



Pressures on Debtors -

How people in debt feel harassed by their
creditors' collection practices

A report by the CAB Cornwall Campaigning
Action Group

February 2012

“Even with an agreed sum to pay with help from the CAB, they still persist and are giving me sleepless nights by putting the total I have to pay each month up and up”. A respondent.

Summary of recommendations

- Rigorous enforcement of existing law and guidance on debt collection.
- Regular monitoring of the implementation of responsible lending policy with obligation that lending institutions provide evidence of compliance to the Office of Fair Trading (OFT).
- Creditors to review debt collection systems and implement good practice recommendations contained in “How to do the right thing”, Citizens Advice (2011)
- Free courses and programmes to increase financial literacy, educate vulnerable people about implications of indebtedness and raise awareness about the information and sources of help that are available to debtors.
- Replication of survey on a national scale.
- Investigation of reasons why some debtors do not take action or complain about perceived harassment from creditors.

Introduction

Between July 2010 and August 2011, CAB Cornwall conducted a survey on the harassment of debtors based on data from 99 of its clients who felt they had experienced harassment from one or more of their creditors. Respondents were asked three questions during this survey: Which creditors have harassed you? How have the named creditors harassed you? Has any action been taken by anyone over this harassment? This report, with evidence of actual and perceived harassment by lenders and their agents, aims to contribute to the existing body of

work on indebtedness. It identifies the type of agencies named for harassing debtors, the nature and specific impact of such harassment and actions taken by debtors to address the harassment. This report does not seek to imply that all the debt collection procedures and practices creditors use are unjust. It draws specific attention to the standard debt collection practices widely employed by creditors which consumers perceive to be harassing. It also makes recommendations for additional research and improved practice by lenders.

Background

Personal debt is problematic and growing every year. A Nottingham and District CAB study in 2008 found that debt was then “the number one issue advised on in bureaux, accounting for nearly one in three of all enquiries and CAB advisers around the country are dealing with over 6,600 debt problems every working day.”¹ This number increased by 13% in 2009/10 and Citizens Advice reported that 8,723 new debt problems are dealt with by CAB each working day, as at March 2011.² Where debt exists and debtors default on payment, then creditors will be acting to recover them. Whilst any reasonable practice during the debt recovery process is not considered to be harassment, the harassment of people in debt by creditors or their agents is a criminal offence under the Consumer Protection from Unfair Trading Act 2008. The Office of Fair Trading (OFT) and the credit

¹ May 2008, Creditor Harassment: A report by Nottingham & District Citizens Advice Bureau

² Citizens Advice, Debt figures compiled in 2011. Available at www.citizensadvice.org.uk

industry's own trade associations have produced guidance on appropriate debt collection. Many debtors feel harassed by their creditors' actions which, although technically lawful has a negative impact. It can increase their stress levels and discourage them from engaging with their creditors to make repayment arrangements and/or make them feel pressured into making payments they cannot afford, worsening their ability to repay their debts overall.

There is a sizeable body of research about debt³, covering household indebtedness⁴, state of household finances⁵, consumer over-indebtedness⁶, but a relative dearth of research into the behaviour of creditors and their agents who are acting to recover overdue debt. The CAB Nottingham study was a snapshot survey on the issue of harassment of debtors. It opened the door to looking at the issue of creditor attitudes from the viewpoint of CAB clients. It is hoped that this report covering CAB Cornwall will build on

the earlier report from Nottingham to provide additional evidence on the issue of debtor harassment.

Which creditors have harassed you?

This survey asked respondents to identify the creditors who had harassed them. 99 respondents mentioned 83 different creditors and/or their agents. This report classified the creditors into 4 categories namely:

- Banks, credit card and loan providers
- Debt Collection Agencies (DCAs)
- Retail and other purchases
- Utility providers.

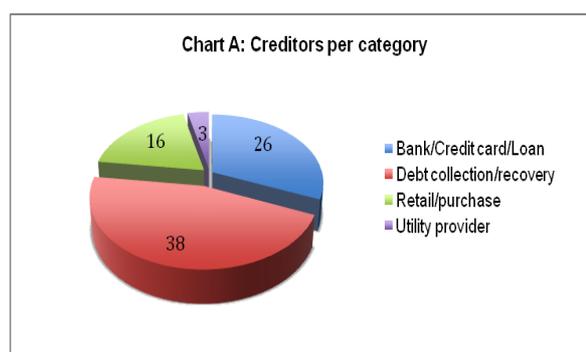
The category with the highest number of creditors named for harassment was that of debt collection/recovery agencies. 38 of the 83 creditors were from this category. Banks, credit card and loan providers formed the second largest group with 26 creditors. There were 16 retailers and providers of other purchases while 3 utility companies were identified as responsible for harassing their debtors as shown in Chart A.

