

Addressing financial abuse

A framework to help banks, other creditors and advice providers challenge financial abuse in intimate partner relationships



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Contents

Foreword	02
Introduction	03
Recommendation one: Validate disclosures	08
Recommendation two: Protect confidentiality	09
Recommendation three: Offer, signpost or refer to the right source of help.....	11
Recommendation four: Be proactive	14
Recommendation five: Help victims to regain control of their financial affairs	16
Recommendation six: Offer forbearance	18
Recommendation seven: Develop and implement a policy across your organisation	20
Appendix: A note on financial abuse and undue influence	21
The AFD Financial Abuse working group	23

Foreword

People who are prevented from managing their own finances by an abuser can suffer serious and long-term consequences. As well as complicated financial problems, they are often at risk of other forms of violent, sexual and psychological abuse. We know that financial abuse is not very often disclosed and not well understood, and that it can be difficult for victims to get the help that they need. Organisations that provide financial services, collect payments and offer advice need to acknowledge these situations and provide appropriate help.

The *Addressing Financial Abuse* report is a good example of firms and charities working together to improve how they respond to some of the problems faced by people in vulnerable situations. This document offers welcome information and practical proposals for firms to consider. The present framework can help steer banks, other creditors and advice providers to become more proactive in helping to support victims of financial abuse, encouraging disclosure and collectively challenging abuse.

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Introduction

“Financial abuse in intimate relationships is a way of controlling a person’s ability to acquire, use, and maintain their own money and financial resources.”¹

Financial abuse is widespread. One in five women and one in seven men in the UK have experienced financial abuse according to the largest and most recent study.² Just over one third of the people reporting financial abuse were experiencing it in their current relationship, and over one third of victims tell no one. The research shows women are more likely to suffer from financial abuse, and they are the least likely to tell their bank about the problem.³

What is financial abuse?

Financial abuse in intimate partner relationships is a way of controlling a person’s ability to acquire, use and maintain their own money and financial resources.

Financial abuse rarely occurs in isolation and the vast majority of financial abuse victims (82 per cent) reported other forms of abuse in their relationship.⁴ This report therefore has recommendations that will help firms and organisations tackle financial abuse, and also offer appropriate responses and signposting to customers who are affected by related forms of abuse.

Who does abuse happen to?

Financial abuse, like other forms of abuse in intimate partner relationships, can happen to anyone regardless of gender, ethnicity, religion, class, age or disability, amongst current or former partners, and in heterosexual or same-sex relationships. Creditors and advice providers need policies that offer support to all victims of abuse, and need to know about the different services that are available.⁵

1. *The full definition can be found [here](#). This definition is used by The Co-operative Bank on their webpage, What is Financial Abuse, published in December 2015

2. Nicola Sharp-Jeffs, *Money matters. Research into the extent and nature of financial abuse within intimate relationships in the UK*. The Co-operative Bank and Refuge, December 2015

3. Ibid

4. Ibid

5. p11 Imogen Parker, *A link in the chain: The role of friends and family in tackling domestic abuse* Citizens Advice (August 2015); p6 and p23 Nicola Sharp-Jeffs (2015)

But organisations also need to understand that although financial abuse can be an issue for people from all walks of life, it does not fall equally on all.

Women are more often victims of abuse and women report suffering financial abuse in relationships for far longer periods than men.⁶ Women are around twice as likely as men to be victims of domestic abuse, are more likely to experience repeated abuse; and are at substantially higher risk of murder resulting from abuse: almost half (45 per cent) of female homicide victims are killed by partners or former partners, compared to less than 4 per cent of male homicide victims.⁷

Addressing financial abuse

This framework for tackling financial and domestic abuse in intimate partner relationships was developed by creditors⁸ and advice providers meeting together to discuss what could be done to challenge financial and domestic abuse.⁹ Participants joined from banks, lenders, advice services, debt collectors, utility companies, and local and national government bodies to collaborate and share experiences. Spokespeople from Citizens Advice, Women's Aid, Eversheds LLP and Government contributed to the discussions. The group looked at real examples of financial abuse provided by Citizens Advice, and at the latest research that was available. Examples of financial abuse that the group considered included the perpetrator:¹⁰

