treatment of vulnerable customers

The Vulnerability Academy, which runs across five one day workshops, supplemented by webinars, podcasts, reading lists and downloadable resources, is a learning environment where senior managers have the opportunity to meet, question, and work with leading thinkers across sectors. It has a particular focus on embedding fair treatment of vulnerable customers within the specific circumstances and context of each organisation and helps firms to achieve five key aims:

- Meet their legal and regulatory responsibilities
- Support all customer engagements including everyday transactions, lending, customer service, sales, fraud, collections and digital
- Improve their reputation as a responsible organisation that treats customers fairly
- Improve their debt recovery rates and broken repayment arrangements, and minimise the likelihood of additional costs
- Improve colleague confidence, knowledge and understanding on vulnerability

The success of the Money Advice Trust and UK Finance Vulnerability Academy partnership suggests there is significant value in specific training and support for policy- and decision-makers, which give opportunity for networking and sharing of best practice amongst their peers. We recommend that consideration is given to the establishment of a cross-government Vulnerability Academy, to support senior managers and policy makers in departments (and local authorities) in a similar way to develop the capability of their debt collection functions and embed fair treatment of vulnerable customers.

Using data and technology

In recent years, new technology has been developed to support the identification of vulnerability. This includes text and speech analytics software which can identify signs of vulnerability. Government organisations may wish to consider how this sort of technology could be used. However, we would highlight that this should always be used in combination with, rather than in place of, staff identification and efforts to create disclosure environments.

We would argue that the more important factor in terms of government debt management is the use of existing, internal data sources. Central and local government organisations should consider how they can use existing information they hold about a customer to identify vulnerability and to join this up with other departments. For example information about other debts owed (either within or between organisations), information about benefits being received, particularly when these relate to disability, illness or caring responsibilities, and details of people's income can all give an indication of an individual's wider circumstances.

We appreciate there can be considerable challenges in accessing and sharing data and ensuring appropriate consent and protection for customers is crucial. However, we would recommend government continue to explore how data sharing could be used to improve outcomes for vulnerable customers. This could include sharing (with consent) information about a customer's circumstances across departments and organisations – particularly where someone has multiple debts. We note, for example, the positive progress government made in developing and implementing the *Tell Us Once* system for reporting a death and would encourage the government to consider what learning from this could be applied to the identification, recording and sharing of information about vulnerabilities. A similar Tell Us Once system for vulnerability is something that should be actively explored. The implementation of a single view of debt could also help with identifying and sharing details of a customer's vulnerable circumstances.

4.3. Supporting vulnerable customers

In recent years, the financial services sector in particular, has made significant progress in improving the support available to vulnerable customers. We also recognise that there have been efforts to improve the response of government organisations and we are seeing some good practice emerge in this area. The creation of the Debt Market Integrator has seen a significant change in how some debts to government are collected, with these now being managed by FCA-regulated debt collection agencies. This has seen a greater focus being place on securing positive outcomes for vulnerable customers, something the FCA have put increased focus on in recent years.

In particular, Indesser employ a 'Vulnerability Standard' to embed effective identification and fair treatment of vulnerable customers throughout their debt management approach. This is welcome and the Cabinet Office should consider how this type of good practice can be more widely shared throughout government. In particular, we need to see more action by government organisations earlier in the process to ensure people in vulnerable circumstances are identified at the earliest possible opportunity, and that the collection approach is then tailored accordingly, to avoid them being passed through to external collection or enforcement agencies when this is not appropriate.

HMRC's Extra Support Team is one example of how a government organisation can provide dedicated, flexible support for people in vulnerable circumstances or hardship.

"HMRC NES (Needs Extra Support) initiative was a good idea. A lot of clients weren't aware of this service but it's the kind of scheme that could be rolled out."

"A HMRC adviser realised, without prompting from the client, that they had mental health issues and referred them to their Needs Extra Support Team for specialist help. They assured the client they would be taken out of the usual collections process which meant the client wasn't so scared about dealing with the late filing of their returns and the subsequent tax arrears. They just needed someone to work with them, not against them."

"HMRC's approach to vulnerable customers with tax debts seems to be very pro-active in my experience. They seem willing to work with representatives and to provide constructive practical assistance to resolve problems on an individual basis."

Responses to sector-wide survey of debt advisers

While it is not possible to draw direct causality with the existence of the Extra Help Unit, in a recent survey of Business Debtline clients who owed debt to HMRC, the verbatim comments revealed reports of a positive approach being taken for some people: 1 in 5 (19%) said HMRC were helpful / that they experienced good service, with a further 5% saying they were understanding, supportive and willing to listen.[82]

> *"When speaking on the phone with members of HMRC, to clarify my understanding of letters/ statements of payment due, I have been reassured, advised and spoken to politely with understanding and guidance of my clear next steps."*
>
> *"They have been considerate and listened to me and worked with me."*
>
> *"Very easy to speak to HMRC and they are very helpful."*
>
> Verbatim comments from Business Debtline clients[83]

Unfortunately, the same survey also identified numerous cases where customers with vulnerabilities had not been treated appropriately. Based on analysis of verbatim comments, 1 in 10 (11%) said their experience of discussing their debt with HMRC was stressful, difficult and/ or lengthy. A further 10% reported agents having an aggressive or threatening attitude, and 8% said they felt HMRC were unsympathetic and did not give them the right support.[84] This perhaps summarises the current experience across central and local government debt collection, whereby there are pockets of very good practice but overall the approach to supporting vulnerable customers remains inconsistent.

