

## **The future of debt advice and financial capability in a criminal justice setting**

### **Abstract**

This practice note highlights the importance of providing effective debt advice and promoting financial capability for prisoners and ex-offenders. It draws on a Ministry of Justice funded 'Developing Academic Policy Engagement (DAPE)' project jointly undertaken by academics and practitioners to provide evidence-based guidance on a significant policy issue.

The project identified four key themes for best practice. First, the need for a clear understanding of the unique debt environment for prisoners and ex-offenders, second the importance of confidentiality and consent, third acknowledging that there can often be a suspicion of authority, and fourth recognising debt as one element in a broader picture of complex need. The practice note discusses these themes alongside analysis of challenges and opportunities presented during the early period of a new UK government.

## **Debt advice and financial capability in a criminal justice context**

The provision of debt advice and promotion of financial capability are significant elements of support for prisoners and ex-offenders, and should play an important role in the resettlement process.

The debt advice process is complex and incorporates legal advice, advocacy and navigation. There are multiple stages to the debt advice process including maximising income, drawing up a financial statement, prioritising debts, negotiating with creditors and advising on next steps. A debt adviser employs a range of skills including complex problem solving, research, and effective communication and interview techniques (Dayaram, 2024).

In a criminal justice context the logistics of delivering debt advice are likely to be more challenging, complex and time consuming. Debt, and accompanying problems in accessing appropriate advice, are issues experienced by the majority of prisoners and ex-offenders. A custodial sentence can exacerbate debt problems, a previous tenancy may not be terminated and direct debits may continue. Court fines, debts to the Department for Work and Pensions, rent arrears, mobile phone debts and money owed to family friends are common (Meadows et al, 2010).

Debt advice in the criminal justice context should also recognise that prisoners and ex-offenders can experience challenges around basic skills and education (Oksanen et al., 2015), relationships with family (Grieb et al., 2014), and mistrust of social institutions (Fader, 2021).

Prisoners and ex-offenders may experience a wide range of debts. Figure 1 details priority debts which have serious consequences if unpaid, such as the loss of home, repossession of goods, or imprisonment. Enforcement action for non-priority debts is less significant but can still include a county court judgment or the intervention of a debt collection agency:



**Figure 1: Priority and non-priority debts (Machin and Nchafack, 2023)**

Financial capability has been described as ‘knowledge and understanding of financial concepts and risks, and the skills, motivation, and confidence to apply such knowledge and understanding in order to make effective decisions across a range of financial contexts’ (OECD, 2014). Financial capability is often an element of a contractual agreement between prisons and debt advice agencies and has been found to be most effective when delivered in a prison environment (rather than on release) and on an in-person basis (Ipsos MORI, 2010). Concerns have been voiced about a lack of financial literacy for people engaged in the criminal justice system (Clinks, 2016).

For prisoners and ex-offenders, financial capability work typically includes support with opening and managing a bank account and the development of basic budgeting skills. It aims to promote enduring money-management skills which can be used when the debt advice process ends. There is an education role to this work which can be particularly important in a criminal justice setting: making people aware of the different types of debt, fines, enforcement action and the availability of safe and reliable credit which avoids illegal or informal money lenders.

### **Links between debt and offending behaviour**

Financial difficulties have been linked to an increased propensity to engage in criminal activity (Martire, 2010) and a correlation has been found between debt enforcement and crime levels (Link, 2019). Financial vulnerability is commonly experienced before a

prison sentence. Interviews with people in prison found that 30% had no bank account, over 50% had been rejected for a bank loan, 25% had been threatened about a debt before entering prison, and over 60% were in financial difficulty before sentencing (Prison Reform Trust and Unlock (2010)).

Van Beek et al. (2022) suggest that debt is often overlooked as a cause of recidivism. Financial problems for women have been identified as criminogenic, with debt and enduring poverty experienced by most women in the criminal justice system (Caulfield, 2012). Debt advice needs to recognise the causes of debt for women, which can be associated with engagement in caring roles, and criminal activity resulting from a partner's drug use (Prison Reform Trust, 2013).

