

ombudsman news

essential reading for people interested in financial complaints – and how to prevent or settle them

in this issue

case studies involving
mental health and debt
page 3

ombudsman focus:
mental health and debt
problems
page 15

Q&A **page 25**

opening up

It's estimated that in any one year, one in four people experience mental health difficulties. Just like poor physical health, poor mental health can have a significant impact on people's everyday lives. And yet – although things appear to be better than they were – it's still generally the case that people find it more difficult to open up about their state of mind than they do about conditions that are more visible.

There's a long-established link between mental health and debt: research suggests that half of people who have a debt problem also have a mental health problem. This link is something that's all too apparent from the complaints we receive each year involving difficulties with mental health as well as with money. And if people have been reluctant – or unable – to talk about what they're going through, both their mental health and their finances may be in a very bad way.

So how do we break the link between mental health and debt – and break down the barriers to talking about them? It's clear that both these complex issues will require a joint effort to address – and I'm very grateful to the experts who've shared their personal reflections and professional experience in this month's *ombudsman focus*.



Financial

**Ombudsman
Service**



follow us

 @financialombuds  financial-ombudsman.org.uk

subscribe ombudsman.news@financial-ombudsman.org.uk

meet us we're in:

◆ Gloucester

for dates see page 24



scan for
previous issues



Caroline Wayman

Like many organisations – including many financial businesses and regulators – we’ve pledged to promote open conversations about mental wellbeing in our own workplace. And we’ll continue to share our own insight about the problems being escalated to us – as part of the ongoing conversations around mental health, and vulnerability more broadly, that are happening within and beyond financial services.

This is the final *ombudsman news* of 2016. And as the end of the year approaches, we’ve already been thinking about the next financial and planning cycle – and will shortly be publishing our proposed plans and budget for 2017/2018. As always, we rely on our stakeholders’ informed views and insight to help shape and refine our thinking about the future. So I hope you’ll find time to read and respond to our consultation before it closes in January 2017.

Caroline

... just like poor physical health, poor mental health can have a significant impact on people’s everyday lives

Financial Ombudsman Service

Exchange Tower
London E14 9SR

switchboard 020 7964 1000

consumer helpline

Monday to Friday 8am to 8pm *and*
Saturday 9am to 1pm
0800 023 4 567

technical advice desk

020 7964 1400
Monday to Friday 9am to 5pm

© Financial Ombudsman Service Limited. You can freely reproduce the text, if you quote the source.

ombudsman news is not a definitive statement of the law, our approach or our procedure. It gives general information on the position at the date of publication. The illustrative case studies are based broadly on real life cases, but are not precedents. We decide individual cases on their own facts.

case studies involving mental health and debt

Like other health difficulties, discussing mental health difficulties may be very upsetting. And unfortunately – as our case studies highlight – this can mean that people don't disclose that they're having trouble until they're experiencing very serious financial difficulties.

Some people who contact us feel that their debt should be written off – for example, because the business in question should have realised they were struggling, or shouldn't have lent them money at all because of their mental health problems. We often have to explain that businesses can't simply refuse to deal with anyone who's experienced mental health difficulties. But we'll look carefully into the individual circumstances to decide whether – and if so, when – the business could have realised that their customer was struggling.

As in other situations where people are experiencing financial hardship, we'll check that the business has responded sensitively and constructively – bearing in mind their customer's mental wellbeing.

An appropriate response might be to freeze interest and charges on debt or to agree an affordable repayment plan. It might also be arranging to stop automated letters or phone calls – which may be very distressing for some customers.

Given the nature of these complaints, the impact of a business's actions may be exacerbated. Where mistakes could have been avoided, we'll consider the impact they had – and whether, in the circumstances, compensation should be paid to recognise any unnecessary distress or other trouble their customer experienced.

... in our view, his answers raised questions that should have alerted the adviser that more information was needed

case study
138/1

consumer's sister complains that secured loan was mis-sold because of mental health problems

When Mr U was taken into care because of his severe mental health problems, it came to light that he'd fallen into serious arrears on a secured loan.

Mr U's sister, Mrs Z – who had power of attorney to deal with his finances – contacted the lender for more information. The lender – a bank – sent her a copy of the application form, which showed that Mr U had borrowed £40,000 for home improvements.

However, Mrs Z felt the information on the form was inaccurate. She complained to the bank that they hadn't properly checked the details – and that, given Mr U's severe mental health problems, they shouldn't have lent the money to him at all.

The bank said they'd had no reason to doubt the information Mr U had provided. They said that they'd fast-tracked his application because of the low loan-to-value ratio – which meant they hadn't asked him to verify anything he'd said.

Mrs Z argued that the bank should have realised that Mr U didn't have the capacity to take on the financial commitment of a secured loan. When the bank wouldn't change their position, she contacted us.

putting things right

Mrs Z explained that her brother had a history of schizophrenia and psychosis. She sent us a letter from Mr U's psychiatrist, written shortly after he took out the loan. According to the letter, the psychiatrist was concerned about Mr U's health and how he was managing his money. In the psychiatrist's view, Mr U was vulnerable and lacked mental capacity.

However, without knowing more, we couldn't say for sure that Mr U's vulnerability should have been evident to the bank. To decide whether the bank had acted fairly, we needed to look more closely into what happened when Mr U applied for his loan.

According to the bank's records, Mr U had stated that he received a "guaranteed" £12,000 a year from his pension. He'd also told the bank that he didn't pay council tax. There was no evidence that the bank had queried any of this information. In our view, however, we felt they should have done.

For example, Mr U had only been 56 at the time he took out the loan – younger than the usual retirement age. Even though it was possible that he might have retired early, the bank hadn't asked about this. In reality, Mr U had been receiving benefits – relating to his health – of only a fraction of the pension amount he'd written on the form.