To improve outcomes for vulnerable people in debt, there needs to be a consistent approach across government with clear monitoring to ensure that good practice in relation to vulnerability is embedded in all departments. Where government organisations fail to do so, there should be clear consequences and dedicated focus on improvements.

82. Online survey of 256 Business Debtline clients who contacted Business Debtline in 2018 and had at least one debt to HMRC. Fieldwork conducted between 21 Aug – 5 Sept 2019. Based on verbatim comments coded by theme and calculated as a percentage of 155 respondents who left a comment to the following question: "How would you describe your interactions about your tax debt with HMRC?"

83. Business Debtline client survey on HMRC debt collection- Verbatim comment from survey respondent. Fieldwork conducted between 21 Aug – 5 Sept 2019.

84. HMRC of 256 Business Debtline Clients (see box 5): Based on verbatim comments coded by theme and calculated as a percentage of 155 respondents who left a comment to the following question: "How would you describe your interactions about your tax debt with HMRC?"

To address this, we would like to see learning from best practice within government organisations and from across other sectors being implemented more consistently. This could include:

- Empowering frontline staff to show flexibility in policies and processes for vulnerable customers, where this is needed.
- Monitoring call quality and rewarding staff when they show the correct flexibility to secure positive outcomes for people in vulnerable circumstances.
- Designating a senior manager with specific responsibility for overseeing the treatment of vulnerable customers.
- Investing in specialist teams to support vulnerable customers.
- Offering forbearance to customers, including giving breathing space to customers voluntarily and pausing collection activity.
- Ensuring there are different communications channels available for vulnerable customers to get in touch through the channel of their choice.
- Pausing collection and enforcement activity when needed, to allow individuals to seek debt advice or wider support, or while an application for benefits is made. This should become a routine part of the process for customers who need it.

"Some local councils have very good practices in dealing with mental health. Some are able to adapt their service to provide longer periods of hold. This would be good to see on a more widespread basis."

Response to sector-wide survey of debt advisers

Showing flexibility and being willing to deviate from a standard process where vulnerability is identified is critical to securing positive outcomes for people. This should include having different collection routes for vulnerable customers and exempting them from enforcement action where this would not be appropriate for their circumstances.

A good example of this is in relation bailiff action. Some cases will be sent back to the local authority by a bailiff if vulnerability is identified by them. However, by this stage significant harm can already have occurred. In addition, the bailiff industry uses a very narrow definition of vulnerability in the form of a "tick-list" in the National Standards,[85] despite requests from the debt advice sector for the Ministry of Justice to finish updating the National Standards to reflect the current thinking regarding a more sophisticated understanding of vulnerability. This can lead to a very rigid approach to identifying and assisting people in vulnerable circumstances.

This harm could be avoided if there were clearer segmentation and flexibility around enforcement methods for customers in vulnerable circumstances. We would like to see all local authorities in England exempting recipients of Council Tax Support, who have already been identified as requiring additional support through locally-determined criteria, from bailiff action altogether. The Money Advice Trust's *Stop the Knock* FOI in 2019 found that 30 local authorities in England (9%) had a policy of exempting recipients of Council Tax Support from bailiff action.[86]

In our survey of debt advisers across the free advice sector, exempting Council Tax Support recipients from bailiff action was referenced several times as an example of good practice that has a significant positive impact on people with vulnerabilities.

"Liverpool City council do not use bailiffs if clients receive Council Tax Support and work with Citizens Advice on affordable payment arrangements."

"Somerset West and Taunton Council have a vulnerable person policy that allows identified clients to avoid the anxiety of bailiffs and work in partnership with their local Citizens Advice to achieve affordable payment plans."

"Salford City Council has signed to the Citizens Advice Protocol on Council Tax collection. [They] no longer use bailiff action for people on Council Tax Support. [They have a] designated Struggling to Pay section of their website."

Responses to sector-wide survey of debt advisers

85. See point 77 in Taking Control of Goods: National Standards, April 2014

86. Money Advice Trust (2019) Stop the Knock: An update on local authority debt collection practices in England and Wales, https://www.stoptheknock.org/

5. Communications

Good communications are essential to help people resolve their debt issues. However, from our experience, current approaches to government debt collection and communications can have a negative impact on people's mental and physical wellbeing. These negative impacts can disrupt individual's efforts to resolve their debt situation.

5.1. Issues with current communication approaches

Large majorities of National Debtline clients surveyed who held debts to central and local government organisations report collection activities had a negative impact on their wellbeing: 80% of those who had debts to DWP, 79% to local authorities and 78% to HMRC. 85% reported a negative impact from the actions of bailiffs/ enforcement agents, who are often collecting council tax debts.[87]

These proportions are higher than almost all private sector creditor types (see chart on next page).

