



TRADING STANDARDS MONEY ADVICE POLICY

Scope

The policy covers the provision of money advice by Moray Council's Trading Standards Service.

Mission Statement

The Money Advice Service Will: -

- Help clients deal with their debt problems.
- Promote the availability of free independent money advice in Moray.

The Money Advice Service is committed to: -

- Providing best advice for clients.
- Being impartial, independent, free, confidential and non-judgemental.
- Dealing with all debts.
- Taking account of clients' personal circumstances.
- Encouraging clients to be responsible for themselves.
- Working in partnership with other agencies to help clients.
- Dealing fairly with all creditors.
- Targetting services at vulnerable groups.

Background

1. This policy takes account of: -
 - Feedback from clients and other stakeholders on their preferences and priorities.
 - Moray Council's Corporate Development Plan and the Community plan.
 - The Office of Fair Trading 'Debt Management Guidance' as amended for application to non-fee paying money advice services.
 - Scottish Executive approved Code of Practice and guidance for Money Advice agencies and Money Advisers.
 - The Debt Arrangement Scheme (Scotland) Regulations 2004, that detail, among other things the approval, functions and duties of a Money Adviser, and the operation of 'Debt Payment Programmes'.
2. Trading Standards has a statutory responsibility for the Consumer Credit Act 1974. The delivery of a money advice service provides valuable feedback to the authority to assist with this duty. This allows the service to police the credit market and take action against unfair credit practices. Advisers will report examples of unfair or illegal practices to their line manager.
3. The links between poverty and poor health are well accepted. Assistance for clients in debt will have a beneficial effect on the general health of the community. Clients also gain health benefits from a reduced stress.
4. Money advice contributes to economic well-being by:
 - Providing money advice and information on credit and debt issues
 - Counselling those with multiple debt problems
 - Providing advice to maximise clients' income
 - Providing advice to minimise clients' expenditure
 - Providing advice to prioritise clients' debts
 - Negotiating repayment programmes with creditors
 - Identifying other social problems and referring clients as appropriate.

General

5. The service will be impartial, independent, confidential and free to the client at the point of delivery.
6. We will promote and market the service, using the available budget, to ensure as far as possible that debtors are aware of the availability of free independent money advice. We will give priority to making the service available to vulnerable groups and will make use of the evaluation of Scottish Executive funded projects examining the money advice needs of specific groups due for publication in 2006.
7. We will process all data in line with the Council's policies on Data Protection and Freedom of Information and will comply with Copyright law.
8. We will keep accurate, and comprehensive records of all correspondence, actions and advice given.
9. The service will be provided in accordance with Council policies on Health and Safety, Equal Opportunities and Human Rights.
10. Advisers will not discriminate between clients on grounds of gender marriage, race, colour, ethnic or national origin, disability, age, sexual orientation or religion.
11. We recognise that money advisers can operate in a stressful environment and will ensure that appropriate support is provided to assist money advisers to deal with such stress. The Council's 'Stress in the Workplace' policy applies.
12. We will provide support for Money Advisers where they do not meet the competence requirements set by the Scottish Executive, or where an adviser has their approval revoked. The Council's 'Training and Development' policy applies.
13. We will provide access to training and give support for ongoing learning, and personal development. The Council's 'Employee Review and Development Programme' applies.
14. We will provide the Adviser with sufficient time and resources to fulfil their statutory role, including adequate administrative support, information resources and guidance.
15. We will cooperate with the implementation of national systems to enable collation of statistics on personal debt.
16. Correspondence and documentation will be in plain English.
17. The Money Advice service will be provided under a quality system based on the Scottish Executive approved code of practice.
18. The policy will be reviewed in 2008.