In addition, Mr U hadn't been paying council tax as a result of his serious mental health condition. But as the bank hadn't asked any questions, they hadn't found this out – or considered what it might mean for his application.

As part of the application process, Mr U had also shown the bank his driving licence. From our enquiries, we saw that his licence had already expired at that time, and had only been valid for a year in the first place.

Mrs Z explained that because of the severity of Mr U's health problems, his licence had been renewed yearly – and had then been withdrawn altogether. Again, the bank hadn't queried either the unusual validity period, or the fact the licence had expired.

The bank told us it was their policy to fast-track loans like Mr U's, with low loan-to-value ratios. They said that they couldn't have known about his mental health problems – or that he'd have trouble repaying his loan.

We disagreed. From the bank's records, we saw that an adviser had helped Mr U fill out the application form. And in our view, his answers raised questions that should have alerted the adviser that more information was needed. If the adviser had asked for even some of that information, we thought they would have realised the loan might be unaffordable.

In light of our investigation, the bank agreed that fast-tracking Mr U's application hadn't been the right option in this case. In the circumstances, they agreed to write off his outstanding debt.

... but she'd clearly been at the wrong end of human error and automated systems

case study 138/2

consumer complains that lender's response to mortgage arrears have made mental health problems worse

After being unable to work for several years due to health reasons, Miss A fell behind with her mortgage repayments. With the help of an advocate, she got in touch with her mortgage lender to discuss how to manage her debt – explaining that she suffered from severe depression and anxiety, and that the worry of the arrears was making things worse.

The lender said that if Miss A sent them evidence that her mental health caused her trouble with managing her finances, they would transfer her account to a specialist team. Miss A provided a letter from her doctor. But she was then told that her account couldn't be transferred. All the while, she continued to receive automated letters about her arrears.

Miss A complained to the lender, saying she felt discriminated against because of her mental health problems. In response, the lender agreed to pass Miss A's account to their specialist team. They put in place a repayment plan – and offered her £200 to make up for the upset they'd caused.

However, the lender didn't set up the payment plan correctly. At this point – finding the situation increasingly distressing – Miss A phoned us.

putting things right

We asked the lender for copies of their contact notes with Miss A. From these, it was clear there had been a number of occasions where they'd given her conflicting information – or hadn't done what they'd said they'd do.

For example, Miss A had initially been told that her account could be transferred to the lender's specialist team. After going to the trouble of getting medical evidence, she'd then been told it couldn't be transferred. And this decision was later reversed again.

From the records, we could see the lender had agreed not to call Miss A about her arrears after she'd told them how distressing she found speaking on the phone. They'd also told her that once her account was with the specialist team, she'd no longer receive automated letters. But – as a result of the lender's automated system – she'd continued to receive both phone calls and letters.

And just as it looked like the problem was being resolved, the lender's errors with the repayment plan had caused Miss A additional distress.

Miss A told us that the whole experience had left her feeling very vulnerable – and that she'd had to get help after having suicidal thoughts. She felt the lender had deceived her, telling her one thing but doing another.

We explained to Miss A that, from what we'd seen, we didn't think the lender had deliberately misled her. But she'd clearly been at the wrong end of human error and automated systems – which the lender could have done more to prevent.

We pointed out to the lender that their repeated mistakes had caused Miss A substantial distress. Not only that, but it seemed they'd failed in their legal duties to make reasonable adjustments for her.

The lender accepted they'd let Miss A down. In the circumstances, they agreed with us that £1,000 better reflected the serious impact of their actions on her health and wellbeing. They confirmed that they'd given Miss A a named point of contact in their specialist team, to help her find a way forward with her debt.

case study 138/3

consumer complains that lender's decision to pass mortgage account to solicitors has had negative impact on his mental health

When Mr O developed severe depression, he could no longer work. He then lost around half his income due to an error in calculating his benefits payments – and began to run up arrears on his mortgage.

After a year of financial difficulties, Mr O received a call from his mortgage lender. They said his account was now being administered by an external firm of solicitors, and that he should expect a call from them within a week.

However, Mr O didn't hear from the solicitors until six weeks later. When he did, he was told his house was going to be repossessed – and that he had three weeks to sell it before the lender took action.

Mr O complained to the lender. He said he'd had no warning his account was being passed to solicitors – and the worry of waiting to hear from them had had a serious impact on his mental health.

When the lender maintained they'd done nothing wrong – and that they were going ahead with the repossession – Mr O contacted us.

putting things right

We asked Mr O for more details about his financial difficulties. He said when he'd first lost his job, his benefits had covered his mortgage payments. After the mistake with his benefits, it had taken several months to resolve the problem. But he explained that he could now afford his mortgage payments again – and he wanted the lender to agree to let him continue making repayments, rather than taking legal action against him.

Mr O explained he'd been very confused and distressed by the lender's actions. He said he'd tried to explain his concerns to the lender's adviser over the phone, but she'd been "abrupt" and insisted that Mr O would need to talk to the solicitors.

When we listened to the adviser's call to Mr O, we thought it was clear she hadn't understood Mr O's concerns. Although she'd told Mr O to wait for the call from the solicitors, she hadn't provided their name or contact details. So when Mr O didn't hear from them, he didn't know who to get in touch with.

The lender's records showed Mr O had phoned them twice after their call – but each time, it was clear from their notes that they'd been unable to clarify the situation. We could see that, in the meantime, Mr O had also written to the lender – both to explain the impact the situation was having on his mental health, and to suggest ways that he could repay what he owed.

We appreciated that Mr O's money worries had been going on for some time. But from what we'd seen, since he'd been in a better financial position, he'd been proactive in trying to resolve the situation – as well as being honest about his mental health difficulties. However, the lender hadn't responded constructively – causing Mr O a lot of unnecessary distress.