³ Ana Del-Rio and Gary Young, "The determinants of unsecured borrowing: evidence from the British Household Panel Survey", Bank of England Working Paper, June 2005: Available at www.bankofengland.co.uk/publications/workingpapers/wp263.pdf

⁴ Richard Disney, Sarah Bridges & John Gathergood, Drivers of Over-indebtedness, University of Nottingham, Centre for Policy Evaluation, 2008: Available at: www.bis.gov.uk/files/file49248.pdf

⁵ Matt Waldron & Gary Young, "State of British household finances: results from the 2006 NMG Research Survey", Bank of England Quarterly Bulletin, 2006 Q4. Available at: www.bankofengland.co.uk/publications/quarterlybulletin/debtman.htm

⁶ DTI (Now Department for Business and Innovation and Skills (BIS)), 2005, Over-indebtedness in Britain: A DTI report on the MORI Financial Services Survey 2004; Available at: www.dti.gov.uk/ccp/topics1/overindebtedness.htm

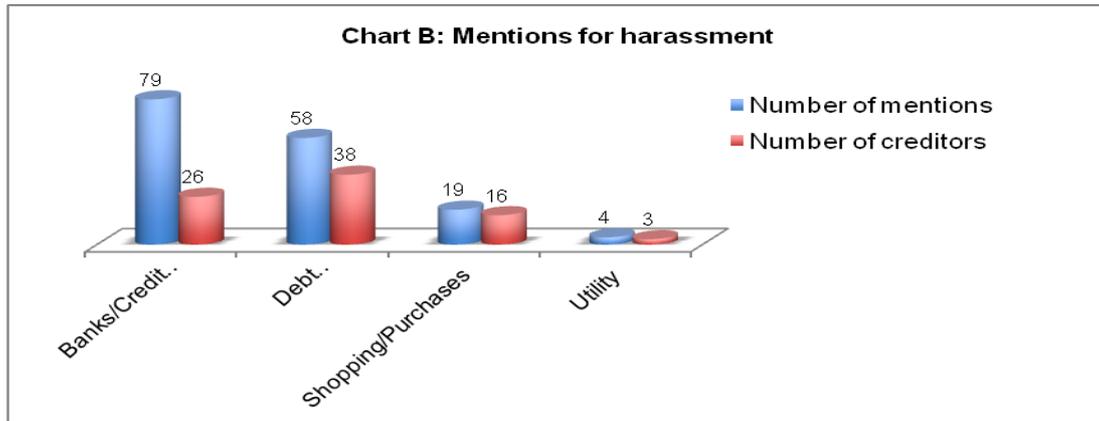


Most mentioned for harassment

The agencies most mentioned for harassment were those under the category of banks, credit card and loan providers. This category's 26 creditors were mentioned 79 times

between them and accounted for 49%, almost half, of the reports of harassment, as shown in Chart B.

that the problems are found across the lending industry.



The 38 agencies in the category of debt collection and debt recovery were mentioned 58 times and responsible for 37% of reported harassment of debtors. The third largest mention of creditors was that of 16 retailers and providers of other purchases (such as vehicle insurance), who featured 19 times. They accounted for 12% of creditor harassment. 3 utility companies, mentioned 4 times, made up only 2% of all creditors mentioned, who had harassed debtors in this survey.

Banks/Credit Card/Loan providers

These creditors represent a cross-section of the lending industry, including high street banks, major credit card companies as well as sub-prime or higher interest lenders.

These results indicate that 10 out of the 26 agencies in this category were responsible for 76% of reported harassment within this category. These were largely the more mainstream lenders, and while this frequency may reflect their market share, it does indicate

Debt collection/recovery

The category that received the most mention, second to banks and credit card providers, is composed of 38 debt collection/recovery agencies; mentioned 58 times. 11 of the agencies in this category received 57% of mentions.

A respondent reported that from the middle of September to the beginning of October 2010 he had received 3 letters, 8 phone calls and 2 text messages from one debt collection agency that was very insistent that he paid money over the phone. He felt extremely pressured by this and, even though he could not afford it, said *“I had to pay them.”*

Retail and purchases

The majority of creditors (74%) in the retail and purchases category were mentioned just once. This may be because online retailers such as catalogues are more likely to pass on their debt recovery functions to debt recovery agencies.