The negative impact on people in problem debt is further demonstrated in the qualitative feedback we receive from National Debtline and Business Debtline clients. It is common for National Debtline and Business Debtline callers to report being made to feel dishonest or untrustworthy in their dealings with government organisations. Others report that their vulnerability has not been taken seriously or treated sympathetically.

"They were generally unhelpful and unsympathetic to my situation. I felt they believed I was being dishonest about not being able to pay the debt. I didn't feel they had any supportive measures in place, I wasn't offered any extra support even though I explained I have been diagnosed with anxiety and depression."

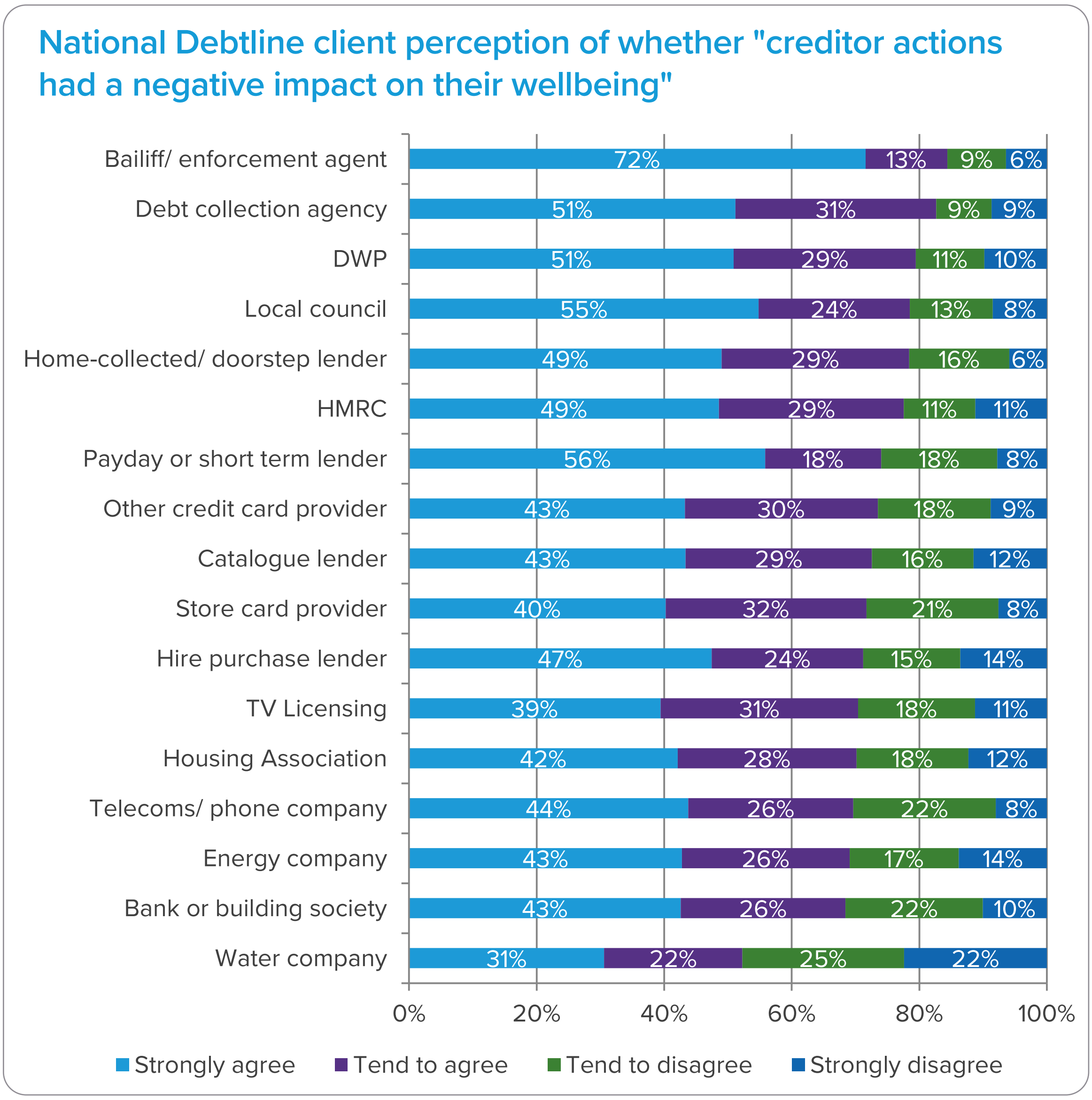
"It was horrible. The first part of the 60-plus minute call was filled with the [contact centre agent] talking down to me. She was more concerned with giving me a hard time than resolving anything. At the end I just agreed to her plan due to exhaustion which after a month or two failed."

"The system is too rigid and absolutely fails business owners. There is no empathy, letters by quantity and tone feels harassing. There is no consideration about personal income versus ability to pay."

Verbatim comments from Business Debtline clients[88]

87. National Debtline annual impact survey 2020. Percentages relate only to survey respondents who had at least one debt with that particular creditor. Base size for each creditor: HMRC:107; DWP: 112; LAs: 177; Bailiffs: 109.

