



MALG

Money Advice Liaison Group

GUIDANCE FOR MONEY ADVISERS AND CREDITORS TO SUPPORT THE USE OF THE MALG DEBT & MENTAL HEALTH EVIDENCE FORM (DMHEF)

It is strongly recommended that this document is read by money advisers or creditors before they use the Debt and Mental Health Evidence Form for the first time.

Guidance to the Money Advice Liaison Group (MALG) Debt and Mental Health Evidence Form (DMHEF)

Background and introduction

In November 2007, the Money Advice Liaison Group (MALG) published a set of Mental Health Awareness Guidelines, which are designed to encourage good practice, particularly by creditor organisations and money/debt advisers, in relation to working with people with debt and mental health problems, in order to ensure that proportionate and sensitive approaches are adopted for the mutual benefit of consumer and creditor.

These Guidelines were drawn up by a MALG Mental Health Working Party, on which were represented the money advice, creditor, and health/social care sectors. The level of demand for copies of the Guidelines has been high and there is evidence to suggest widespread awareness of them across the creditor and advice sectors in particular.

A significant number of the recommendations in the Guidelines deal with collecting evidence to help demonstrate the impact of consumers' mental health problems on their capacity to deal with debt issues. It was agreed by all MALG stakeholders that there was a need for a tool that would enable money advisers and creditors to request clear, relevant and comprehensive information in a standard format from health and social care professionals, as appropriate to each given situation.

Please note that in this context the term 'creditor' includes any agency to which money is owed, organisations that act on behalf of lenders, such as debt collection agencies, and also debt purchase companies, which by the act of purchase become the creditor in relation to relevant debt(s).

Developing, piloting and maintaining the form

The Money, Financial Services and Mental Health Research Programme at the Royal College of Psychiatrists, with financial support from the Money Advice Trust (MAT), was commissioned by MALG to develop a standard Debt and Mental Health Evidence Form (DMHEF). The DMHEF covers the following key areas:

- The identification of whether a consumer has a mental health problem that either (i) currently affects their ability to deal with money or (ii) means they will experience difficulties in being contacted by telephone, letter, or in person.
- A description of the person's mental health problems relevant to (i).
- Information about how any treatment or support a person is receiving for their mental health problems might affect their ability to manage money and debt matters.
- A summary history of the person's mental health problems that currently affect their ability to deal with money.
- An assessment of the general impact of the person's mental health problems on their life overall.
- A description of whether, and if so how, the person's mental health problems would affect their ability to manage money and debt matters.
- The estimated effects of different forms of debt recovery contact by third parties.

In order to ensure that it meets the needs of all involved, the tool has been rigorously tested with a variety of user groups and other stakeholders, including:

- Members of MALG's national forum
- Mental health service users and their carers
- Medical professionals
- Individual creditor agencies
- Creditor trade associations
- Money advisers
- The Information Commissioner's Office

The finalised version of the DMHEF (Version 1) is available on a debt and mental health resources page on the Money Advice Trust website at www.moneyadvicetrust.org.

Please note that the DMHEF will not be available in 'formally-printed' format, but in 'locked Word' format only. This will enable the form to be completed electronically, without making questions or other text vulnerable to amendment. The decision not to print the form means that MALG will be able to make adjustments to the form as and when necessary, subject to stakeholder feedback, although for reasons of consistency we aim to keep such changes to a minimum as much as we can.

The Frequently Asked Questions (FAQs) listed below aim to deal with a range of what we anticipate to be common queries regarding the status, function, intended use and data protection implications of the DMHEF. These may well be added to or amended following DMHEF users' feedback.

Statement by the Information Commissioner's Office, July 2008

It is important that creditor organisations and money/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 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.

Acknowledgements

Many people have given of their time and effort to create the Debt & Mental Health Evidence Form, and MALG is extremely grateful to them all. In particular, however, MALG would like to highlight the immense support given to them by The Royal College of Psychiatrists, the Money Advice Trust, The Capital Partnership, The Debt & Mental Health Evidence Form Advisory Group, and the expert advisers to whom we turned for assistance. Without this co-ordinated help, this form would not have been born. We would also like to thank hrs graphics, who assisted us with the design of the form.

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Frequently Asked Questions

1 What is the Debt and Mental Health Evidence Form (DMHEF) for?

The DMHEF is an integral part of the MALG Mental Health Awareness Guidelines (see Question 5 below), and has been designed to support the collection of information about the impact of mental health problems on people in debt, in terms of their ability to manage their finances and repay their credit/debt commitments. The aim is that using the form as a standard method of collecting relevant information will support the process of negotiating appropriate debt repayment arrangements and/or agreeing other debt remedies.