When we pointed this out to the lender, they said they'd bring Mr O's mortgage account back "in-house" – which he said he'd find much less stressful. They offered him £400 to make up for the stress and worry their actions had caused. And they agreed that he could begin making repayments again, with a review after six months to see how things were going.

... he'd been proactive in trying to resolve the situation – as well as being honest about his mental health difficulties

case study 138/4

consumer complains that he shouldn't have been given loan because he had mental health problems

A few months after taking out a short-term high-interest loan, Mr N contacted the lender – saying he hadn't understood what he was signing up to. In particular, he said the interest rate was too high – and he hadn't realised how the repayments would work in practice.

In response to Mr N's complaint, the lender agreed to write off the outstanding debt on his loan. But they said they hadn't known about Mr N's mental health problems when he took out the loan – so wouldn't

refund the money he'd already paid. They also said they'd clearly explained the interest rate, and how long the loan would last.

Mr N argued that because he had mental health problems, he shouldn't have been given a loan at all. Unhappy with the answer he'd got from the lender, he contacted us.

putting things right

We needed to establish whether the lender made the details of the loan clear to Mr N – and whether they should have lent to him at all.

To help us decide, we asked the lender for more information from when the loan had been taken out. They sent us copies of the information they'd given Mr N. And looking at the credit agreement, we thought both the term of the loan and the interest rate were clearly set out.

The lender also provided evidence of a conversation they'd had with Mr N, in which they'd explained how the loan would work.

Mr N told us that he'd previously had a loan with the same lender, for the same amount. He said he'd assumed that the two loans were exactly the same – and that's why he was confused that he was still repaying this second loan.

It wasn't clear to us why, if Mr N believed the loans were exactly the same, he'd taken so long to query the length of the second loan with the lender. We also saw from the lender's records that Mr N had paid off his first loan without difficulty.

We explained to Mr N that lenders can't refuse to lend to people purely on the basis that they've experienced poor mental health. In our view, the lender had clearly explained the second loan. And because Mr N hadn't told the lender about his mental health problems, we didn't think it was reasonable to expect the lender to anticipate the difficulties he might have.

Given everything we'd seen – and while we were sorry to hear what Mr N was going through – we decided the lender hadn't acted unfairly.

... looking at the credit agreement, we thought both the term of the loan and the interest rate were clearly set out

▶

case study 138/5

consumer complains that bank won't refund account charges – and should have done more to help during period of financial difficulty

Having had her working hours cut down – and after a period of poor physical and mental health – Ms G was experiencing financial difficulties. She wrote to her bank, asking them to close her current account and refund all the charges they'd applied to both her account and a loan she'd previously had with them.

The bank replied that they felt they'd done everything they could for Ms G during the years she'd been a customer.

They pointed out that they'd previously put arrangements in place to help her pay back her loan arrears. And over the last few months, they'd written to her several times about the fact her current account was in the red.

The bank said that, as Ms G hadn't replied to their letters, they didn't feel they were responsible for the position she was now in – and they said they wouldn't refund the charges.

Unhappy, Ms G contacted us – saying the bank should have done more to help her.

putting things right

Ms G explained the trouble she'd been having over the last few years: her employer had reduced her shifts; she'd injured her leg and been signed off work; and through it all she'd had serious depression. There was no doubt she'd been having a very difficult time – and that her finances had suffered as a result.

We asked the bank for more details about Ms G's account history – to see how much they'd known about her circumstances and how they'd responded.

We saw that around four years previously, Ms G had contacted the bank saying she was having money problems. In response, the bank had given her more time to pay off the arrears on her loan.

We also saw that, more recently, Ms G had taken out a number of payday loans. She'd been overdrawn for the final two years she'd had her bank account. But it didn't seem she'd contacted the bank to say she was having trouble.

The bank showed us that they'd sent Ms G nearly 50 letters about returned or missing payments. They said that Ms G hadn't responded, so it wasn't their fault she'd run up more charges.

However, we didn't agree. We pointed out that, even though Ms G hadn't got in touch with the bank, they could have realised she was struggling – not least because of the volume of letters they'd needed to send.

In the circumstances, we didn't think those automatic letters had been the most appropriate response anyway. We thought the bank had already had enough information about Ms G's financial circumstances that they could have taken a more personal approach – and tried to establish how they could support her.

In our view, the bank had treated Ms G fairly when she'd originally told them she was struggling with her loan. But more recently, they'd missed opportunities to step in to help her. So we told them to refund the charges – adding interest – that they'd applied to her current account from after she'd started to use short-term loans and gone permanently overdrawn.

We also told the bank to pay Ms G £200 to recognise the upset they'd caused by not doing this sooner.

... we didn't think those automatic letters had been the most appropriate response

case study 138/6

consumer's son complains that business hasn't treated mother sympathetically given her mental health problems

Following a period of very poor mental health, Mrs P fell behind on her loan repayments. She wrote to the lender, her bank, explaining what had happened – and asked them to write back to her, as she struggled with talking on the phone.

Mrs P's bank responded with a letter asking her to call them. Upset, she wrote again, saying her son, Mr P, would be dealing with her account. She asked them to write to him with any further correspondence.

Over the next few months, the bank continued to write to Mrs P. After six months, they wrote to say her debt might be passed to a third party – which could lead to debt collectors visiting her home. Again they said Mrs P needed to call them to resolve the problem.

Unhappy with the bank's actions, Mr P complained on behalf of his mother. He said the bank's letters were making her mental health even worse – and he said the bank should have been writing to him instead. When the bank insisted they'd acted "fairly and reasonably", Mr P's complaint was escalated to us.

putting things right

Mr P sent us copies of the letters he and his mother had sent to the bank. Having reviewed the letters, we agreed that Mrs P had made it clear that she wanted the bank to write, rather than use the phone. She'd asked the bank to deal with Mr P on her behalf. And she'd asked them not to call him, as he often worked night shifts.