- taking out credit and running up debts in their partner's name
- using control of finances to prevent a partner from escaping abuse
- stopping a partner from getting or keeping a job
- making a partner surrender control over their bank accounts, assets, wages, benefits and other income

6. p24 Ibid

7. p11 Ibid

8. The Addressing Financial Difficulty Group uses the word "creditor" to mean any organisation that a consumer may owe money to including banks, other lenders, utility firms, local authorities, government departments and landlords

9. The Addressing Financial Difficulty Group discussed financial abuse at a full meeting in April 2015 and set up a working party to look at the question in more detail

10. Freya Johnson-Ross, *Controlling money, controlling lives: Financial abuse in Britain*. Citizens Advice, November 2014; Marilyn Howard and Amy Skipp, *Unequal, trapped & controlled: Women's experience of financial abuse and potential implications for Universal Credit*. Exploratory research by Women's Aid for the TUC. Trades Union; Imogen Parker, *Victims of domestic abuse: struggling for support?* Citizens Advice, February 2015 and *A link in the chain: The role of friends and family in tackling domestic abuse*. Citizens Advice (August 2015);

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- forcing a partner to ask for money, to account for every penny spent and not allowing them to spend money on themselves or their children
 - stealing, taking or demanding money or assets, or destroying property
 - forcing a partner to commit fraud
 - refusing to contribute to household or other costs including child maintenance payments

The consequences of this abuse can be very serious. They can be long-term and they can continue after a relationship has ended. Financial abuse can prevent people from escaping from an abuser to a place of safety, cause serious debt problems, deprive victims of basic essentials, disrupt people's financial affairs, and leave them with potential mental or physical health problems and reduced opportunities in life.¹¹

'Financial abuse' has a range of meanings and can also be used to refer to a wider range of behaviours and relationships. Sometimes it is used to include fraud, scams, exploitation of older people and others receiving care, and controlling and coercive behaviour within families. The BBA Financial Services Vulnerability Taskforce and others have looked at these issues, and Age UK has published a report on the financial abuse of older people.¹² However the clear focus of this document is financial abuse in intimate partner relations and the financial fallout from that abuse.

Why now?

In working on this report the group found a shared appetite to do more to challenge financial abuse. The discussions highlighted the gravity of the issues before us, and we identified a clear need to respond to recent changes:

- More people are disclosing domestic and financial abuse.¹³
- The law has changed. In December 2015 the UK Government took the welcome step of enacting legislation to criminalise controlling or coercive behaviour in intimate or familial relationships. This new law clearly recognises that domestic abuse extends beyond physical abuse and the definition includes financial abuse and

11. Freya Johnson-Ross (2014), Marilyn Howard and Amy Skipp (2015)

12. Dr Susan Davidson, Phil Rossall and Sarah Hart (2015), *Financial Abuse Evidence Review*, Age UK

13. [BBC News](#) reported that recorded cases of domestic abuse rose by 31 per cent between 2013 and 2015

other behaviours. The offence carries a maximum sentence of 5 years imprisonment, a fine or both.¹⁴

- The Welsh Government's Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 created new responsibilities to improve the public sector response to gender-based violence, domestic abuse and sexual violence and encourages joint working to change attitudes and behaviours.
- The Financial Conduct Authority published a paper challenging financial services to improve how they support customers in vulnerable situations.¹⁵
- The British Bankers Association (BBA) established the Financial Services Vulnerability Taskforce which has drawn up principles and recommendations to improve the outcomes for customers in vulnerable situations.¹⁶ It includes a dedicated recommendation for financial services firms to be more proactive in working to help combat financial abuse, including working with other organisations to raise customer awareness of risks and practices resulting in financial abuse and in offering help to customers who have fallen victim to such abuse. The report also highlights that financial abuse is an area where industry alignment should be sought.
- More people are discussing abuse with advice providers. Citizens Advice is training and supporting its advisers to proactively ask more individuals about abuse when it is safe and appropriate to do so, and the service expects disclosures to increase as this is rolled out.¹⁷ Recent figures show that 18.5 per cent of the people asked by their adviser said that they personally had experienced abuse. Over one fifth of the people disclosing abuse, 4 per cent of all clients asked said that they were currently experiencing abuse, and another 4 per cent had experienced abuse in the last 12 months. 1.5 per cent of the people asked about abuse, disclosed child abuse.
- New research and campaigning has drawn further attention to financial abuse as an aspect of abuse in intimate partner relationships.¹⁸

