

THE DEBT AND MENTAL HEALTH EVIDENCE FORM V3 (DMHEF) USER GUIDE: ADVISERS (assisted self-help)

It is strongly recommended that this guide is read before the DMHEF is used for the first time.

It has been written for debt advisers who are involved in providing assisted self-help to clients.

A separate guide exists for advisers involved in case-work.

Summary

This guide introduces debt advisers involved in assisted self-help to the Debt and Mental Health Evidence Form (DMHEF) Version 3 and the Consent Form used with it.

A separate guide exists for advisers who provide case-work services to clients.

In Section 1, the guide covers the following questions:

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|------------------------------------|--|
| 1a. What is the DMHEF? | 1e. How should the DMHEF be used? |
| 1b. Why was the DMHEF created? | 1f. Who developed the DMHEF? |
| 1c. What evidence does it collect? | 1g. Which creditors recognise the DMHEF? |
| 1d. Who can use the DMHEF? | 1h. Is the DMHEF copyrighted? |

In Section 2, the guide describes in detail the eleven steps that advisers should take when guiding the assisted self-help client to use the DMHEF.

In Section 3, the guide considers advisers' responsibilities under the Data Protection Act 1998 when guiding the assisted self-help client to use the DMHEF.

In Section 4, the guide provides answers to a series of other 'Frequently Asked Questions'.

Resources

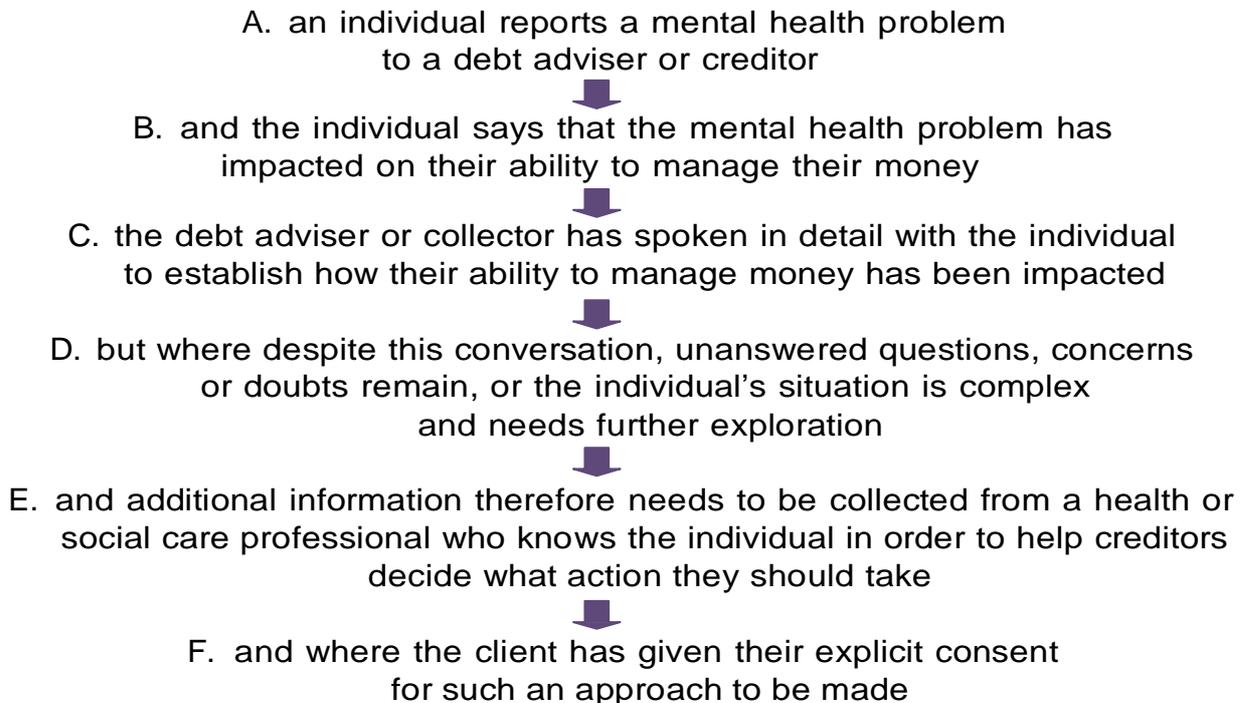
The DMHEF V3, the accompanying Consent Form, this User Guide, and a one-page 'user flowchart' can all be downloaded at:

www.malg.org.uk

Section 1

1a. What is the DMHEF?