Minority ethnic groups are an overrepresented indebted group in the criminal justice system and prisoners from minoritised ethnic groups often report negative experiences of the prison system (Prison Reform Trust, 2021). Targeted debt advice in prisons and financial capability work which recognises systemic discrimination (Harper et al, 2021) can be an important way of challenging racial inequality.

Strong links have been identified between crime in youth and subsequent debt problems (Hoeve et al, 2014). Debt and delinquency have been associated with risky behaviours for adolescent males (Blom et al, 2011). Financial capability for young offenders should include a focus on media representations of finance and spending. Pupils who experience school exclusions with a poverty-related dimension require particular support to reduce the 'school-to-prison pipeline' (Breakthrough (2019)).

## **Best practice themes**

The 'Developing Academic Policy Engagement' (DAPE) project which underpins the findings of this practice note, identified four best practice themes for debt advice and financial capability in a criminal justice setting:

### **1. Understanding the debt environment**

In both prison and probation environments the debt advice process is more complex and time consuming than when delivered in other settings. The restrictions on in-person contact time can make it difficult to take clear instructions and offer advice on immediate required action. Obtaining a full picture of the overall debt situation can be problematic, communications with creditors can be convoluted and they may be reluctant to provide details directly to a debt adviser.

Debts which are distinct to the criminal justice environment may be accrued, for example unauthorised items or drugs. Intimidation or violence may be features of these transactions, with new prisoners being particularly vulnerable. A debt adviser must gain a clear understanding of the local prison and probation practices which will influence the precise nature of contact and intervention. It is important that any issues which

impede the debt advice process are reported to contract managers and host criminal justice agencies.

A tailored debt advice approach is required, which recognises individual need and an understanding of local policy and practice. Clarke (2016) has identified that to provide effective debt advice, a combination of legal knowledge, understanding of bureaucratic systems and high-level communication skills is required.

## **2. Confidentiality and consent**

Wolfe et al (2020) have defined the three stages of the debt advice process as exploration, options and action; in each of these stages it is clear that confidentiality is paramount. In a criminal justice setting there are often particular confidentiality issues that a debt adviser may encounter. Prisoners and ex-offenders may raise concerns about how information is shared and stored, the delivery mode for the advice (typically face-to-face but often with elements of remote contact), and anxiety that other people will become aware of a debt problem.

If confidentiality concerns are not appropriately resolved there is a risk that full disclosures are not made in the exploration stage. Debt advice workers need to work collaboratively with criminal justice agencies to ensure that face-to-face advice is delivered in an appropriate space, that robust referral processes are established, information is only shared when there is a legitimate reason, and that clear lines of ongoing communication are facilitated.

These information sharing protocols can prove problematic for a debt adviser, making it difficult access creditor information on behalf of someone who is detained and liaising with external organisations (e.g., landlords) who may not have up-to-date information on a client's circumstances. When negotiating on Universal Credit issues, advisers should be mindful that 'explicit consent' arrangements only allow a representative to liaise on a single issue, ongoing contact requires bespoke arrangements to be set up.

## **3. Suspicion of authority**

Suspicion of authority can have an impact on the dynamics and effectiveness of debt advice. Coercive experience of the criminal justice system can create distrust (Bell, 2017), this makes it important for debt advice to create positive interactions and to promote confidence, resilience and wellbeing. A positive culture within the prison environment has been described as one in which there are clear boundaries, the appropriate display of professional knowledge and avoidance of control and disrespect (Crewe et al, 2011). Debt advice aligns with these positive attributes and can utilise the 'smell of the outside' – a trust in external and independent agencies (NACRO, 2006).

The independent nature of debt advice should be emphasised, and financial capability work seeks to empower and give people a higher level of control over their finances.