The Money Advice Service and Clients

19. Clients will enter into a 'client agreement' with the service, setting out the client's responsibilities and expected conduct in dealing with creditors and the money advice service. Clients will be provided with a 'debt advice pack' including details of the type and level of service provided.
20. The agreement will not prohibit clients from talking or writing directly with creditors or debt collectors. However, clients must tell their money adviser of any direct contacts to avoid confusion.
21. Information given by clients will be treated in absolute confidence and passed to a third party only with the client's explicit consent.
22. Consequences of non-payment will be explained clearly, highlighting debts where home, amenities or liberty are at risk.
23. Advisers will be non-judgmental. Advice and assistance will be given in good faith regardless of how the debts have arisen.
24. Advisers will not knowingly aid or abet the continuance of fraudulent activity by a client. However confidentiality means that the adviser will not normally reveal fraudulent activity without the client's consent. The client's refusal to give such consent will result in removal of the money advice service. The adviser will be entitled to breach confidence if required to do so by legal process. Where the adviser has concerns over the consequences of not divulging fraudulent activity, they will report the issue to the Trading Standards Manager for further consideration.
25. Advice should be in the best interests of the client. Clients will be offered all the options for dealing with their problems, which the adviser is able to identify, not just the adviser's preferred option. Clients will be told the implications of all options available to them
26. Debt management programmes are not suitable for all debtors, and the service will exercise all due discretion, in the best interests of the debtor, in deciding whether or not to take a debtor as a client. Some clients will be better served by referral to another agency, e.g. an insolvency practitioner.
27. Priorities in dealing with debts will be those of the informed choice of the client, not those of the adviser. However, advisers reserve the right to withdraw their services from clients who wish to pursue courses of action with which the adviser does not wish to be associated. Advice will be given on the consequences of such courses of action.
28. Advisers will attempt to enable and encourage clients to take control of their own lives and financial affairs and avoid unnecessary dependency of the client on the adviser.

Advice to Clients

29. Where the adviser is acting for the client they will keep the client informed of all actions being taken on their behalf.
30. Advisers will agree the actions to be taken with the client and who will perform the actions. This agreement will be clearly recorded in the client's case notes.
31. Advisers will act as promptly as possible. The service will comply with the Moray Council customer care policy. The service aims to see 75% of clients within 10 days of first contact, and all clients within 21 days. In addition, the service aims to make written representation to creditors within 3 days of getting authorisation from the client (normally the day of the first interview).
32. The service will keep in regular contact with the client and where the client's financial circumstances change, the service will offer to draw up a revised action plan with them, and where appropriate offer to complete a Variation of the Debt Payment Programme. Repayment plans will in any event be reviewed regularly. Reviews will generally be carried out annually, however they may be more frequent if required.
33. The money advice service will send the client a copy of any written communication it sends to or receives from the creditor (unless the creditor itself sends a copy to the client), and will keep the client informed of other communications. Clients must be advised not to ignore correspondence or other contact from creditors or those acting on behalf of creditors.
34. Where the adviser is faced with an issue that they are not competent to deal with, or where there may be a conflict of interest, the adviser will, with the permission of the client, refer the issue to a more appropriate agency. Examples include counselling on relationships or substance abuse.
35. All money paid by the client to 'Paylink' will be used only for the payment of the client's debt as agreed. Payments will be made promptly as agreed with the client and creditors.
36. The service will make a realistic assessment of the financial circumstances of the consumer, including both income and outgoings, before advice is given.
37. Consumer income will be verified by appropriate means, such as pay slips and bank statements. Reasonable steps will also be taken to verify regular outgoings. If precise figures are not available the service will use the figures from the National Debtline, provided that there is nothing to suggest that they are inappropriate in any individual case. Financial statements will not be sent to creditors without prior approval from the client.
38. Where appropriate efforts have been made to establish the financial position of the client, but information is still incomplete, advice will be based on the information that is available.