88. Verbatim comments taken from responses to Business Debtline client survey on HMRC debt collection. Fieldwork conducted between 21 Aug – 5 Sept 2019.



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Similar experiences are reported second-hand by debt advisers, who report that poor communications, inappropriate debt management activity and a lack of focus on affordability can have a significant impact on people in debt and often lead to negative outcomes. In particular, in a Money Advice Trust survey of advisers across the free advice sector, it was common for respondents to highlight the difficulty in being able to get through to speak to government organisations as a key challenge for people, particularly those in vulnerable circumstances.

When asked what the biggest challenge was for people trying to deal with debts owed to government, a significant proportion of advisers said communication issues, with difficulties in getting through to speak to someone about their debt dominating these (mentioned by 31% of respondents).[90] Advisers reflected that difficulties getting through to speak to staff can contribute to a sense of hopelessness from people about their debt situation, can put people off trying to contact again and lead to them disengaging with government organisations.

89. National Debtline annual impact survey – respondents were asked “Please take a look at the list of creditors and other organisations below. For the ones that apply to you, please tell us to what extent you agree that their actions had a negative impact on your wellbeing”. Total respondents for the question were 524, percentages are shown only as a proportion of those who had debts to that creditor, so individual bases vary. Any creditors where the base was lower than 50 have been removed from the graph.

90. Money Advice Trust survey of debt advisers across the free advice sector, via our Wiseradviser training service. Based on verbatim comments coded by theme and calculated as a percentage of 392 respondents who left a comment to the following question: “In your experience, what is the biggest challenge that people have when trying to deal with debts owed to central and local government?”

"The people we try to help really struggle to understand the letters / award notices / bills [they are sent]. Often they have attempted to try and address the issues themselves but just give up because they can't get through on the phone or they are spoken to very unsympathetically"

"Communications sent by local and central government are often unclear and use language that many clients struggle to understand"

"People can also be passed around from department to department and from adviser to adviser. It would be better if their case could be taken into ownership by one representative."

"Typically, central government debt collection departments take a very long time to respond to attempts to initiate communication or do not respond at all. This leaves clients feeling stressed and in limbo and not being able to move forward with their debt problem."

"Getting through to speak to someone, especially DWP and HMRC. Sometimes it is virtually impossible and vulnerable people will just give up."

"It is extremely difficult to contact the DWP Debt Management section to resolve matters for clients. This leads to a great deal of stress for clients and makes it more difficult to improve their situations."

"The emphasis in [government organisations'] communications and practices are usually traditional insofar as they treat the debtor as someone who has done something morally wrong and who must face punishment if they do not make amends. Our local council used to be like this too, but has improved dramatically over the last year or so towards working with clients to solve problems - reducing the impact on health."

Responses to sector-wide survey of debt advisers

It is important to reflect that it is not just communications that can impact on people's mental and physical health, but also the issues outlined previously, regarding a lack of focus on affordability and the pace at which collection activity escalates.

As we have set out in a previous section, setting repayments at an unaffordable rate can create a high risk to people's health. For example, a repayment rate set too high might mean an individual cannot afford to buy what they need to manage their health condition – such as paying for prescriptions, buying food, covering the cost of extra heating if they need to stay warm at home, covering the cost of transport to and from hospital, or paying for taxis if a health condition or disability means they cannot take public transport.

"People who are on low incomes and often given no real option but to pay high levels of instalments means they cannot afford to live, impacting on their health."

"Most clients feel pressured in to making arrangements and this has considerable negative impact on physical and mental health as clients sometimes deliberately choose to go without in order to avoid pressure placed on them by bailiffs and debt collection companies."

"Increases distress and anxiety, including feelings of helplessness and being lost in a 'system' that is neither helpful nor understanding of debt issues. This can then manifest as mental health issues which also impact on a person's ability to monitor or manage their physical health. Insisting on high debt repayments mean families have to eat cheap and potentially unhealthy food, have a poor environment at home due to a lack of heating / hot water / warm clothes."

Responses to sector-wide survey of debt advisers

Existing evidence has also shown that poor debt management activity or communication can exacerbate the mental and physical impacts on people in problem debt. The National Audit Office analysed data from StepChange Debt Charity, which found 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'.[91] In addition, they found that added fees (such as bailiff fees applied to council tax debts) *'increase the probability of debt problems becoming harder to manage by 29%, and the probability of anxiety or depression levels rising by 15%'*.[92]

91. National Audit Office (2018) Tackling Problem Debt

92. Ibid

"I find that I am more and more having to refer my client base to Wellbeing and Mental Health services because of the poor handling of their cases by Central and Local Government."

"[Current government debt collection practices] exacerbate clients physical and mental health problems as they feel that their situations are not being taking into account. Central and local government refer people for debt advice but then don't take into account what a debt adviser has suggested. Even when a client has sent a budget to a council showing a small offer of payment, councils will still instruct bailiffs which add further costs onto the bill (which get repaid first before the actual council tax, which is supposed to be the priority) and adds further pressure."