Turning to the bank's records, we were concerned to see that none of their letters acknowledged what Mrs P had told them about her mental health. The records also showed they'd tried to call Mr P, despite being asked to write to him. And when they couldn't get through to Mr P after one attempt on the phone, they went back to sending letters to Mrs P.

The bank said they hadn't meant to cause Mrs P any distress. But they explained that as she still owed them money, they thought they'd acted fairly in trying to recover it.

The bank said they'd passed Mrs P's account to a specialist team who worked with vulnerable customers. They said they understood that Mrs P had wanted all letters to be sent to Mr P – but some letters would have to be addressed to Mrs P "for regulatory reasons".

We acknowledged that the bank wanted to recover the money Mrs P owed them. But it was clear to us she'd been proactively trying to deal with the situation. And in our view, the bank should have acted more sympathetically.

In the circumstances, we told the bank to pay Mrs P £250 for the distress their letters had caused her. And to make sure the problem didn't happen again, we told the bank to send any future letters to Mrs P as enclosures addressed to Mr P.

... they wrote to say her debt might be passed to a third party – which could lead to debt collectors visiting her home

case study 138/7

consumer complains that bank shouldn't have given her another loan – because she was already in debt and had mental health difficulties

Miss C had taken out a loan with her bank to help pay off a number of other debts. Some years later, she told her bank that they shouldn't have lent her the money because she had bipolar disorder.

The bank said they hadn't known that Miss C had bipolar disorder at the time she took out the loan. They said they wouldn't automatically refuse a loan to someone with bipolar disorder, as this would be discrimination.

But they said that – given Miss C's circumstances – they'd refund the interest and charges on the loan. They also said they'd do the same with a credit card she had with them.

Miss C wasn't happy with this answer – and sent the bank paperwork relating to her mental health treatment. But the bank still wouldn't agree to pay back all the money – so Miss C got in touch with us.

putting things right

In their response to Miss C's, the bank had told Miss C that she'd left it too long to complain – and they wouldn't give their permission for us to look into what had happened. However, when we got in touch with bank to say that Miss C had contacted us, they agreed that – given her difficult circumstances – our answer would help them and Miss C to move on from the dispute.

When we asked the bank for more details about Miss C's loan, they said that they no longer had records of the credit checks they carried out because it had been more than eight years ago. But they still had records of Miss C's income and expenditure relating to that period.

Looking at these records, it seemed that Miss C would have still had some disposable income each month after making her monthly repayments. However, shortly after taking out the loan, Miss C's work circumstances had changed – and she'd missed a payment. She'd agreed a reduced payment plan with the bank, but had defaulted on the loan shortly afterwards.

Miss C told us that her problematic spending patterns during the first years of the loan – which had contributed to her missing payments – were a symptom of her bipolar disorder. She said the bank had taken advantage of her vulnerable mental state.

However, from the bank's records – and from what Miss C had sent us – we saw she'd been diagnosed with bipolar four years after taking out the loan. When she'd applied for the loan, Miss C hadn't been aware of her condition herself. So we didn't think it was reasonable to expect the bank should have known about it – and we didn't agree they'd "taken advantage".

We explained to Miss C that from the information we had, it looked like her loan had been affordable when she took it out. We also explained that we generally think it's fair for a lender to freeze interest and charges on a loan from the point they're aware that their customer is having financial difficulties.

The bank had already said they'd refund all the interest and charges Miss C had paid – as well as those on her credit card. In light of everything we'd seen, we encouraged Miss C to accept this offer.

... she said the bank had taken advantage of her vulnerable mental state

case study 138/8

consumer experiencing mental health difficulties complains that credit card provider won't refund previous interest and charges

Mr Y asked his credit card provider to refund the interest that had run up on his account. He explained he was experiencing mental health issues, and was struggling to afford the monthly repayments.

The credit card provider said they'd stop applying interest and charges on Mr Y's account. But Mr Y felt they should pay back some of the interest and charges he'd run up before then – for the whole time he'd had trouble with his mental health. He sent the credit card provider a letter from his GP to back up what he was saying.

But the credit card provider said they would only freeze interest and charges from the point Mr Y told them about his mental health issues. Unhappy with this answer, he contacted us.

putting things right

Mr Y told us that the credit card provider should have known about his financial difficulties, because he'd only been making the minimum repayments. He sent us a report from the Financial Conduct Authority, which said this could be a sign of "potentially problematic debt".

Mr Y also sent us the letter his GP had written – which explained that he'd been experiencing mental illness for the last four years. The GP had suggested that having less debt would help Mr Y's recovery.

We asked the credit card provider for their records of Mr Y's account. We saw that he'd used his card regularly over the last four years, but had only recently gone over the spending limit. While some interest and charges had been applied over the four years, he'd always made at least the minimum repayment – and had sometimes made larger lump sum payments.

It seemed that Mr Y had been in touch with the credit card provider earlier in the year – a few months before contacting us. He'd told the provider that he didn't think he could afford the minimum repayments, but hadn't told them about his mental health difficulties.

In response, the credit card provider had asked Mr Y to fill out an income and expenditure form. But he'd said he didn't want to. He'd also made it clear that he didn't want to consider a debt management plan.

We acknowledged the GP's views about writing off Mr Y's debt. But we didn't think it would be fair to tell the credit card provider to write off the debt he'd run up in the past. Mr Y hadn't given them the financial information they'd needed to help him – and he'd only recently let them know that his mental health was causing problems.

We explained that – given everything we'd seen – we didn't agree that the credit card provider had missed obvious signs that they needed to help Mr Y sooner. In our view, once they found out about Mr Y's difficulties, they'd responded sympathetically.

So while we were sorry to hear what Mr Y was going through, we decided he hadn't been treated unfairly.