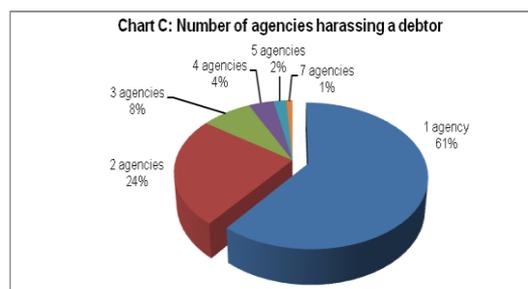
Overall, this picture of who is most responsible for harassment of

debtors correlates with the findings by Nottingham CAB that in 2006/7 and 2007/8, debts relating to credit, store and charge cards were the largest category of debt, followed by unsecured personal loans⁷.

How have the named creditors harassed you?

The survey asked respondents how they had been harassed. One of the examples of activities that could count as harassment according to the OFT Code of Guidance is “using more than one debt business at the same time resulting in repetitive and/or frequent contact by different parties.”⁸ This survey provides evidence of harassment of debtors by multiple creditors and/or their agents.

39% of the respondents in this survey felt they were harassed by more than 1 agency; with one respondent apparently being harassed by 7 agencies and another 2 respondents by 5 agencies each – see Chart C. One respondent reported harassment from 5 agencies in relation to debt owed to one bank. In another case debt owed to a retailer, by a respondent with difficulties including a medical condition, was passed back and forth between 4 debt collection agencies over a 4-year period; with the respondent continuing to receive letters during the survey.



The OFT Code of Guidance considers it unfair for creditors to contact debtors at unreasonable times and/or at unreasonable intervals. Although the guidance may not have defined what constitutes “unreasonable intervals”, some of the contacts with respondents in this survey can only be described as frequent enough to constitute unreasonable intervals. Even though 61% of debtors were harassed by only one creditor is equally significant because such creditors were no less unrelenting in their contacts with debtors and the intervals no less unreasonable.

Phone calls and text messages

Phone calls and text messaging were the most popular method of harassment reported. Most of the respondents who received phone calls were very specific about the number of calls they had received from creditors and their agents as shown in the snapshot of frequency of telephone contact in a day⁹.

Snapshot: frequency of telephone contact in a day:

- Up to 10 times a day, Sundays and bank holidays also
- Day and night from in-house debt collector
- Mobile and landline 2 to 8 times per day for past 2 weeks
- 3 to 4 times a day for 15 days in less than 3 weeks
- 7 or 8 calls a day including Sundays; 4 texts per day

⁷ May 2008, Creditor Harassment: A report by Nottingham & District Citizens Advice Bureau

⁸ Office of Fair Trading, Debt Collection Guidance, Final Guidance on unfair business practices, July 2003 (updated 2011): Available at:

www.offt.gov.uk/shared_offt/business_leaflets/consumer_credit/oft664rev.pdf

⁹ Respondents kept a log

- Daily at work and on mobile for last few months
- Daily phone call at 8.30pm – believe debt is statute barred
- 7 phone calls; 2 text messages
- Calls every day
- 4 to 10 times a day
- 3 times a day
- More than 3 calls each day
- Up to 3 times a day
- Around 8 times a day
- 7 times a day
- 6 to 7 calls per day
- Minimum of 3 times a day, everyday
- Daily
- Calls all times of the day and evenings on a regular basis
- Up to 5 times a day
- At least 4 calls a day from 1st to 24th and once a day from 25th to 28th September 2010
- Between the 15th October and the 11th November 2010, one respondent received from the same agency in relation to one debt; 3 phone calls including one that lasted 40 minutes, 4 letters and 4 text messages.

Some of the calls were less frequent than on a daily basis but frequent enough for respondents to be so affected by them that they considered them harassment. See Snapshot above for frequency of contact reported, other than daily calls. Other respondents did not quantify the phone calls but described their frequency as “incessant”, “constantly”, “all times of day and evening”, “on a regular basis” and “endless”.

In addition to the questionable frequency of calls made by creditors and/or their agents, this survey also reveals that the nature and subject matter of some of the calls can be described as “putting pressure on debtors or third parties”¹⁰, behaviour that is

considered oppressive according to the OFT Code of Guidance. Findings from this survey confirm the oppressive nature of such pressure from creditors.

When a respondent refused the repayment offer by a debt collection agency during a phone call, they implied that a doorstep collector would call and list goods for removal within 7 days.

Letters

Creditors also used letters as a harassment tool. Though not as frequent as telephone calls they were used in addition to calls – see Snapshot: frequency of letters. A respondent received up to 4 letters per week from a creditor bank. In a telephone call from them, while she was on maternity leave, she was advised to put in more hours at work so she could contribute payments to the bank. Another respondent commented:

I have been sent several letters and almost daily telephone calls have been made. Two letters arrived in one day threatening to send collectors to my house.