14. Home Office (2015) *Controlling or Coercive Behaviour in an Intimate or Family Relationship Statutory Guidance Framework (Home Office)*. The Government definition can be found [here](#)

15. Martin Coppack et al, (2015) *Occasional Paper Number 8. Consumer Vulnerability*, Financial Conduct Authority

16. BBA (2016) *Improving outcomes for customers in vulnerable circumstances*

17. *Domestic abuse cases up 24 per cent, reports Citizens Advice*, 29 December 2015

18. Freya Johnson-Ross, November 2014; Marilyn Howard and Amy Skipp, February 2015; Imogen Parker, February 2015 and August 2015. Since the group last met the report, *Money matters*, was published and it informed our continued discussions.

The present framework can support such discussions by raising the profile of the issue of financial abuse in intimate partner relationships, and by articulating current understanding of good practice in this area from both the creditor and the advice sectors.

A framework for tackling financial abuse in intimate partner relationships

Everyday transactions and information can be tainted by abuse. Financial abuse can distort the way in which people interact with products and services. Problems that would be challenging in the ordinary course of events can be intensified for people who are also dealing with abuse.

This framework has seven recommendations for creditors, banks and advice agencies to help them develop good practice to better support victims of financial and domestic abuse. Although not all of the suggestions will be suitable for every creditor or advice provider, all creditor and advice organisations will find something of value here.

People dealing with abuse need to be treated as individuals, to be given positive engagement and effective tailored solutions. They need to know that their situation is understood and the individual circumstances of their case are appropriately considered. They may need support in order to find and use the right kind of help.

The Addressing Financial Difficulty working group that produced this document agreed the need for organisations to be clear about what they are asking their front line staff to do. Employees and volunteers will need the right information, training and support in order to make sure they can do more to tackle financial and domestic abuse. Organisations also need systems in place to support their own staff who are affected by abuse they may be experiencing themselves, as well as the impact of working with victims. Organisations must be sure that they raise the issue with staff members sensitively.

The working group also agreed that organisations should understand their limits and the boundaries of what is appropriate for them to do. Companies and advice providers may not always be able to meet victims' expectations. For example, a firm may not agree to write off debts associated with abusive relationships, depending on the circumstances, the law and their policy.

To deliver improvements in tackling financial abuse, companies, departments and advice providers all need to learn from good practice, from each other, and from other sectors. Working with other organisations to deliver the right help is important. The work of developing policies and practices is a long-term commitment and needs to be monitored, sustained and improved over time.

Recommendation one: Validate disclosures

People need an accepting and helpful response when they disclose abuse

Fear of not being believed is a major barrier to victims disclosing abuse.¹⁹ The act of disclosure can be very challenging for some victims. It is an important moment for victims and can affect what they do next. Staff who respond well to being told about abuse can make a significant difference. If a victim finds the response to be distant, disbelieving or blaming, it may cause them significant distress and trauma, and could set-back the process of reaching out for help and moving towards a life free from abuse.²⁰

Staff can validate an individual's decision to disclose abuse and offer accepting, supportive responses.

Validation is a respectful and supportive response that helps the organisation communicate with the customer, identify what can be done by the organisation and refer them to providers of appropriate assistance.

“Thank you for telling me”, and “our policy is to help people get the support they need to deal with abuse” may be appropriate.²¹ These accepting responses can allow the conversation to move on to helping the customer with their enquiry or issue. These responses should be linked with clear information about where the customer can get help within the organisation and externally.

Staff should not go too far, become too involved nor make moral, legal or personal judgements about the customer. Validation would not involve deciding if someone should leave their partner, if someone is guilty of an offence, or automatically agreeing to all of a customer's requests.

19. p14, Freya Johnson Ross; p18 Marilyn Howard and Amy Skip,; p39, Nicola Sharp-Jeffs

20. p35, Parker, Imogen (August 2015)

21. TEXAS2 and IDEA3 are tools that can support staff manage disclosures of vulnerability. C. Fitch et al, (2015), *Lending, debt collection and mental health: 12 steps for treating potentially vulnerable customers fairly*, London, Royal College of Psychiatrists. Money Advice Trust. Macmillan Cancer Support, Royal College of Psychiatrists and BBA in consultation with Stroke Association, (2015). *Long-term conditions (critical and chronic illness): A briefing for banking staff*, British Bankers Association, UK.