... he'd only recently let them know that his mental health was causing problems

case study 138/9

consumer complains that bank should have been aware of financial difficulties

After Mrs B lost her job, she was diagnosed with depression and struggled to pay her bills. Over the next few years, she found it difficult to keep up her financial commitments – and began to run up significant charges on her bank account.

When Mrs B contacted her bank, they agreed to freeze interest on her account and offered to set up a repayment plan. They also said that from that point on, her account would be dealt with by a specialist team to make things easier for her.

However – although Mrs B said she was grateful for the help the bank was now giving – she complained that they should have realised she was struggling and stopped her situation becoming as bad as it now was.

The bank said that they couldn't have known that Mrs B had been in financial difficulties – and wouldn't refund any more money. Mrs B didn't think this was fair and got in touch with us.

putting things right

Mrs B said she thought she remembered calling the bank shortly after she lost her job to tell them about her depression and financial difficulties. She said that even if she hadn't, the bank should have known she was struggling from the state of her account and how she'd been using it.

Mrs B said she was glad she now had a repayment plan.

But she felt that if the bank had stepped in sooner, she would have been in a better position now. So she wanted them to pay back all the interest and charges they'd applied since she'd lost her job.

The bank told us they no longer had call recordings from the time when Mrs B lost her job – because it was several years ago. But there was no record of it on their customer notes, which suggested Mrs B had only got in contact a couple of years after she'd become unemployed.

We could see that, at this point, the bank had frozen the interest and charges on Mrs B's account. We thought the bank's prompt reaction suggested they would most likely have helped in this way if Mrs B had contacted them sooner.

Looking at Mrs B's financial history, we noted that she'd missed the odd payment after losing her job. But she'd also had significant periods of time when she'd paid her bills seemingly without a problem.

Mrs B told us she'd only managed to keep up with her bills by cutting back in other areas. But we didn't think the bank could have been aware of that from her account usage and balance alone.

The bank had acted quickly and positively to help Mrs B when she'd got in touch with them. So overall, we thought the bank had acted fairly – and we didn't tell them to do anything more.

... the bank had acted quickly and positively to help Mrs B when she'd got in touch with them

▶

case study 138/10

consumer complains that credit card company should have declined his credit card application

Mr J took out a credit card with a £200 credit limit – and managed the account within its limits for several months. But when he later fell into arrears, the lender began to add fees and charges. Mr J continued to struggle – and his debt was eventually sold on to third party debt collectors.

Worried, Mr J contacted the card provider. He said they shouldn't have given him the credit in the first place – so they should cancel his debt and remove the impact from his credit file.

The card provider said that they'd checked whether Mr J could afford the credit by looking at his salary – and their checks had showed it was affordable. When they insisted that Mr J needed to pay back what he owed, he got in touch with us.

putting things right

We could see that the credit card provider had clearly explained their charges in the terms and conditions they'd given Mr J – and the amounts he'd been charged were in line with the terms. So we didn't think the charges had been applied unfairly. But we needed to decide whether Mr J should have been approved for his credit card in the first place.

Mr J told us he had a poor credit history, as well as a history of mental health problems. So he thought that the card provider should have declined his application, whether or not it was technically “affordable”.

We explained to Mr J that it wouldn't have been fair for the card provider to turn down his application just because he'd experienced mental health problems. From the credit card provider's records, we saw that Mr J had said in his application that he was employed and had given his salary. The card provider sent us evidence of the checks they'd carried out – showing they'd taken his credit history into account in making their decision.

The card provider also explained that they'd recently asked Mr J for details of his income and expenditure so they could help arrange a repayment plan. We thought this was a positive step toward helping him manage his debt.

In the circumstances, we didn't agree the card provider should have declined Mr J's application. But we encouraged them to work together to reach an affordable repayment plan.

... he thought that the card provider should have declined his application, whether or not it was technically “affordable”

case study 138/11

consumer complains that lender shouldn't have approved second loan

Mr W took a £500 loan to repay over 12 months – but repaid it in full three weeks later. A week after this, he took out a further loan with the same lender. But he struggled to make his repayments – and quickly fell into arrears.

Mr W complained to the lender. He said they'd lent irresponsibly – and he wanted the second loan written off. However, the lender didn't agree, saying they'd approved his application in line with their lending policy.

Mr W wasn't happy. He said he couldn't understand why he'd been given the money, and now he couldn't pay it back. So he asked us to look at what had happened.

putting things right

Mr W told us he lived with his parents – and that he'd been struggling with a number of problems and mental health difficulties, including a gambling addiction. He said he hadn't been able to cope with his first loan and had told the lender he didn't want any more.

Yet according to the lender's records, they'd phoned to offer Mr W a second loan six days later. The notes showed that they'd judged him to be an "ideal candidate for lending" – and that the second loan "looked to be affordable" given his monthly salary.

When we asked the lender about this, they said Mr W's mother had called them to pay off his first loan for him. They said they'd been aware that Mr W hadn't wanted any more loans – but that he hadn't ever put his request in writing.

However, regardless of whether Mr W had written his request down, we were concerned to see the lender had offered him a second loan after he'd specifically said he didn't want one. We also thought the fact Mr W's mother had had to repay the first loan herself, very soon after he'd taken it out, should have alerted the lender that Mr W might struggle to repay a second one.

The lender accepted that they could have dealt with Mr W's request over the phone.

We explained that, in the circumstances, we didn't think they should have given him a second loan at all.

To put things right, we told the lender to write off the outstanding debt from the second loan – and to arrange for any information relating to it to be removed from Mr W's credit file. We also told them not to contact Mr W to offer him further loans.