"It can cause people to feel quite stressed and anxious. Many have advised their health gets worse due to the stress, pressure and the constant letters and calls they receive."

"The inflexible approach clients describe leaves them feeling helpless and has a detrimental effect on mental health, There are clients who may have been able to cope but are not helped but the way demands are made some times multiple demand with varying figures, this is particularly a problem with council tax."

"The debts I encounter with the most severe consequences are debts owed to central and local government. Simply advising a client that there is realistic possibility of bailiffs acting on a council tax debt will increase their anxiety which is already heightened due to their debt situation. The way the debts can be enforced (and are being enforced) is exasperating our clients mental health and I see this on a daily basis."

Responses to sector-wide survey of debt advisers

The National Audit Office's findings highlight the particular negative impact that bailiff action can have on people's physical and mental health. As highlighted above, 85% of National Debtline callers surveyed who had experienced bailiff action reported a negative impact on their wellbeing.[93] When bailiffs break the rules and treat people unfairly, this detrimental impact can take particularly distressing forms.

7 in 10 people said that, as a result of bailiff action, they experienced increased stress or anxiety, felt unsafe or became afraid to answer the door.[94] The impact on people's sense of independence is particularly damaging. A third of people said a negative interaction with a bailiff made them feel unsafe in their own home and 1 in 4 said it made them scared to leave their home.[95] This impact can be further exacerbated when existing health conditions are not properly taking into account.[96]

93. National Debtline annual impact survey 2020, base: 109 callers who had experienced bailiff action

94. Citizens Advice and StepChange Debt Charity commissioned YouGov polling of adults in England and Wales who had a negative experience with bailiffs, weighted to be nationally representative. Base: 192. For more information, see Taking Control response to Ministry of Justice Call for evidence: Review of the enforcement agent reforms, February 2019.

95. Ibid

96. Research by the Money and Mental Health Policy Institute found that 7 in 10 people in debt with mental health problems said that their vulnerable status was not dealt with appropriately by bailiffs. For more information, see Taking Control response to Ministry of Justice Call for evidence: Review of the enforcement agent reforms, February 2019.

"In my experience the use of enforcement agents in the collection of debt has an extremely negative impact on people's mental health."

"As soon as a client heard the name "Bailiff" or Enforcement Officer" they start to panic, don't sleep & their mental & physical states starts to suffer."

"The use of bailiffs to collect council tax arrears has a massive impact on the whole family's mental health not just that of the debtor."

Responses to sector-wide survey of debt advisers

5.2. Improving approaches to communications

Clear, easily-understandable communications

Good communications can be key in helping people resolve their debt issues. We would encourage central and local government organisations to consider how they can ensure that their communications with people in debt are always clear and easily understandable. Government research has found that one in seven adults in the UK have literacy skills in line with that expected of a child aged 11 or below.[97] Just under half of UK adults have a numeracy attainment age of 11 or below.[98]

Those in vulnerable circumstances may face particular challenges when it comes to communications. Certain health conditions or medications can affect people's concentration, decision-making capabilities or their ability to use certain communication channels.

The impact of difficult and stressful life events – such as bereavement - can also mean some people might face temporary difficulties with communications. Government organisations should ensure all their communications, to all customers, are simple and easy to understand. Regularly testing communications with customers can help to ensure this is the case.

We welcome the government's recognition, in October 2020, of the need to avoid threatening and jargon-heavy communication in debt collection letters – which has driven the welcome announcement of forthcoming changes to the Consumer Credit Act[99] following campaigning led by the Money & Mental Health Policy Institute. These changes, in the context of consumer credit debt collection communications, must also be reflected in debt collection communications sent by government creditors.

97. Department for Business, Innovation and Skills (2012) The 2011 Skills for Life Survey: A Survey of Literacy, Numeracy and ICT Levels in England

98. Ibid

99. HM Treasury (2020), New debt letter rules will support people in problem debt

From our experience, many people can find communications or paperwork about debt from government organisations complex or confusing. We have also seen issues where customers have been given confusing or incomplete information about their debts.

One example of this is in relation to deductions from benefits. We appreciate that the DWP took some steps in 2019 to improve the information provided about deductions on claimants' Universal Credit journals, however there can still be issues with deductions appearing for debts an individual did not know about – particularly where these relate to benefit or tax credit overpayments - and a lack of information, such as how long the deductions will go on for. Under Universal Credit, claimants often get less notice that a deduction will be taken than under the legacy benefits system. This makes budgeting difficult for people. It also increases the risk of financial hardship if claimants receive less benefit income than they were expecting and do not have time to ask for the rate that deductions are being taken to be reconsidered.

Furthermore, it can be challenging for people to establish the total amount they owe, and therefore how long deductions will be applied for. Even when people contact the DWP debt management service to find this out, the information isn't always available because of the way the Universal Credit and debt management systems currently communicate with each other. Government organisations should work to improve the information provided to people in debt, and develop more accessible routes through which people can seek clarity on the amount owed. The Department for Work and Pensions should aim for a 'no wrong door' policy to ensure that, whichever aspect of the service an individual contacts, staff are able to provide information about debts owed or quickly transfer them through to the relevant team to receive the information.