The DMHEF is a standardised form that can help debt advisers or creditors collect high-quality and relevant medical evidence. It is used most effectively when:



The DMHEF should not automatically be used every time an individual reports a mental health problem. Instead, before making the decision to use the DMHEF, advisers and creditors should stop and consider whether:

- (a) they could collect the information they need simply by talking in more detail with the individual about the reported situation;
- (b) the time and resources it will take for the information to be collected is proportionate to the potential action being considered (e.g. if a relatively minor action is being considered, does this really require medical evidence to be collected?).

The Consent Form

The DMHEF is accompanied by a Consent Form – this must be read, signed and completed by the client (or a third-party with the authority to act on their behalf).

By doing this, the client is giving their explicit consent for a health or social care professional to complete the DMHEF. This is explained in more detail on P6-P9.

If the Consent Form is not (a) completed and signed by the client and (b) shown to the health or social care professional, they are highly likely to refuse to complete the DMHEF.

1b. Why was the DMHEF created?

The DMHEF has been created in response to reports from advice and creditor organisations about difficulties in:

- collecting relevant and high-quality medical evidence from health or social care professionals
- which could help the advice or creditor organisation identify better and fairer decisions on what action to take when an individual reports that a mental health problem is affecting their ability to manage their money

The current version of the DMHEF is Version 3. It was launched on the 28th of November 2012. Previous versions of the DMHEF should no longer be issued, although creditors receiving older versions of the DMHEF should continue to accept these, as some people will not be aware that Version 3 of the DMHEF is now available. A common sense approach is needed.

1c. What evidence does the DMHEF collect?

The DMHEF asks eight basic questions (BOX 1). When completed by a health or social care professional who knows the individual, the DMHEF can provide relevant information about:

- how an individual's mental health problem affects their ability to manage their money
- any communication, support, or other relevant needs that the debt adviser and creditor should take into account.

BOX 1 The eight DMHEF questions

The DMHEF invites the health or social care professional to answer eight questions:

- Q1. what is your relationship with the person reporting the mental health problem?
- Q2. does the person have a mental health problem?
- Q3. what is this mental health problem? If it has a name or diagnosis, what is it?
- Q4. does the person have a mental health problem that affects their ability to manage their money?
- Q5. if the person is receiving treatment or support for this mental health problem, does the treatment or support affect their ability to manage their money?
- Q6. when communicating with the person, are there any special circumstances that a creditor needs to take into account?
- Q7. what was the approximate date when (a) this mental health problem first started, (b) the first treatment was given, (c) the most recent episode took place, and (d) is the episode on-going?
- Q8. is there anything else we should know about the person?

1d. Who can use the DMHEF?

The DMHEF can be used by debt advisers (a) in situations where the adviser is working on behalf of a client (case work) or (b) where the adviser is guiding an individual who is managing their own debt situation, including the communication and negotiation with creditors (assisted self-help).

The DMHEF can be used by creditors in situations where their customer agrees to collect medical evidence from a health or social care professional, and to then share this with the creditor.

The DMHEF is usually always given to a client by a debt adviser, or a customer by a creditor. However, members of the public may become independently aware of the DMHEF, and may arrange for a completed DMHEF to be submitted.

If this happens, the adviser or creditor should (a) check that the DMHEF is correctly completed by a health or social care professional (including a 'service stamp' or equivalent to verify its authenticity) and (b) use the completed DMHEF to start a conversation with that individual about their situation.

The DMHEF has not been designed for independent use by individuals who are either not receiving the assistance of a debt adviser, or who have not been issued a DMHEF by their creditor. We would recommend that individuals in this situation should always get the help of a debt adviser (see P16-P17 for contact details).

1e. How should the DMHEF be used?