... they'd judged him to be an "ideal candidate for lending" – and that the second loan "looked to be affordable"

ombudsman focus: mental health and debt problems

Following years of research into mental health and debt, the link between the two is now well-established – with half of British adults with a debt problem also having a mental health problem. But despite increased awareness, there are still significant challenges to overcome. As research by the Money Advice Trust suggests, for every person who does disclose a mental health problem to a financial business, potentially two others will choose not to out of worry and fear.

As our case studies show, we're often called to step in to individual situations where something's gone wrong because of mental health and debt problems. But of course, if people aren't comfortable engaging with businesses, they're unlikely to want to engage with us either. In this *ombudsman focus*, we talk with experts from across the sector about how they're making a difference – and how businesses and individuals can help people open up and get the support they need.

“why did you choose to get involved in the issues of debt and mental health?”



Chris Fitch,
Money Advice Trust
(www.moneyadvice Trust.org/vulnerability)

“In 2003, I found myself sat in a flat in Brixton at midnight interviewing a man living with schizophrenia, as part of a research study. I had expected to be writing and thinking about the NHS and social care.

However, the man – ‘Tim’ – had run up £26,000 of debt, despite not having worked for over a decade, and living on benefits of no more than £6,000 a year. I wrote about this in the Guardian and the article coincided with the publication of a new Lending Code for banks. The banking sector saw it, got in touch, and since then I haven’t stopped working to help banks better support people like Tim.”



Mike O'Connor,
chief executive, StepChange Debt Charity

“My first job was at the Department of Health working on mental health policy. It was at a time when people with learning disabilities were pushed to the edge of society, in Victorian asylums. I worked on “Care in the Community”, the notion that all of us, with or without disability, live a richer life if we live together in communities. Years later, I sat on the Board of the Mental Health Foundation and although progress had been made, people with mental health problems were still not getting the support and treatment they deserved. One of the reasons StepChange Debt Charity attracted me was because of the work they had done on the link between debt and mental health problems.”



Caroline Wells,
head of customer insight at the Financial Ombudsman Service

“It’s interesting to hear Chris’ and Mike’s defining moments. We all have them. I got involved because I’ve seen close-up the impact mental health can have on financial wellbeing – and just how quickly things can spiral out of control. What struck me the most were the huge personal sacrifices being made to “keep up appearances”. And I kept seeing the same pattern over and over again in the people coming to us for help. That was the point where I wanted to be involved, because I knew it didn’t have to be that way.”



Iris Elliott,
head of policy and research, Mental Health Foundation

“I come from a working class background so I grew up in a home where there was a day-to-day awareness of needing to live on a limited budget. As a social worker I worked in areas of acute poverty and recognised the corrosive and crisis impacts of debt and poverty on mental health. Often, people living in these areas struggled to get employment and access to financial services because of people’s stigmatising attitudes towards their address. They were targeted by legal and illegal money lenders because of where they lived and because lenders saw them as easy targets. Financial institutions were less likely to provide products including credit to people living in these areas. There was little choice of who to turn to, particularly at costly times of the year like the start of the school term or Christmas.

Stigma towards people I worked with also meant that they found it difficult to secure and sustain employment. Consequently they experienced the social drift that too often means that having a mental health problem leads to people being in debt and / or falling into poverty.”



Caroline Wells

“have people become more aware of the link between mental health and debt in recent years?”

“That’s a good question. I believe till now we’ve had a fairly basic understanding that debt can come about as a result of mental health issues, and that mental health issues can have a negative impact on someone’s financial wellbeing. But it’s only now that we’re starting to scratch the surface in understanding some of the triggers for both situations.”



Mike O’Connor

“For me, public understanding of mental health issues has improved, although the stigma remains. I would like people to regard getting help with mental health problems just as they would if they had a physical health problem.

Some creditors have made progress and are aware and supportive of those with mental health problems. Many have “vulnerable client” teams and talk to us to learn more about mental health and debt to improve their processes.”



Bob Winnington,
executive officer, Money Advice
Liaison Group

“Over the past decade the profile of a whole range of mental health problems has been raised in part by press coverage and the support, and willingness to speak up, of those in the public eye.

Members of the Money Advice Liaison Group (MALG) – debt advisers and creditors – recognised 10 years ago that the increased incidence of personal debt could, to some extent, be reciprocally linked to mental health problems. Since then, they’ve rolled up their collective sleeves and determined to make a difference in this area.

As a result, where MALG’s debt adviser members were previously greeted with brick walls when trying to get help on behalf of mentally ill and vulnerable clients, creditors are now very aware and committed to helping those customers.“



Mike O'Connor

“do you think there are any key factors that push people in debt towards mental health issues, or vice versa?”

“Debt and mental health are linked and it’s not always possible to disentangle the two.

Dealing with debt can be an exceptionally stressful experience. Debt still carries a stigma which can exacerbate existing problems of low self-esteem. The pressure to pay bills, dealing with debt collectors and facing threats of enforcement can make matters even worse, leading to anxiety and mental health difficulties. People with pre-existing mental health conditions may be unable to manage their finances, and debt can be the result. Our personal relationship with money can be extremely complex and deeply rooted in our psyche.”



Caroline Wells

“That’s absolutely right. And the change in our relationship with money is a major factor. For one thing, we don’t really get to see the money we spend anymore. You can pay for almost everything electronically these days, and that means we’ve lost that natural connection we used to have of physically seeing how much something cost before we handed the cash over. That loss of connection can be a real issue for people when it comes to registering how much they’ve been spending.”



Chris Fitch

“Personally, I prefer to think about this in terms of interventions and solutions, rather than there being one key problem or factor. The focus of our research and training is on what financial services are well placed to support.

Initially, our team at the Money Advice Trust has looked at debt collection practices, with an emphasis on how ‘recovery’ can not only mean “getting back what is owed from a customer”, but also helping customers living with mental health problems to re-establish their finances, personal wellbeing, and a sense of hope for the future. More recently, we’ve started to also look at credit provision and lending, and how customers who might be in a vulnerable situation can be identified and supported.”