"Little or no advance notice is given regarding deductions. This makes planning and budgeting very difficult. Losing 40%, now 30% of your income is not manageable and is often the start of debt issues."

"The statements which are sent tend to confuse the client (especially council tax letters). This leads to clients not knowing what they need to pay and when."

"The lack of clarity regarding why debt is owed and what the options are has very a serious impact on people's wellbeing."

"For benefits overpayments: it can be confusing to work out what is owed, and why, clients often get letters asking for different amounts."

Responses to sector-wide survey of debt advisers

The issue of poor or complex communication from government organisations can be complicated by the fact that many people, particularly those in vulnerable circumstances, may lack the confidence to seek clarification or be worried it will reflect negatively on them. To counter this, it is important to ensure not only that communications are as clear and simple as possible but also that staff regularly check that customers have understood the information given to them.

Supportive communications

As well as improving the clarity of communications, we would encourage government organisations to consider how they can use communications to more effectively engage and support people in debt who are struggling to pay. In many instances, we still see government organisations adopting an approach to communications which can include harsh of threatening language. This has often been based on an out-dated view that this type of communication is needed in order to secure engagement from people in debt.

However, in practice evidence suggests the opposite happens. Advisers frequently report that communications with threatening or scary language or with prominent warnings about court action can leave people feeling anxious, hopeless and unable to see a solution to their situation. Research shows they can have a significant impact on people's mental health and also be a factor in people in debt becoming suicidal.[100]

Instead, we would encourage government organisations to consider how they can take a more supportive tone in their communications, highlighting the positive benefits of people in debt getting in touch and the options available to them to resolve their debts. While we recognise there may be nervousness about the impact of such changes, we would encourage government organisations to work with, and learn from, private sector firms who have taken a more supportive approach to communications and collection activity and have seen no lowering of collection rates. This approach should become more commonplace within government, starting with pilots if necessary, to demonstrate the success a changed approach to communications can have. There is also good practice within the government debt collection area that could be shared and implemented in other contexts – including the practices of the Debt Market Integrator.

100. Money and Mental Health Policy Institute (2018) A silent killer: Breaking the link between financial difficulty and suicide

"I think that most debtors would engage more with these creditors if they were more approachable. Threats for non-payment often put debtors off engaging so this then impacts on their mental and physical health as they are constantly worried about the situation."

"When debtors do engage, either independently or with help from an advice agency, and the local or central government department does not treat the debtor as a human, but simply looks at the amount of debt they owe and how they can recover it in the quickest way possible, this is a disincentive to the debtor. They feel powerless and frightened, reluctant to engage further as they see no point in doing so."

"Huge impact on my clients mental health, leading to physical impacts. this creates a viscous circle for debtors. They are unable to pay the debt at that moment, but due to the way they are treated by creditors they are too anxious or scared to speak on the phone about their debts, leading to escalated practices, which just create more debt and stress."

"Debt collection practices have a significant impact on mental health, meaning that the client is less likely to engage which exacerbates the situation. HMRC / DWP in particular make it very difficult to speak to the right person to discuss how to deal with overpayments / debts - often phone lines are very busy or staff unsympathetic."

Responses to sector-wide survey of debt advisers

Accessible communication channels

Finally, we would also encourage government organisations to ensure they have a range of accessible communication channels for people in debt. Research by the Money and Mental Health Policy Institute, for example, found that more than half (54%) of customers who have experienced mental health problems, and one third (32%) of those who haven't, have serious difficulties using the telephone.

For these people, the option to engage in writing such as over email, webchat, messaging apps or post may be more accessible. For others, writing may be difficult and speaking in person or over the phone is preferable. A positive outcome is more likely to be secured when a customer is able to communicate in a way that is accessible and that they are comfortable with, so we would encourage government organisations to have multiple channels available wherever possible and to proactively offer customers the option of how to communicate with them.

"I would like to use email but HMRC, despite all the talk about 'Making tax digital', does not allow for this for the vast majority of communications"

Business Debtline Client[101]

101. Business Debtline client survey on HMRC debt collection- Verbatim comment from survey respondent. Fieldwork conducted between 21 Aug – 5 Sept 2019.

6. Other areas

Beyond the central areas of affordability, vulnerability and communications explored in this report, there remain several other issues with government debt collection practices that require the attention of policy makers, including:

- Ensuring effective referral mechanisms and debt advice sector partnerships
- Providing people who owe debt to government organisations with accessible and effective complaint and dispute resolution mechanisms
- Designing reporting that incentivises, rather than undermines, good practice

Further treatment of these and other issues can be found in the Money Advice Trust's full response to the Cabinet Office call for evidence on fairness in government debt management, published in September 2020.

7. Recommendations

The issues identified in the previous sections should be addressed through a bold package of reform of government debt collection, which aims to level up the practices of central and local government to those seen in the private sector.