Trust can be fostered through resolving immediate debt issues, developing realistic financial statements and exploring long-term options (including income sources available on release).

#### **4. Debt as one element in a broader picture of complex need**

Debt is typically associated with challenges in relation to housing, social security, mental health, drugs and alcohol and relationships. An important element of debt advice work is signposting to other agencies with specialism in welfare benefits, employment/training, housing and counselling. This requires effective networking with community-based services when prisoners are released, including local authority and voluntary sector agencies. Analysis has shown that meaningful engagement with these services can reduce offending rates (Ministry of Justice, 2013). This approach is time-consuming but ensures that debt advice supports complex need in an holistic way.

There are close links between debt and housing related problems, and appropriate housing can be crucial in reducing re-offending. However, up to a third of people leave prison without appropriate accommodation (Cooper, 2013). A custodial sentence is often accompanied with a loss of housing, and there can be difficulties securing housing in both the private or social rented sectors on release. A debt adviser can play a key role in accessing discretionary housing payments from the local authority for removal costs, rent in advance or a deposit. Similarly, an adviser can make a case for the payment of a discretionary £50 payment from prison governors to paid directly to an accommodation provider and work with service users who are homeless to ensure that the local authority discharges the full homelessness duties.

The Ministry of Justice have acknowledged the difficulties experienced by prisoners in relation to welfare benefits and accept that more need to be done to equip people with the 'basic tools to function in the modern economy' (Ministry of Justice, 2021). This can include access to a basic bank account, ID and internet access, all of which are essential for claim for means-tested benefits such as Universal Credit.

A claim for Universal Credit cannot be made in advance of release from prison (a reversal of this policy would be simple but impactful), the initial payment can take up to six weeks to be processed and although a short-term advance can be claimed this is repayable loan. NACRO (2021) have highlighted that the delayed payment of Universal Credit and inadequacy of the discharge grant can exacerbate financial hardship on release from prison and impede rehabilitation.

The networking skills of a debt adviser are again key. It can be particularly helpful to work with a DWP liaison officer before release from prison and to ensure that financial support from the local authority is utilised (for example, Household Support Fund, Council Tax Support).

## **The future of debt advice and financial capability in a criminal justice setting**

The election of the Labour administration in July 2024 has brought a changed political tone towards the criminal justice system.

The Labour Party's election manifesto pledged to drive down reoffending with a renewed focus on training, jobs and mental health support. There is a commitment to expanding access to debt support and free debt counselling services. However positive outcomes for prisoners and ex-offenders requires tangible action alongside shifting rhetoric.

NACRO (2024a) have called on the new government to position prisons as a place of rehabilitation, where work in prison is appropriately valued and acts as a preparation for employment on release, to guarantee that no-one leaves prison homeless, to improve access to specialist mental health support and to enhance educational outcomes for young people from the most socio-economically disadvantaged groups. Access to debt advice can play a key role in facilitating these improved outcomes. There are well established links between debt and mental health problems (Money Advice and Mental Health Policy Institute, 2024), debt is a primary factor in maintaining homelessness (Maguire, 2022) and financial assistance is key in preventing crisis which can lead to homelessness (Shelter, 2022). Financial capability work can act as a significant protective factor, reducing the risk of poverty and problematic debt (Lang et al, 2024).

The Labour Government's sentencing review is an opportunity for 'a powerful reshaping of the criminal justice system as we know it' (NACRO 2024b), although an emphasis remains on 'tougher punishments' (Carr, 2024). The best practice principles for debt advice and financial capability outlined in this practice note have emphasised the need to see financial hardship as one part of broader picture of complex need. The sentencing review should also take a holistic perspective recognising the links between debt and offending behaviour and the systemic causes of poverty.

Debt advice can be an important element in a more preventative and rehabilitative approach to offending, an approach which is to the benefit of offenders and the community (Canton, 2024).

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