39. Statutory Debt Payment Programmes will be administered in line with the Debt Arrangement Scheme Regulations and Scottish Executive guidance.
40. The adviser will write to creditors and request that interest be frozen in terms of any Debt Payment Programme.
41. Any advice given to the client to cancel direct debits or standing orders prior to the repayment plan being agreed with creditors must be demonstrably in the best interests of the client. It is not a step that will be undertaken lightly. The service will clearly warn clients of the risks and consequences of this course of action if they advise it. Where this course is taken, the service will advise clients to make regular payments to creditors wherever possible, even if lower than the contractual ones.
42. The difficulties associated with stopping contractual payments are especially acute when they are accompanied by a period in which no payments at all are made (e.g. because there is a delay in distributing payments to creditors). If this will, or is likely to, happen under the plan the consumer must be clearly informed and warned of the consequences.
43. Clients should not be advised to make payments to accounts at a rate lower than the rate at which any interest and other charges are accruing or may accrue, unless this is demonstrably in their best interests. In such a case, a clear explanation must be given to the client as to why this course is necessary and its implications.
44. If, following advice to cancel direct debits or reduce the level of contractual payments, it becomes clear that the course of action is not producing results in the client's interest, (e.g. because creditors are not agreeing to freeze interest), then the client must be informed immediately so that they may be advised appropriately and take whatever action is in their best interests (including the possibility of withdrawing from the plan).
45. Clients will be advised of the importance of meeting debts such as mortgages, rent and utility payments. More generally it will not be assumed that it is always in the client's best interests simply to divide available income between debts in proportion to their size. For example, advice will take into account the fact that some loans may lose the benefit of a reduced rate of interest if payments are missed, or that there may be a benefit in settling a loan with a higher rate of interest sooner than one with a lower rate of interest.
46. When making arrangements for payment of multiple debts via 'Paylink' the service will take full account of debts such as mortgage payments, rent, utility payments etc including any arrears already incurred on those debts, in setting monthly repayments.
47. Clients will be given a statement of how their money is being distributed at the start of any payment programme. In addition, where a plan has been agreed, the balance owed (or if an accurate figure is not known the best estimate), the period of payment needed to clear the debts will be included in the statement. Clients must be kept informed of any material changes to these arrangements

at the time they occur. The service will provide clients with a statement of his or her position on request.

48. The service will respond to complaints promptly and fairly. Initially complaints will be referred to the Trading Standards Manager. If this referral does not resolve the complaint the Council's complaints procedure will be used.
49. All correspondence, statements and other paperwork sent to or received from the client or the client's creditors and which has not already been copied to or returned to the client, will be retained by the service for a period of 3 years from receipt. On termination or completion of the contract, all retained paperwork should be returned to the client unless, at that time, the client says that they do not want the paperwork. All paperwork and records on other media will be disposed of securely.

The Money Advice Service and Creditors

50. Advice will be impartial and will not seek to favour any particular creditor or group of creditors; except in recognition of the different methods of enforcement available to creditors; e.g. eviction, summary warrant, disconnection and repossession. These enforcement methods will be reflected in the priorities and repayments negotiated by money advisers.
51. Payments will generally be offered on a pro-rata basis; i.e. creditors owed the most will receive the biggest share of available funds, however this may be varied as described in the previous paragraph.
52. When acting on the client's behalf, advisers will supply written authority from the client.
53. Advisers will check facts from documentary evidence wherever possible.
54. Advisers will undertake to inform the creditor of all relevant facts in line with relevant legislation, Scottish Executive's DAS Guidance for Money Advisers and Service delivery standards.
55. Advisers will not discuss opinions or judgments of clients' behaviour with creditors.
56. The adviser will carry out action as promptly as possible. The service will comply with the Moray Council customer care policy. The service aims to make written representation to creditors within 3 days of getting authorisation from the client (normally the day of the first interview).
57. Advisers will inform clients of the need to contact creditors and/or seek further advice when the client's financial circumstances change such that arrangements previously made are no longer appropriate.

The Money Advice Service and Debt Arrangement Scheme Administrator

58. The service will ensure that approved money advisers comply with any guidance laid down by the Debt Arrangement Scheme administrator.
59. The service will ensure that requests for information are dealt with timeously. Any difficulties with the supply of information will be made known to the Debt Arrangement Scheme administrator without delay.

The Money Advice Service and Payments Distributor

60. The service will supply information on request to the Payments Distributor.