We recommend that the government takes steps to:

1. Reform practices through a Government Debt Management Bill

Following the Cabinet Office's recent call for evidence, the government has an opportunity to transform its approach to debt management and bring it up to standard with other sectors. We would encourage the government to bring forward a package of reforms centred on a Government Debt Management Bill to embed effective approaches to affordability, vulnerability and communications – as proposed by a cross-party group of Parliamentarians in June 2020.

A Government Debt Management Bill could combine action to improve policies and practices with changes to existing legislation and regulation, which have so far hampered efforts to improve practice and implement new approaches, not least within local government. In doing so, it would ensure that principles of fairness and affordability are embedded throughout government debt management. There is strong support for such a Bill, and the measures contained within in – including from Parliamentarians - and we hope to see it brought forward at the earliest possible opportunity.

2. Embed effective approaches to affordability

A Government Debt Management Bill should firstly embed principles of fairness and affordability across central and local government organisations. There needs to be greater efforts to properly assess affordability, understand an individual's holistic financial situation and to tailor collection activities to individual circumstances.

A revised approach that puts affordability at the centre is likely to result in better collection outcomes for both creditors and people in debt. Specific action should include:

- All central and local government organisations adopting the Standard Financial Statement (SFS) as the means for assessing affordability of debt repayments.
- Making it easier for people to make affordable arrangements to repay, and to seek a reconsideration of repayments where these are causing financial hardship.

- Introducing a single customer view of debt to enable any government organisation to see all debts owed by an individual both to their and other government organisations, in order to set fair and affordable repayments across all their debts.
- Piloting and – if successful – rolling out a 'Help to Repay' scheme, whereby people who keep up with either their ongoing bill payments or a certain level of repayments on their debts receive support in return through 'repayment matching' / equivalent partial write-offs.
- Reviewing the high rates of deductions that are currently allowed under Universal Credit, and ensuring deductions are only taken when an SFS budget shows them to be affordable for the individual.
- Bringing the treatment of historical government debt into line with practice in the private sector by writing off tax credit overpayments older than three years and implementing new rules that mean people must be told of any benefit overpayments within 12 months of it occurring, or it is waived.

3. Ensure fair treatment of vulnerable customers

Identifying and providing support to customers in vulnerable circumstances is a critical area where the government could learn from best practice in other sectors. To improve outcomes for vulnerable people in debt, there needs to be a consistent approach across government with clear monitoring to ensure that good practice in relation to vulnerability is embedded in all departments. This should include concerted efforts to:

- Embed the use of the forthcoming cross-government Vulnerability Toolkit, developed by the Fairness Group, across central and local government
- Improve identification by creating an environment in which customers feel comfortable disclosing their vulnerable circumstances.
- Empower frontline staff to show increased flexibility in order to secure positive outcomes for vulnerable customers.
- Ensure vulnerable customers are offered additional forbearance – including exempting vulnerable customers for certain collection and enforcement activities, such as bailiff action.
- Support both frontline staff and senior managers through training and capability building, to help embed fair treatment of vulnerable customers in the culture of government organisations. Where government organisations fail to do so, there should be clear consequences and dedicated focus on improvements.
- Consider establishing a cross-government Vulnerability Academy, modelled on the successful UK Finance / Money Advice Trust Vulnerability Academy for senior vulnerability policy makers in financial services firms.

4. Improve communications with people in debt

Good communications can be key in helping people resolve their debt issues. We would encourage central and local government organisations to review their current approach to communicating with people in debt, with evidence showing that taking a more supportive approach can lead to higher rates of engagement and reduce the negative impact on people's physical mental and physical health. Government creditors should:

- Consider how they can ensure that their communications with people in debt are always clear and easily understandable, and develop more accessible routes through which people can seek clarity on the amount owed.
- Ensure they offer a range of accessible communication channels and proactively offer customers the option of how to communicate with them.
- Build awareness of the help available to people and the options for resolving their debts, including through more effective partnerships free debt advice agencies.

5. Meet commitments already made on Breathing Space and SDRPs

The introduction of the statutory Breathing Space scheme in 2021 is a welcome step in ensuring that people receive consistent protection from collection and enforcement activity while they seek debt advice. The inclusion of most – although not all – debts to government in the scheme is welcome. Similarly, the proposed introduction of Statutory Debt Repayment Plans (SDRPs) has the potential to significantly improve outcomes for people who owe money to government organisations, by offering them a route through which to make affordable repayments to their debts and receive protection from collection and enforcement activity in return. It is vital that progress in delivering these schemes is not lost, and that as many debts to government organisations as possible are included in the schemes. In particular, the government should:

- Meet the commitment already made to include Universal Credit advances and third party deductions from Universal Credit in the statutory Breathing Space scheme as soon as possible after its launch in May 2021.
- Progress plans for the introduction of Statutory Debt Repayment Plans as soon as possible.
- Commission a broader independent review into the debt solutions available to consumers, which have evolved in a piecemeal fashion over several decades . This should consider short-term changes needed in the wake of Covid-19, and long-term changes required to ensure that that an appropriate solution exists for every circumstance.