There are eleven steps that need to be taken when a debt adviser involved in assisted self-help uses the DMHEF. These are described in detail on P6-P9.

When using the DMHEF, advisers also need to be aware of their responsibilities under the Data Protection Act (1998) in regards to processing health data. These are discussed in detail on P10-P11.

However, the Information Commissioner's Office has reviewed the DMHEF, and has approved it as keeping to the Data Protection Act 1998 (BOX 2).

BOX 2 Information Commissioner's Office statement

The following statement has been provided by the Information Commissioner's Office about the DMHEF:

"It is important that creditor organisations and debt advisers have up-to-date, relevant and accurate information about consumers who have mental health problems.

It is equally important that users of such information remain aware of the sensitivity of the data they are collecting, keep it secure, and use it only for the stated purpose.

The DMHEF version 3 is a tool that enables the collection of this information, and it is clear that careful thought has gone into its design.

We welcome the opportunity to have reviewed the form and accompanying Guidelines and we are sure that the form can be used in a manner consistent with the principles of good data handling as set out in the Data Protection Act 1998."

1f. Who developed the DMHEF?

The DMHEF has been developed by the Royal College of Psychiatrists and the Money Advice Liaison Group, in collaboration with creditors, debt advice agencies, mental health and social care professionals/organisations, people with experience of mental health and debt problems, and carers.

1g. Which creditors recognise the DMHEF?

The DMHEF is recognised in the Lending Code (sponsored by the British Bankers' Association, Building Societies Association, and The UK Cards Association), the Finance and Leasing Association's Lending Code, the Credit Services Association's Code of Practice and The FCA's Consumer Credit Sourcebook & Rules.

It is recognised in The Financial Conduct Authority's Occasional Paper No 8 - on Consumer Vulnerability.

No agency or individual from the advice, creditor, or health/social care sectors is obliged to use the DMHEF. It has been designed as a voluntary tool to improve the collection of information.

1h. Is the DMHEF copyrighted?

MALG holds the copyright to the DMHEF. However, you are encouraged to use, photocopy, or disseminate the DMHEF in its entirety, as long as this is for non-profit making purposes only. If you wish to revise, alter, or reproduce questions from the DMHEF for any purpose, you will need to obtain the permission of MALG.

How should debt advisers use the DMHEF?

This section is for debt advisers helping clients on an assisted self-help basis. Assisted self-help means you are not acting on their behalf or providing a casework service, but are simply giving the client advice.

2a. Overview: the eleven steps

There are eleven steps involved in a debt adviser using the DMHEF when conducting assisted self-help work on behalf of a client:

1. a mental health problem is identified
2. the adviser finds out more about this
3. the adviser decides (a) whether medical evidence is needed and (b) whether the customer can collect this evidence
4. the adviser sends the client a 'DMHEF pack'
5. the client receives the DMHEF pack – they read, complete and sign the Consent Form
6. the client approaches a health or social care professional of their own choosing to complete the DMHEF
7. the health or social care professional completes the DMHEF, and returns this (and the Consent Form signed by the client) in the stamped addressed envelope back to the client
8. the client receives and photocopies the completed DMHEF and Consent Form for each creditor
9. the client prepares a standard letter for each creditor to be sent with a copy of the completed DMHEF and signed Consent Form
10. the client sends the letter and a copy of the completed DMHEF and Consent Form to each creditor
11. each creditor receives a copy of the completed DMHEF and Consent Form, with a corresponding covering letter and acts upon it

The eleven steps

Step 1 a mental health problem is identified

The client tells the adviser that they have a mental health problem that is affecting their ability to manage their money and financial affairs.

Step 2 the adviser finds out more about this

The adviser discusses with the client:

- how the mental health problem affects their ability to manage money

- how the mental health problem affects their ability to communicate with their creditors
- whether anyone helps the client manage their finances (such as a family member)

By asking a range of questions (not just limited to the above), the adviser should aim to develop a good understanding of the client's situation.

Step 3 the adviser decides (a) whether medical evidence is needed and (b) whether the customer can collect this evidence

By this point, the adviser should have spoken with the individual to establish how their ability to manage money has been impacted by the reported mental health problem.