Snapshot: frequency of letters

- 4 letters in a week
- 4 letters in 5 days
- 3 letters in 3 weeks
- 5 letters from various departments of creditor agency including solicitor
- Weekly/fortnightly letters
- 2 letters in a week
- Letters every 3 days
- Letters constantly for nearly a year
- Letters every couple of weeks
- Standard chase up letter each day by post

¹⁰ Office of Fair Trading, Debt Collection Guidance, Final Guidance on unfair business

practices, July 2003 (updated October 2011): Available at: www.of.gov.uk/shared_of/business_leaflets/consumer_credit/oft664rev.pdf

A credit card provider wrote a letter to a debtor threatening court action a month after the DRO application was approved. Another debtor reported that a bank did not inform him that his debt had been passed on to a debt recovery company that he found difficult to track down.

Impact of harassment on debtors

This survey asked respondents about the impact of the harassment that they had experienced. Their responses are summarised in the 'Snapshot of impact of harassment'.

Snapshot of impact of harassment

- Deep worry, anxiety that cancer would come back
- Forced to have telephone line cut so left with no landline
- Extremely upset as have other debts and only just started working again
- More anxiety than ever especially when put her trust in the CAB to help her sort out problems
- Client with severe learning difficulties is getting upset and keeps contacting bureau for assistance
- Suffering depression and panic attacks
- Reduced to tears, borrowed partner's debit card to make payment when threatened with court action
- Annoyed; they would not listen, told being dealt with by CAB but still wanted their own arrangements and still continued to phone even when asked not to
- Calls all times of day and night upsetting for client and elderly mother
- Changed telephone number; also started to lock door following visit to home by creditor
- Scared of phone and all communication as they are in contact more than once every day; debilitating effect
- Distress as husband lost job, son disabled, moved house 3 times

- Great deal of distress and upset to daughter
- Paid off ex-husband's debt after 2 text messages and 7 phone calls

The OFT Code of Guidance describes "refusing to engage, appropriately or at all, with a third party representative, such as a debt adviser at a free advice centre or debt management business, or with a debtor developing his own repayment plan, unless there is an objectively justifiable reason for doing so". The Code of Guidance also gives "ignoring or disregarding claims that debts have been settled or are disputed and continuing to make unjustified demands for payment" as an example of physical and psychological harassment. Those respondents who kept logs of incidents of harassment were asked to describe the impact that the harassment from creditors had on them. Their responses and experiences point to irresponsible behaviour by creditors and justify the need for a closer investigation of the methods used by creditors, and consideration given to tougher sanctions where necessary with regards to recovery of debt.

After receiving letters from a bank including some from their solicitors, a respondent kept a log, over a 9-week period, describing the impact of the letters on her each week. She reported as follows:

2/9/2010: Angry, nervous, upset as I had an arrangement agreed with them.

13/9/2010: They kept complaining of missed payments when I have never missed in my life.

12/10/2010 and 1/11/2010: Even with an agreed sum to pay with help from the CAB, they still persist

and are giving me sleepless nights by putting the total I have to pay each month up and up.

12/11/2010: It also brought back bad memories of a 10-year harassment with them before when I used to have a loan; it has now been paid off. Their harassment then made my carer very ill at the time, as I was too ill at the time.

Another respondent documented her experiences in the hands of 4 agencies from 9/12/2010 to 30/12/2010. During the first week of this period she received 14 phone calls and 2 letters from the same creditor. She records the impact on her as *“worried, stressed, more stressed, so stressed as husband in care home had to see a doctor”*. During the phone call of 15th December she referred the caller to the CAB. They called again the following day in disregard of the referral to CAB. The respondent who reported that she had a bad day at the care home with her husband again referred the caller to CAB. Between the 18th and 30th December 2010, she received a total of 10 more calls from this creditor and 3 others, leaving her very nervous and upset.

A respondent received threats of legal action from a utility company. The threats were so scary that the debt was paid off at the cost of other priority¹¹ debts including

¹¹ Priority debts are urgent debts where serious action can be taken against you if you do not pay what you owe, and could mean that you lose your home, vital services, and or liberty, see, Advice Guide:

http://www.adviceguide.org.uk/index/your_money/money_management_index_ew/help_with_debt_index_e

falling into arrears with council tax payments. Another respondent who said he was driven to the edge wrote:

Telephone calls daily especially if I let the answer-phone pick up. One day I told them I was on the edge and crying and said I couldn't cope anymore and then they called me back. They have bullied me into making payments I can't afford and on 15th October I had 3 separate letters from them. They tell me if it gets taken to a credit recovery it will get worse.