2 Who should use the DMHEF and how?

The DMHEF can be used by any third party working with or on behalf of a person with debt and mental health problems. The form should be used to request relevant information from the health and/or social care professionals who are best placed to provide evidence about their patients'/clients' capacity to deal with money/debt issues.

Please note: Depending on the particular care package that a given person is using, a non-medical professional such as a social worker may be better placed to comment on their client's circumstances than, eg, a psychiatrist.

3 Are there any parts of the form that should be filled in by the third party requesting completion of the form by a health/social care professional before the form is sent out?

Yes. The name and/or contact information of the third party sending the form out for completion must be provided in three places – on the cover page, at section 3.3, and at section 5 (unless the consumer completes the relevant field in this latter section themselves).

4 Which creditors might benefit from the DMHEF and what do we mean by the term 'creditor'?

In this context, the term 'creditor' includes any agency to which money is owed, including organisations that act on behalf of lenders, such as debt collection agencies, and also debt purchase companies, which by the act of purchase become the creditor in relation to relevant debt(s).

Please note that, as part of the process of drafting a second edition of the Mental Health Awareness Guidelines, MALG is engaging in discussion with a range of non-consumer credit organisations that might also benefit from the DMHEF, such as

water and fuel company representatives.

5 Is the DMHEF mandatory?

No agency or individual from the creditor, advice, or health/social care sectors is obliged to use the DMHEF. It has been designed for voluntary use by any agency that is concerned with facilitating a smoother and more transparent means of collecting information to support discussion and appropriate decision making in relation to the treatment of the debts of people with mental health problems.

6 How was the DMHEF developed?

In November 2007, the Money Advice Liaison Group (MALG)¹ published a set of Mental Health Awareness Good Practice Guidelines, which are designed to make recommendations to the creditor sector, the advice sector and health and social care sectors, regarding best practice in working with people with debt and mental health problems.

A major theme raised by the Guidelines is the importance of collecting accurate, relevant and proportionate evidence that will enable creditors, consumers with debt and mental health problems, and their representatives to agree appropriate methods to resolve matters to the maximum benefit of all concerned.

Based on this, MALG, with the financial support of the Money Advice Trust, (MAT) commissioned the Royal College of Psychiatrists to develop the DMHEF. This work took the form of a research study to identify which key items of information related to an individual's debt and mental health problems should be requested from health and social care professionals. The study involved consultation with mental health service users and their carers, health and social care professionals, creditor agencies, and money advisers. The DMHEF was also reviewed by the main creditor trade bodies.

7 Who owns the DMHEF?

Although the DMHEF was commissioned by MALG and its development funded by MAT, it is public property.

8 How effective is the DMHEF and what do stakeholders think of it?

At the time of writing (July 2008), the DMHEF is a new resource, and therefore its effectiveness cannot be accurately gauged. However, funding has been secured to evaluate the use of the DMHEF over time, and we hope that an accurate answer to these questions can be supplied in due course. A key part of this evaluation will be a consideration of the views of people in debt, money advisers, health/social care professionals, and creditors regarding the strengths and weaknesses of the DMHEF, and also awareness of its 'parent', the MALG Guidelines.

9 What about people with debt and mental health problems who want to collect evidence for themselves?

MALG is currently considering whether a version of the DMHEF could be designed and used for self-help purposes, ie by people with debt and mental health problems who want to solicit information directly from the practitioners who are supporting their health/social care needs.

¹ The Money Advice Liaison Group is a non-policy making discussion forum comprising creditor bodies, advice organisations and government departments.

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

Some people with debt and mental health problems will not be in contact with a health or social care professional able to comment on the individual's mental health condition. Clearly, in these situations, it will not be possible to collect information using the DMHEF.

However, it is important to recognise that simply because an individual is not in contact with a health or social care professional does not mean they do not have a mental health problem.

If the person needs urgent assistance or is in crisis, they can call the Samaritans, Saneline, or the Rethink Advice Line (numbers are at the back of the DMHEF). If they, or anyone else, are in immediate danger of physical harm, the police emergency number (999) should be called. If the need is less urgent, they can still call the above organisations, visit their General Practitioner, or call NHS Direct. Again, contact details of these organisations are provided on the DMHEF.