(a) The adviser needs to be sure that collecting medical evidence about the client's reported mental health problem is likely to assist their situation.

It may not be necessary to collect medical evidence to achieve some actions – for example, it is important to remember that most creditors are obliged to offer a breathing space, consider reasonable offers, and not harass a client regardless of whether or not they have a mental health condition.

When asking the client about this, the adviser should also check whether the client has recently collected any medical evidence about their mental health problem (e.g. in response to a previous request from another adviser or creditor) either using the DMHEF or another method. If so, there may not be a need to collect 'fresh' medical evidence.

(b) The adviser should then assess whether the client will be able to collect this evidence from a health or social care professional. If the client is:

- able to collect this evidence, please continue to follow steps 4-11 in this Guide. If the DMHEF is a potential option, the adviser should be sure that the client is willing and able to take the self-help option. It is essential that a discussion is held with the client about exactly what taking responsibility for liaising directly with the health or social care professional actually means. It is also important that similar discussions take place with the client about liaising directly with their creditors. If the client understands and is willing, steps 4-10 describe how the client and adviser should work together in order for evidence to be collected from a health or social care professional
- unable to collect this evidence, please do not follow steps 4-11 in this Guide. If the client cannot take responsibility, consider whether support from anybody else could help (e.g. a support worker or suitable third party). If the DMHEF cannot be used to collect medical

evidence, then the client should be referred to or linked into face-to-face debt advice, where they will receive the support they need.

If the adviser decides to record any information about the client's health on an organisational file, then they will need to explain to the client (i) how the medical evidence collected from the health and social care professional will be used (this includes an explanation of why the adviser wishes to collect this data, what the data will be used for, who the evidence might be shared with, how it will be securely stored, and how long it will be stored for. Without this explanation, the client cannot know what they are consenting to, and consent therefore cannot be properly obtained); (ii) the adviser will need to ask the customer if they understand this explanation, and allow them to ask questions if necessary to clarify any points; and (iii) after doing this, the adviser should ask the client for their explicit consent to process their information in this way. There may be additional steps or actions that your organisation requires you to take to record this explicit consent (see P11).

Step 4 the adviser sends the client a 'DMHEF pack'

The adviser will need to send the client the following:

- a blank DMHEF
- a blank Consent Form
- an appropriate standard letter that the client can complete with their own details, and then send to their creditors
- instructions on what they have to do/how to use these resources.

The adviser should write the name of their organisation and any case reference number on the front of the DMHEF, before sending it to the client.

Writing this information will help the creditor to know that this is an authentic assisted self-help application. It is possible that a creditor could come back to the adviser and ask to check the validity of this reference number, once they have received back the completed DMHEF, in an effort to combat fraud.

Step 5 the client receives the DMHEF pack – they read, complete and sign the Consent Form

By reading, completing, and signing the Consent Form the client is now ready to approach a health or social care professional to complete the DMHEF.

Unless the Consent Form is completed and signed by the client, the health or social care professional should not complete the DMHEF.

It is important for advisers to remember that the Consent Form can also be completed and signed by a third party authorised to act on their behalf.

Step 6 the client approaches a health or social care professional of their own choosing to complete the DMHEF

The client should decide which health or social care professional of their own choosing to approach to complete the DMHEF. This should be someone who knows the customer in a professional capacity such as a general practitioner, psychiatrist, nurse, psychologist, occupational therapist, social worker or another worker.

The client should provide this health or social care professional with a completed and signed Consent Form, a blank copy of the DMHEF to complete, and a stamped addressed envelope with the client's address on it.

Step 7 the health or social care professional completes the DMHEF, and returns this (and the Consent Form signed by the client) in the stamped addressed envelope back to the client

The health and social care professional completes, signs and stamps the DMHEF, and then returns this to the client in the stamped addressed envelope (along with a copy of the Consent Form signed by the client).

Step 8 the client receives and photocopies the completed DMHEF and Consent Form for each creditor

Upon its receipt, the client should check they have received all the necessary information from the health or social care professional.