Has any action been taken by anyone over this harassment?

One of the aims of the survey was to find out whether any action had been taken regarding the harassment experienced by debtors. Only 26 of the 99 respondents indicated that some action had been taken. 18 of them had gone to CAB for assistance and 8 had taken some action on their own. Action taken by individual debtors include complaint to the OFT, seeking legal advice and direct complaint to the creditor – see Snapshot of actions taken.

Snapshot of actions taken

- Told it was harassment, calls stopped
- Continued to receive letters despite CAB involvement
- Complaint to OFT
- Client went to see solicitor - calls from off shore - out of UK jurisdiction
- Complaint now with Financial Ombudsman Service as debt is statute barred
- Complaint to creditor by CAB
- CAB faxed copy of letter to DRO unit

[w/dealing with urgent debts index_ew/dealing with urgent debts.htm#what are priority debts](http://www.adviceguide.org.uk/index/your_money/money_management_index_ew/dealing_with_urgent_debts_index_ew/dealing_with_urgent_debts.htm#what_are_priority_debts)

- Letter by CAB requesting hold on any action
- Client complained to bank over counter about wrong payment
- Assisted by bureau through debt procedure
- Complained to debt recovery company but they just don't stop
- Complained to creditors - still calls despite telling them CAB dealing with this
- Complaint to another member of staff of creditor
- Letter of complaint sent to creditor
- Bureau has written to creditor stating harassment
- Verbal complaint at bank
- Complaint to CAB
- Letter to creditor denying debt
- CAB told debt written off but creditor would not tell client
- Creditor agreed to ensure activity would cease for a month

The CAB took action to write to creditors either to complain about unacceptable behaviour or to request stay on planned action by a creditor. The CAB also assisted debtors through debt procedure.

CAB rang after a creditor had written a letter threatening it would pass the debt owed to a collection agency. Following this intervention, the creditor told CAB that it had written off the debt, as the amount owed was less than £20. Ironically, the creditor would not tell the debtor about this development.

CAB spoke to and wrote twice to another agency, which admitted that it had a usual practice to call everyday, though they agreed to ensure all activity would cease for a month. The admission that phoning a debtor everyday was usual practice suggests that the harassment of debtors is embedded practice within this agency.

When CAB wrote to another creditor to say its calls to a debtor day and night amounted to harassment, the harassment stopped.

A debtor with severe learning difficulties and who could not afford to pay 3 credit cards and did not understand the conditions was assisted through debt procedure by CAB.

This survey shows that not all actions resulted in a stop to the harassment. When the CAB wrote to a creditor who had passed a debt back and forth between collectors for 4 years, the letters continued despite CAB involvement. The OFT says it is unfair to be 'contacting debtors directly and bypassing their appointed representatives, without permission from the debtor or his representative, unless there is an objectively justifiable reason for doing so'.

Respondents were visiting their local CAB for various reasons, not necessarily relating to debt, when they were asked to contribute to this survey. This may explain why only 26% reported that they had taken any action to address harassment from their creditors. It is hoped that as a result of participation in this survey, those who had not sought or received any help will access help from CAB regarding harassment from creditors.

Recommendations

- Rigorous enforcement of existing law and guidance on debt recovery; this to involve stakeholders including relevant government bodies, the OFT,

lenders, Citizens Advice and other debt advice providers.

- In addition to periodic reviews of the practice of lenders in relation to recovery of debt; better and more regular monitoring of the implementation of responsible lending policy with obligation that lending institutions provide evidence of compliance to the OFT.
- Creditors and debt recovery agencies to review their debt collection systems and implement good practice recommendations contained in “How to do the right thing”, Citizens Advice (2011)
- Free courses and programmes to increase financial literacy, educate vulnerable people about implications of indebtedness and raise awareness about the information and sources of help that is available to debtors.

Further research

- This survey builds on a 2008 survey by Nottingham and District CAB and contributes to developing a picture of the extent and nature of harassment of debtors by creditors. The survey needs to be replicated on a larger scale to build a national picture, robust enough for a credible call for reform of practice by lenders. In order to collect more evidence of this issue, CAB Debt Workers should continue to contribute to a centrally held list of offending lenders and agencies.
- Only 26% of debtors in this survey had taken any action to address the perceived

harassment that they experienced at the hands of creditors or their agents. The reasons why debtors do not take action or complain about harassment from creditors needs to be investigated through further research. Such research could explore the level of awareness amongst debtors of the options available to them when creditors harass them; to inform better awareness raising programmes.

Acknowledgements

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