Iris Elliot

“People who experience mental health problems often have disrupted education and employment histories. Without support to recover and get back on track in a timely way they may not reach their earning potential, they may be stuck in insecure and low-paid jobs and their cost of living may be more expensive. When they’re unwell they may end up spending excessively or struggle to keep up with paying bills. If they have substantial debt this is an additional barrier to recovering their mental health. Clearly, being in unmanageable debt is exceptionally stressful.

It’s important to see this as a systemic and societal issue so that we don’t only focus on the individual or household. As well as factors to do with individual experience, there are public policies and institutional practices that could alleviate individual and family distress.”



Bob Winnington

“From my experience, there is an understandable reticence by some customers to share personal information around their mental health. People are rightly concerned that a revelation of a condition such as bipolar or depression could have a detrimental impact on their future dealings with financial organisations: admitting to a mental condition could stop them doing the kinds of things other people take for granted, such as taking out a personal loan or a mortgage, or even getting a credit card.”



“it’s clear things have been changing – but do you think there are still barriers that prevent people getting help?”



Mike O’Connor

“Getting debt help can be a big step for anyone – half of our clients wait over a year between worrying about their debts and getting debt advice. People worry but do not take action and problems mount. For those with mental health issues, it can be even more difficult. The stigma around debt – including the detriment Bob mentioned – needs to be tackled, and for many people they simply don’t know where to turn for help and support.”



Caroline Wells

“Part of overcoming that stigma is about asking for help. Easy to say, harder to do. People have an in-built drive to stay in control – or at least being seen by others to be in control. And of course, mental health plays a key role in how resilient someone can be in that situation. But there’s also the fear of what will happen if they admit they’re struggling. Will other people treat them differently? Will they lose the job they rely on? Will they lose access to services because others deem them incapable? Will they actually get the support they need? Until these fears are openly dispelled, they will always be there – whether they are ‘true’ or not.”

“so in the face of these kinds of problems, what can financial businesses do to help people?”



Mike O'Connor

“Financial businesses need to continue the progress they have been making in mental health over the last few years, ensuring that their “vulnerable client” policy is more than a piece of paper and that staff are appropriately trained and rewarded for taking the right action. It’s essential that businesses show forbearance and offer the right assistance to people with mental health issues.

At StepChange, we are happy to share our processes and to work with firms and we hope they continue to work with us.”



Bob Winnington

“One of the key tools developed by MALG is the Debt & Mental Health Evidence Form, currently on its third version. This form can be used by healthcare professionals, debt advisers and creditors to evaluate a debtor’s circumstances more effectively. It provides a standardised approach to the provision of information and gives a clear picture allowing creditors to arrive at informed and appropriate decisions. The form has been working well and has been used effectively in a number of sectors for many years.”



Caroline Wells

“Over the last few years I’ve seen financial businesses make huge strides in helping people in trouble, and wanting to understand what they can reasonably do to help. But they still need to think about how they can create an environment where their customers can get in touch in a variety of ways to talk about things.

For me the most important thing is for businesses to step in earlier, before the crisis point, so people don’t have to raise their hand before they get help. And if their customer has multiple problems, financial businesses need to work together alongside other agencies to get the customer the all-round care and support that they probably need. This is something we’ve been doing for a number of years now for people coming to us. If we didn’t, we’d have just been using sticking plasters to try and cover a large wound.”



Iris Elliot

“Financial businesses can review their policies and practices to identify ways in which they can support customers with existing mental health problems, or those who are likely to be at risk – for example people who have become unemployed or experienced a relationship breakdown. Ideally, this is about preventing mental health problems developing or escalating into a crisis. Identifying and supporting customers early will head off many difficulties, build customer loyalty and cement the reputation of the business.

Businesses can also learn a lot from promoting the mental health and wellbeing of their own staff. This can lead to significant culture change and benefit for customers as well as employees.”



Chris Fitch

“and what advice would you give to someone who’s struggling with debt and mental health issues?”

“Firstly, to recognise that it’s not too late to make things better – even if it feels that way. Secondly, to call someone who will help – like a free advice agency. They are brilliant at what they do. If you are upset, distressed, can’t think straight, don’t hesitate to also call the Samaritans. They are there for anyone who is emotionally distressed. And do see your GP – they will also be able to help with how you’re feeling. There’s more information on all this at: <http://www.moneyandmentalhealth.org/get-help/>”



Iris Elliot

“I echo Chris’ comments: don’t feel that you are alone or struggle in silence. Reach out to people close to you: friends, family, and the health and social care professionals with whom you are in contact. If you don’t want to talk with someone you know, then you can get good, confidential support from free advice services who will help you through this. This won’t go away without taking that first step. But it can get sorted out – and it’s best to start sorting it as soon as possible.

It is necessary to give a clear message of hope when people are feeling overwhelmed, sometimes crushed by debt, and don’t think they will ever find a way through to the other side.”



Caroline Wells

“My advice would be: please don’t sit in silence, and please don’t try to cope on your own if you’re struggling. You don’t need to do that. As Chris says there are some fantastic free advice agencies out there. It’s an easy thing to say, but hard to do. But if you do one thing, talk to someone. They can help you take that first step.”



“can you tell us about any upcoming work you’ll be doing in this area?”



Bob Winnington

“There is still a lot of work to be done. We need to recognise that the challenge is far wider than just mental health. People become vulnerable for all sorts of reasons – long-term illness, gambling, alcohol, job insecurity, relationship breakdown, homelessness and bereavement must all be considered in a more holistic way. Over the coming months MALG will be considering how to identify and grasp opportunities for collaborative working with a view to coming up with flexible, practical and pragmatic solutions.”