The client should then make sufficient photocopies of the DMHEF and Consent Form to send to all their creditors.

Step 9 the client prepares a standard letter for each creditor to be sent with a copy of the completed DMHEF and signed consent form

This is a standard letter provided to them by the adviser. This letter should explain why the client is writing to the creditor and what information the completed DMHEF contains.

The letter should also ask the creditor to take into account the information in the DMHEF to help make a decision on what action to take next. For credible information on a range of mental health problems, please visit [The MALG Good Practice Awareness Guidelines for helping Consumers with Mental Health Conditions & Debt- Pages 33-34.](#)

Step 10 the client sends the letter and a copy of the completed DMHEF and signed Consent Form to each creditor

The client sends the standard covering letter and a photocopy of the completed DMHEF and signed Consent Form to each creditor.

Step 11 each creditor receives a copy of the completed DMHEF and signed Consent Form, with a corresponding covering letter and acts upon it

The creditor decides what action should take place in light of the collected medical evidence. The creditor should advise the client of their decision/enter into discussion.

The Data Protection Act 1998

3a. Overview: adviser responsibilities

It is understood that many advisers acting with a client on an assisted self-help basis may not wish to record their client's health issues, but if an adviser decides to record any information about the client's health on an organisational file, they should be familiar with their responsibilities under the Data Protection Act 1998. These include (but are not limited to):

- i. obtaining explicit consent from the individual to collect evidence
- ii. ensuring that record management is compliant with the Act - before using medical evidence that has been previously stored, you must check this evidence is still accurate, relevant and timely
- iii. destroying any medical evidence that is no longer accurate, relevant or timely

3b. Explicit consent

A key responsibility for advisers under the Data Protection Act 1998 is ensuring that a client has received an explanation of how their information will be processed, and that they have given their explicit consent for this processing to take place.

Explanations given by advisers to clients about how their information will be processed should cover why their data is being collected, and how (and when) their data will be recorded, used, shared, stored and deleted.

To confirm that they (a) understand this explanation and (b) agree to their data being processed in this way, the adviser should ask the client to give their explicit consent.

There are numerous ways in which your organisation may wish to record this explicit consent for your own internal purposes (see below). However, the client should always be asked to read, complete and sign the Consent Form and ensure it accompanies the DMHEF when the documents are submitted to the health or social care professional.

This Consent Form is always sent with the DMHEF to the health and social care professional, and indicates to the professional that the client has given their explicit consent for the professional to complete the DMHEF. Unless the Consent Form is completed and signed, the health or social care professional should not complete the DMHEF.

As noted above, your organisation needs to record the client's explicit consent for internal purposes. Provided you receive it from the client, you may indeed do this. Sometimes this is obtained by telephone; sometimes during a face-to face interview; sometimes it is received in writing. Whatever the method, organisations should have

evidence to demonstrate that explicit consent was given, and that this was acquired in a fair and lawful manner.

Finally, once explicit consent has been obtained this will authorise you to store information about the individual on the basis that (a) this information will be securely stored and (b) it will be destroyed when no longer relevant.

3c. Record management

To comply with the Data Protection Act 1998, information should be kept on file for no longer than is necessary.

In practice, you must judge each case individually. For some individuals, episodes of poor mental health (which affect their ability to manage their money) may last for several months, while for others this could be longer. Consequently, you need to:

- review the information you hold about a client
- assess whether that information still needs to be held¹
- assess the likelihood that the information is still relevant and accurate

If information is no longer relevant or accurate, it should be either updated or securely destroyed or archived for future destruction. We strongly recommend that you proactively notify creditors or their agents of any changes in the nature of their customers' mental health as promptly as possible, since lenders are permitted to use relevant and accurate existing information on file to assess applications for further credit.

We recommend to advisers that rather than using the DMHEF to routinely or automatically update their information about the client's mental health problem, they should ideally ask the client to provide this information. However, if there is a need to obtain medical evidence (e.g. the client incurs a new debt), and the client's situation has changed, then the DMHEF may be used to collect this medical evidence. Due regard should be given to the Financial Conduct Authority (FCA)'s Consumer Credit Sourcebook on "Mental Capacity CONC Rule 2.10(see also P13).