11 For how long should creditors and money advisers keep the information provided to them on the DMHEF?

To comply with the Data Protection Act, relevant agencies should keep information for as long as **but no longer than** it is necessary.

In practice, creditors and money advisers must judge each case individually. For example, some consumers may experience episodes of poor mental health (which affect their ability to manage money or engage with the debt recovery process) that last for six months. Others may experience longer or shorter periods of poor mental health.

Consequently, creditors need to (a) regularly review the information they hold about a consumer, (b) assess whether that information still needs to be held, and (c) assess the likelihood that the information is still relevant and accurate.

If information is no longer relevant or accurate, then it should be updated or securely destroyed.

We strongly recommend that money advisers proactively notify creditors of any changes in the nature/quality of consumers' mental health as promptly as possible, since (as FAQ 12 below clarifies), lenders are not prohibited from using relevant existing information on file to assess applications for further credit.

In order to ensure that information is changed or destroyed (as appropriate), money advisers should write to the creditor to tell them what should be corrected or destroyed. There is no standard form of words that needs to be used to do this, provided that the following is made clear:

- The identity of the consumer and the personal information to which the instruction to change/destroy relates.
- The actions necessary to correct the personal information in question.

For further information, please visit:

www.ico.gov.uk/what_we_cover/data_protection/your_rights.aspx

Please note: in some cases a consumer's poor mental health may last indefinitely, in which case relevant information should be retained throughout the period of the debt.

12 How can creditors and money advisers use the information provided to them on the DMHEF?

Creditors and money advisers must use the information only for the purpose stated on the form, namely to improve their understanding of the consumer's mental health status in order to inform any action taken about their existing debts. Precisely how they will record the information in order to achieve this objective is for each creditor and adviser to decide.

However, a lender is not prohibited from considering the information when assessing any applications for further credit from their own customer, provided the information is still relevant and accurate. Please refer to FAQ 11 for a brief discussion of 'relevance' and 'accuracy' in the context of the Data Protection Act.

We suggest that it would be good practice for lenders to treat any application for further credit as a trigger to review the relevance of information provided on a DMHEF already held on file, by means of liaison with the customer/consumer and/or their representative (including money advisers where relevant).

Please note: it is outside the scope of this guidance document to provide detailed advice on the legal implications of assessing new applications for credit from a person who is experiencing a mental health problem at the time of making the application. Creditors are recommended to seek appropriate advice.

13 Should money advisers share information from the DMHEF with their clients?

Money advisers should provide their clients with a copy of the completed DMHEF. The only exception to this would apply in situations where the health/social care professional who has completed the form has indicated that to share information on the DMHEF with the patient/client would incur a risk to the individual's health/safety, or that of others.

The adviser should also supply their client with a list of all the creditors to whom the completed DMHEF has been sent, although it should be stressed that the client should have already given their express consent to share information on a creditor-by-creditor basis.

These actions will ensure that the client has full knowledge of which information has been provided about them and to whom.

14 How is it possible to tell whether a consumer has the mental capacity to consent to the DMHEF being used?

Health and social care professionals will not complete the DMHEF unless the consumer has given their informed and written consent for this to happen. For the consent to be informed, the consumer needs to know and understand exactly what information is being collected, who is collecting it, how the information will be used and stored, and what they can do to correct any mistakes. The consumer can only give their informed consent for the DMHEF to be used on these conditions. Consequently, the DMHEF incorporates both a consumer information sheet and a consent form (pp. 7-8 of the form).

However, there may be situations where the creditor or money adviser is unsure whether a consumer has the mental capacity to consent to the DMHEF being used. The law relating to mental capacity differs across the UK. In England and Wales, creditors or money 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.

It is the responsibility of creditors or money advisers themselves to ensure familiarity with the relevant legislation. Resources can be found at:

www.publicguardian.gov.uk in relation to England and Wales
www.scotland.gov.uk/Topics/Justice/Civil/awi in relation to Scotland

15 As a creditor, if I know when the person in debt is likely to be able to (re)enter paid employment, this might influence the nature of the debt repayment arrangement that I agree. Why doesn't the form deal with this issue?

This point was raised by a number of creditors during the period the DMHEF was being developed and consulted on. We understand that information about employment prospects could be regarded as a useful predictor of a point after which the probability increases of a person's income going up.

However, assessments of employability contingent on mental health status are complex. As such, we feel that this issue and its attendant complexities fall outside the clearly-defined remit of the DMHEF, which is specifically concerned with mental health problems and their impact on a person's ability to deal with money and debt management issues.

*Money Advice Liaison Group
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