Chris Fitch

“We’re currently running a new piece of research which is looking at the experience of staff in financial services firms when collecting debts from people with mental health problems – or providing credit to customers where there might potentially be a difficulty with decision-making due to a mental capacity limitation.

We’re looking at this from the perspective of the financial services firms, and the staff working within them. The research is funded by the Finance and Leasing Association and The UK Cards Association, involves up to 50 firms, and will report in two parts, with the first report on debt collection due in early 2017.”



Mike O’Connor

“We continue to work with organisations like the Mental Health Foundation and Mind to ensure that our teams provide the best possible support for people with mental health issues. We employ 1,500 people and we encourage our staff to tell their own story of mental health issues to encourage other colleagues facing similar problems to seek help. I am extremely proud of my colleagues who have the courage to put their hand up and say “it happened to me” and inspire others to take action.”



Iris Elliot

“We’re continuing to share the Mental Health Foundation’s report on Poverty and Mental Health, which was funded by the Joseph Rowntree Foundation (available at <http://www.mentalhealth.org.uk/publications/poverty-and-mental-health>).

Our research team prepare a wide range of free information about looking after your mental health to help people manage the difficult situations (available at <https://www.mentalhealth.org.uk/>), and we encourage colleagues in financial and advice services to share these widely.”



Caroline Wells

“It’s been really encouraging to hear everyone’s thoughts and plans for the future. We’ll keep sharing what we’re seeing and encouraging fairness – in ombudsman news and wider discussions that are happening in financial services, and also in those conversations that we’re having every day in resolving individual complaints.”

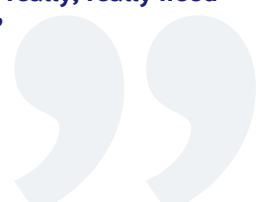


Chris Fitch

“Awareness alone will not address the relationship between mental health and debt problems. We are now seeing practical change in financial services in response to this issue, and we need to see this happen to the same degree within debt advice and also the NHS and social care. After all, the relationship between mental health and financial difficulties is even woven into the fabric of our bank notes.

Winston Churchill on the five pound note, Charles Darwin on the ten, and James Watt on the fifty, all lived with mental illness. Therefore every time we use money, there is a stark reminder literally staring us in the face about this relationship with mental health, and we really, really need to translate this awareness into action.”

“one final thought you’d like to add?”



MONEY
ADVICE TRUST

BUSINESS DEBTLINE NATIONAL DEBTLINE WISER ADVISER

ADVICE YOU CAN TRUST

The **Money Advice Trust** operate a programme of training, organisational change, and consultancy on vulnerability, financial difficulty, and financial services. This has involved introducing change, knowledge and skills programmes to over 200 different organisations and 5,000 frontline staff, with this work spanning the creditor, retail, energy, enforcement, and local authority sectors. The Trust have also produced e-learning and face-to-face training courses, and have collaborated on award-winning research and publications on vulnerability (moneyadvicetrust.org/vulnerability).



MALG

Money Advice Liaison Group

The **Money Advice Liaison Group (MALG)** was set up as a forum working for greater and better communications, best practice, understanding and professionalism among those organisations with an interest in personal debt. MALG's members are Debt Advice Professionals and Creditor organisations.

StepChange

Debt Charity

StepChange Debt Charity provides free and independent debt advice by telephone and through its online Debt Remedy tool and is contacted by over half a million people every year. The charity's vision is a society free of problem debt. Their ethos is founded on helping people to repay their debts where they are able to do so. Where people cannot, they provide advice including, where appropriate, supporting people through insolvency processes.



Mental Health
Foundation

Iris Elliott leads the **Mental Health Foundation's** policy and research work across the UK and with international partners. She is a Fellow of the Royal Society of the Arts in recognition of her "exceptional and longstanding commitment to improving public mental health in the UK and Ireland". Iris has worked as an adult mental health social worker, health promotion specialist and a national and all-Ireland policy adviser in mental health, disability and public health organisations.

upcoming events ...

smaller business:

meet the ombudsman roadshow

Gloucester

13 December

For more information – and to book – go to *news and outreach* on our website.



Q? &A

A client of mine complained to her bank and was passed between four different complaint handlers. She has mental health problems and this has made things worse. If she phones you, will she have to deal with multiple people again?

Wherever possible, we can adjust the way we work to meet people's needs. And where someone has mental health problems – or is vulnerable for some other reason – we often find having a single point of contact is really important for dealing with the complaint sensitively. So we'll make sure she doesn't need to deal with multiple people if she brings her complaint to us.

Dealing with one person throughout a complaint is a good thing for everyone – not just people with specific needs. There may still be times when more than one person needs to investigate a complaint – such as where an ombudsman steps in to make a final decision. But in many cases, an investigator will be able to deal with a complaint from start to finish – which is also more efficient, as it helps move cases along more quickly.

And of course, having a specific point of contact isn't the only way we can help. If your client needs us to always contact them over the phone, or at a certain time of day, for example, just let us know. And if you want to know more about how we're accessible to everyone, you can find more information on our website.

I'm always interested in the complaints data you share in ombudsman news, but I'm sometimes asked about complaints involving specific businesses as well – do you publish that information anywhere?

As you'll know, the statistics we publish quarterly in ombudsman news highlight the products we receive the most complaints about. But they don't show the individual businesses those complaints relate to.

Instead, we also publish information every six months – showing the number and outcome of the cases we handle relating to the 200 or so named

financial businesses that together account for around 95% of our workload. And you can find more information on our website about all the ways we share information on the complaints we see.

Of course, we're always interested to know how people engage with the data we publish – and whether there's any way we can improve the information

we provide. That's why we recently consulted on the complaints data we share – and we're grateful to those who sent us their thoughts. Look out for our response to that consultation, which we'll publish in December 2016.