We strongly recommend that advisers refer to The MALG Briefing Note 4 that covers the issue of 'explicit consent' under The Data Protection Act in depth. It was issued on 3rd April 2013 and is entitled "Appropriately processing data from individuals with mental health problems under the Data Protection Act (1998). <http://www.malg.org.uk/briefing.html>

¹ In such cases relevant information about the mental health of the individual should be retained throughout the period of the debt only.

Frequently Asked Questions (FAQs)

4a. What should happen if the client refuses to give their explicit consent?

If a client is unwilling to give their explicit consent (including explicit consent to complete the Consent Form), then the process cannot continue.

The only exception may be if a third party is legally authorised to give consent on the behalf of a client (for example, in cases where the client lacks the mental capacity to make such a decision).

Health and social care professionals should not complete the DMHEF unless the consumer has given their explicit and written consent for this to happen.

The Information Commissioner's Office has made it clear that the responsibility rests with the health professional who should not complete the DMHEF without the consent of their patient.

4b. What, if any, bearing does the Financial Conduct Authority (FCA)'s Consumer Credit Sourcebook CONC Rule 2.10 "Mental Capacity" have on the processing of the DMHEF?

Much of the Office of Fair Trading's Guidance "Mental Capacity- Guidance for Creditors" has been transferred to the FCA Credit Sourcebook.

The law relating to mental capacity differs across the UK. In England and Wales, advisers should be familiar with the Mental Capacity Act 2005. In Scotland, the Adults with Incapacity (Scotland) Act 2000 applies. Northern Ireland does not have specific legislation relating to mental capacity and common law applies.

4c. Why doesn't the DMHEF contain a question asking the health or social care professional to estimate when an individual is likely to recover/return to work?

We understand that information about when a client is likely to recover from their mental health problem/return to work would be valuable to some creditors and advisers.

However, estimates or 'prognoses' of such recovery/return to work are extremely difficult for health and social care professionals to provide:

1. Making a useful and accurate prognosis can be very difficult – consequently, health and social care professionals may be reluctant to make a statement about the likely progression of a person's mental health problem. This may particularly be the case if they do not know the patient (or their wider medical or social circumstances) well.

2. Individuals often experience mental health problems in different ways – for example, even though clinical guidelines might indicate that depression usually lasts up to a certain number of months, with the chance of repeated episodes afterwards, there will be large numbers of people who do not have this experience.
3. the inter-relationship between mental and physical health can complicate reaching an accurate prognosis – this adds an additional factor to the consideration. It also could involve an examination of the patient (which would require time, resources, and possibly payment).
4. there will be other social and economic factors (often unknown to the health or social care professional) that will impact on a person's recovery from a mental health condition, and which are difficult to incorporate into a prognosis.

Overall, making an accurate and useful prognosis can be very challenging for health and social care professionals. Furthermore, there is the probability that such a prognosis could be inaccurate, which would not help the creditor recover the debt or the individual get on top of their financial and mental health situation.

Consequently, the DMHEF does not include a 'prognosis question'.

4d. What about people with debt and mental health problems who are not in contact with a health or social care professional?

The DMHEF relies on information being collected from a health or social care professional. However, not every client may be in contact with such a professional.

In these situations an adviser may wish to recommend that an individual either registers or re-establishes contact with a General Practitioner.

It is important to remember that although an individual does not have contact with a health or social care professional, they may still have a mental health problem.

If a client needs urgent assistance, or is in crisis as a direct result of the current state of their mental health, they (or the person working with them) should contact the Samaritans, Saneline, or the Rethink Advice Line (numbers under Part 5). If they, or anyone else, are in immediate danger of harm, the police emergency number (999) should be called.

If the need is less urgent, the individual concerned or the person working with them can still call the above organisations or call NHS 111 (England & Scotland; Direct: Wales). Alternatively, the person can visit their General Practitioner.

Advisers should also consult and become familiar with their own internal policies on dealing with such emergencies.

4e. What happens if the client, having sight of the completed DMHEF from their health or social care professional, wishes to make a personal comment or statement about the information given?

