

CollectionWatch Report

“Debt collection practices across Europe”

CDN and the CollectionWatch group are delighted to announce the publication of their report on Debt Collection Practices across Europe.

The CollectionWatch project was initiated by Consumer DebtNet to work in a strategic manner, in relation to technical money advice issues, to achieve some of the CDN objectives by collecting information and statistics, planning collective actions and calling for intervention at European level.

DGXXIV, Consumer Policy Unit has acknowledged CollectionWatch as an ‘Expert Group’ and provides resources in support of the project’s work. The CollectionWatch Group agreed their aim to be:

“To assist vulnerable consumers by influencing policy on debt recovery practice (at a European level) in order to enable them to gain access to justice.”

The group was made up of twenty-four experts from seventeen European states. They participated in the debate regarding overindebtedness and related issues; the collation of information and the production of materials to help prevent and solve the problems experienced Europe wide. In total we have had thirty-three people contribute to the group at various times and we are grateful for the contribution of each expert.

These experts are leading exponents of Money Advice Services within their own countries’ primary focus on debt advice, anti-poverty strategies and consumer issues. The objective is to explore the current provisions of state legislation and to carry out comparative research and analysis.

It is hoped that by collating this information and publishing the results that we will be able to influence the European Parliament, the European Commission, National Governments and other organisations committed to the consumer interest. The report will also enable Money Advice Services to use the data to argue for increased consumer protection in those countries where the legal provision is not progressing consumer interests. The CollectionWatch group has concluded its inaugural work project and their report “**Debt Collection Practices Across Europe**” is published. It is intended that the report’s recommendations will be the subject of further comprehensive research and exploration. The report considered the current debt recovery practices in their own countries and the issues of concern that were identified.

Eleven specific areas of common concern were identified by the group:

1. Assignment of wages.
2. Costs of debt collection to the debtor.
3. Regulation of debt collection.
4. Methods of debt collection.
5. Debtor’s rights of redress.
6. Debt re-cycling.
7. State debts.
8. Imprisonment for civil debts.
9. Ability to pay.

10. Debtor's home, goods and access to services.

11. Cross border debt collection.

The results of a questionnaire were used to formulate the recommendations of the report.

Report recommendations

1. Assignment of Wages

1.1 There should be safeguards to prevent an assignment of wages from adversely affecting the debtor's ability to maintain a basic standard of living for themselves and their family. In particular the level of an assignment should not undermine the debtor's access to food, clothing, housing and basic utilities.

1.2 Assignment of wages without reference to the court or enforcement authority should be banned.

1.3 A research project should be established to address the issues that the group identified, including what are the consequences of assignment of wages for the debtor, are the safeguards that are in place, for example minimum and maximum rates of deduction, effective and easily accessible. The project should consider the possibility of harmonization of all member states' statutory provision for the attachment and assignment of wages and make recommendations to be included in an E.C. Directive on Assignment of Wages.

2. Costs of Debt Collection

2.1 There is a need for more regulation of the costs of debt collection, in order to protect the debtor and their family.

2.2 The following costs incurred by the debtor following default on a credit agreement are found to be particularly unhelpful to the debtor and should be prohibited;

- penalty interest charges for late payment,
- charges for issuing reminder and demand letters, telephone calls and home visits (incurred by the creditor or their agent).

3. Regulation Of Debt Collection

3.1 A research project should be established to look at the different methods of regulating debt collection. The findings of the research project should be used to promote a best practice model of regulation of debt collection across Europe.

4. Debt Recovery Method

4.1 A research project be established to examine how the different forms of the debt recovery process impact on the debtor and their family.

4.2 The findings of the research project should be used to promote good practice in debt collection across Europe.

5. Debtor's Rights Of Redress

5.1 There should be effective rights of redress for the debtor in respect of

- harassment,
- excessive debt recovery costs,
- wrongful removal of goods.

5.2 A research project be established to explore ways of improving a debtor's rights of redress.

6. Debt Re-cycling

6.1 The consumer in default should have a statutory right to be advised of whom is authorised to collect the debt.

6.2 The use of multiple debt collection agencies to simultaneously collect debts should be prohibited.

6.3 Further research into the practice and problems of debt re-cycling should be undertaken. The research project should prepare recommendations for improving the protection afforded to consumers in default.

7. State Debts

7.1 A research project should be established to examine the impact of the special recovery powers used by the state and municipalities against the debtor.

8. Imprisonment for Civil Debt

8.1 The group believes that there should not be a risk of imprisonment for civil debts where the debtor lacks the ability to pay. The group believes that this infringes basic human rights.

8.2 There should be some statistical collation by the European Commission from member states on the number of people imprisoned due to offences arising from civil debts.

9. Ability To Pay

9.1 A research project should be established to determine how the debtors rights to a basic standard of living can be preserved in the debt recovery process in the development of minimum income standards.

10. Debtor's Home, Goods and Access To Services

10.1 The group believes that there should be a basic right of access to utilities and housing. A research project should be established to determine how a debtor's basic rights of access to utilities and housing can be ensured.

11. Cross Border Debt Collection

11.1 That funding be made available to enable CollectionWatch to produce a directory of debt collection companies working Europe wide. The group has decided to carry out more detailed and comprehensive research on;

1. Assignment of wages.
2. Ability to pay.
3. Cost of Debt Collection.

In addition the group has identified three potential major pieces of new work:

- 1 To collate information on levels of overindebtedness and to provide an analysis of the costs to society to better inform and influence social policy.
- 2 To establish a project to examine the methods and costs of debt collection by Debt Recovery companies, Lawyers and Bailiffs.
- 3 To collate this information to underpin the call for new EU Regulations.

The publication of the report “Debt Collection Practices Across Europe” and the new work proposed by the group sets a foundation to build upon. The CollectionWatch Project faces a new and exciting challenge in this development of European debt advice and it works, as an important and integral part of CDN to achieve the CDN stated aims and objectives.

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