6. Reform council tax collection practices

The collection of council tax arrears is one area where affordability concerns are particularly prevalent, especially given the pace at which collection can escalate and move through to enforcement by bailiffs. The Ministry of Housing, Communities and Local Government's commitment to review the current guidance on council tax collection is welcome, however given we have seen only small, incremental change in recent years, it seems clear that the impact of a voluntary approach based on guidance will always be limited.

We would therefore urge the Cabinet Office to work with the Ministry of Housing, Communities and Local Government to move forward with an expanded review which includes changes to the 1992 Council Tax (Administration and Enforcement) Regulations, with the aim of preventing the fast escalation of council tax and ensuring councils have more flexibility to collect debts in an affordable way. In particular, we would encourage the government to make changes to:

- Stop people becoming liable for their entire annual bill when they fall behind on instalments
- Introduce a statutory 'pre-action protocol' for councils to follow before beginning to enforce council tax debt – including a requirement to set up an affordable repayment plan. This would, in effect, place the Good Practice Guidance for Council Tax collection on a statutory footing.
- Replace the costly and ineffective liability order process with a more effective consumer safeguard so councils have more power to collect debt flexibly.
- This should be accompanied by changes to current metrics around collection targets and the introduction of statutory reporting of debt collection methods and outcomes to incentivise good practice and quicken the pace of improvement.

7. Introduce independent bailiff regulation

Enforcement of debts by bailiffs can be a particularly distressing experience. Local authorities in England and Wales are the largest user of bailiffs (officially known as enforcement agents) – passing 2.6 million debts to them in 2018/19.[102] We have significant concerns that much of the debt passed to bailiffs is held by those unable to pay, who are often in vulnerable circumstances, rather than those wilfully evading payment.

The fee structures and incentives for bailiffs encourage them to push for full payment and to move quickly to the visits stage, rather than working with the individual to resolve their debts. Systemic problems in the market and a lack of independent regulation also mean bailiffs and bailiff firms are regularly breaking the rules and the revised National Standards introduced in 2014.

The debt advice sector's joint Taking Control campaign has long highlighted these and other issues, and argued for fundamental reform[103]. The government itself has recognised the need for action to address the harm caused by bailiff action. In November 2018, the Ministry of Justice launched a call for evidence on bailiffs[104], which closed in February 2019. We would urge the government to seize this opportunity to respond, setting out the steps they will take to:

- Establish independent regulation of the bailiff industry, to ensure bailiff firms and individuals follow the rules which govern their behaviour.
- Put in place a free and independent complaints mechanism to ensure people can get redress when bailiffs break the rules.

102. Money Advice Trust Freedom of Information request of 367 local authorities in England and Wales, April 2019. For more information see Money Advice Trust (2019) Stop the Knock: An update on local authority debt collection practices in England and Wales, https://www.stoptheknock.org/

103. Taking Control campaign (2019) Response to the Ministry of Justice call for evidence on its review of enforcement agent reforms

104. Ministry of Justice (2018) Review of enforcement agent (bailiff) reforms: call for evidence

Further reading

This report is based on the Money Advice Trust's full response to the Cabinet Office call for evidence on fairness in government debt management, published September 2020. The full response is available at http://www.moneyadvicetrust.org/researchpolicy.

Centre for Social Justice. 2020. *Collecting dust: A path forward for government debt collection.*

Citizens Advice. 2016. *The state of debt collection.*

Citizens Advice. 2018. *Hidden debts: The growing problem of being behind on bills and in debt to the government.*

Citizens Advice. 2019. *Council tax debt collection isn't efficient or effective.*

Citizens Advice. 2020. *Wrong side of the tax: how council tax collection needs to change.*

Fitch, C., Evans, J., and Trend, C. 2017. *Vulnerability: a guide for debt collection – 21 questions, 21 steps.*

House of Commons Treasury Committee. 2018. *Household finances: income, saving and debt.*

Local Government Association, 2019, *Reshaping financial support: how local authorities can help to support low income households in financial difficulty*

Money Advice Service. 2017. *Working collaboratively with debt advice agencies: A strategic toolkit for creditors.*

Money Advice Service. 2018. *Supportive council tax recovery toolkit*.

Money Advice Trust. 2018. *A decade in debt: How the UK's debt landscape has changed from 2008 to 2018.*

Money Advice Trust. 2018. *Taking care of business. Eight key challenges facing small business owners.*

Money Advice Trust. 2017. *Stop The Knock: Mapping local authority debt collection practices in England and Wales*

Money Advice Trust. 2019. *Stop the Knock: An update on local authority debt collection practices in England and Wales.*

National Audit Office. 2018. *Tackling problem debt.*

StepChange Debt Charity. 2016. *Creditor and debt collector conduct: what's making debt problems worse?*

StepChange Debt Charity. 2018. *Briefing on third party deductions.*

Taking Control campaign. 2017. *Taking control: The need for fundamental bailiff reform.*

Taking Control campaign. 2019. *Response to the Ministry of Justice call for evidence on its review of enforcement agent reforms.*

Money Advice Trust

The Money Advice Trust is a charity formed in 1991 to help people across the UK tackle their debts and manage their money with confidence.

For more information about this report:
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