The client can write a personal comment or statement to accompany their covering letter.

There is no longer any actual space allowed for such comments on the DMHEF, but this should not discourage individuals to comment if they wish.

4f. Should a Common Financial Statement be submitted at the same time as the DMHEF?

This is not a mandatory part of the DMHEF process – the decision therefore rests with the adviser.

4g. A creditor receives a completed DMHEF from the health professional of one of their customers, without any prior contact with the customer or any previous knowledge of the health problems their customer may have been experiencing. A copy of the Consent Form that their customer supplied to the health professional may or may not accompany the completed Form returned by the health professional. What action should the creditor take under such circumstances?

A creditor should always use the completed DMHEF as an opportunity to engage with the customer directly. There is no reason not to accept the medical information received on their customer.

For the creditor to record the medical details of the customer on their files, they will need to go through their own process of obtaining *explicit consent* from the customer.

It should always be remembered that the Consent Form that accompanies the DMHEF (even if returned to the creditor with the completed DMHEF), only gives the customer's consent for the health or social care professional to complete the DMHEF. It does not give the customer's *explicit consent* for anything else. In short, the creditor will need to go through their own process of obtaining *explicit consent* from the customer, including an explanation of how that customer's data will be used, stored, shared, and ultimately disposed of.

5. Useful Sources of Information

Useful resources

Advice UK

UK network of advice and information agencies (only take queries from advice centres)

www.adviceuk.org.uk

<http://www.adviceuk.org.uk/find-a-member/>

Tel: 0300 777 0107 or 0300 777 0108

Advice NI

Leadership, representation and support to independent advice organisations in Northern Ireland.

www.adviceni.net

Tel: 028 9064 5919

Citizens Advice

Independent charities providing advice and information across the UK. Details of individual bureaux are available at:

England and Wales: www.citizensadvice.org.uk

Scotland: www.cas.org.uk

Northern Ireland: www.citizensadvice.co.uk

Money Advice Service

Telephone advice for clients eligible for Legal Aid, and hosts national directory of advice providers.

<http://moneyadviceservice.org.uk>

Tel: [0800 138 7777](tel:08001387777)

Law Centres

Independent organisations that employ lawyers and specialist advisers to assist clients in court.

www.lawcentres.org.uk

Money Advice Scotland

Can provide details of advice agencies in Scotland providing free, independent, confidential advice.

www.moneyadvicescotland.org.uk

Tel: 0141 572 0237

National Debtline

Free, confidential and independent telephone advice on how to deal with debt problems.

www.nationaldebtline.co.uk

0808 808 4000

NHS information/helplines

24-hour nurse advice and health information service, providing confidential information on what to do if you or your family are feeling unwell; particular health conditions; local healthcare services.

England & Scotland- NHS 111: is the non-urgent number for out of hours care and information

<http://www.nhs.uk/NHSEngland/AboutNHSservices/Emergencyandurgentcareservices/Pages/NHS-111.aspx>

Wales - NHS Direct:

www.nhsdirect.wales.nhs.uk/

Tel: 0845 46 47

(**Northern Ireland** web-based information service)

- <http://www.nidirect.gov.uk/check-ups-appointments-and-emergencies>

Payplan

Provides a free debt management service to people with debt problems.

www.payplan.com

Tel: 0800 280 2816

Rethink National Advice Service

Advice for people with mental health problems.

www.rethink.org/advice

Tel: 0300 5000 927

Monday to Friday, 9.30am – 4.00pm

Samaritans

Support 24 hours a day.

www.samaritans.org

Tel: [116 123 \(UK\)](tel:116123) and [116 123 \(ROI\)](tel:116123)

SANELINE

National, out-of-hours mental health helpline providing support and information.

Tel: 0300 304 7000
6.00pm - 11.00pm

StepChange Debt Charity (formerly The Consumer Credit Counselling Service)

Charity helping people who are over-indebted through free, independent, and realistic support.

Tel: 0800 138 1111
Mon - Fri 8.00am – 8.00pm, Sat 8.00am – 4.00pm

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