Recommendation two: Protect confidentiality

Customers affected by abuse need a tailored approach to keeping them and their information safe

When someone is affected by abuse, communications that in other circumstances would be helpful to a customer can risk exposing a victim or survivor to further abuse and harm. For example:

- Joint-account communications that show the address of both parties can reveal a victim's location to an abuser.
- Letters following up an enquiry about a change of address or a new account can alert an abuser to their victim taking steps to escape controlling and coercive behaviours.
- Records of transactions that show ATMs and branches that have been used by a victim can help a perpetrator find them.

When an organisation has identified that their customer needs help to protect their information, the firm needs the capacity to consider appropriate protections on an individual basis for that customer. There may also be opportunities to adjust usual business processes so that victims of abuse who have not identified themselves to the bank are better protected.

Organisations may:

- Refine systems to confirm with customers what communications they plan to issue. For example: a utility company can tell a customer if they plan to follow an enquiry about a prospective change of address with a letter, or an advice agency can explain to clients if their usual procedure is to send a confirmation of advice letter.
- Inform or remind customers about how their data will be shared when they identify themselves as being affected by financial and/or domestic abuse.
- Review internal data sharing to minimise the number of times customers have to disclose the same information to one organisation.
- Maintain rigorous systems to protect the data of customers who disclose abuse. This may include a flag on an account that indicates extra care is needed when using the customer's address or a note with more details.²² There need to be systems in place to manage the protection of the customer when this potentially conflicts with requirements to regularly send letters.

22. For information on recording sensitive information in relation to customer with mental problems, see Money Advice Liaison Group and Royal College of Psychiatrists, (April 2013), [*Briefing note 4. Appropriately processing data from individuals with mental health problems under the Data Protection Act*](#) (MALG).

Recommendation three: Offer, refer or signpost to the right source of help

Organisations need to be able to support customers to get timely access to sources of help

Staff training and resources need to help them identify the appropriate internal and external sources of help. Staff will need to:

- assess the customer's needs and explain clearly the relevant help they or their team can give
- help the customer access appropriate help from elsewhere in their organisation – this may include specialist teams
- provide or promote information that helps victims and survivors of abuse

This may include providing in-house materials or published materials from organisations that support victims of abuse and setting up clear referral and signposting options to external organisations. This will include details of how to access the National Domestic Violence Helpline.

Ultimately it is the customer's choice whether they seek help or not, but organisations can offer to help customers to find places where they can get further assistance, whatever their choice might be.

Organisations need a process that staff members can use if they believe anyone is at serious danger of harm (this includes children). This should include guidance on when the police should be contacted, who should do this and when staff should dial 999.

The organisation will need to guide staff on when and how to tell the customer that they have involved the police, and when and how to seek their permission to do so. It is often better for the customer if they are kept informed about such matters and their engagement with the process is sought.

Staff who need to help someone suffering from abuse and would like to seek guidance from a specialist helpline may call the UK wide National Domestic Violence Helpline (see overleaf) or if operating in Wales, the Wales Live Fear Free Helpline to discuss the case, or give the client the number. The NSPCC can also provide guidance about safeguarding and protecting children at risk if this is required.

The National Domestic Violence Helpline is a Freephone 24 hour helpline which provides advice and support to women and can refer them to emergency accommodation. The service is run in partnership between Refuge and Women's Aid.

There are translation facilities if your first language is not English. The Helpline also offers BT TypeTalk for callers with hearing difficulties. The Helpline worker contacts the TypeTalk operator enabling the caller to communicate via them.

Telephone: **0808 200 0247** (24 hours)

Email: helpline@womensaid.org.uk (response within 3 working days) Website: www.nationaldomesticviolencehelpline.org.uk

The Live Fear Free Helpline is a Freephone 24 hour helpline with Welsh language provision, offering free support and information for women, children and men in Wales.

Telephone: **0808 8010 800**

Email: info@livefearfreehelpline.wales (response within 24 hours) Website: www.livefearfree.gov.wales

The Men's Advice Line is a confidential helpline for all men experiencing domestic violence by a current or ex-partner. This includes all men, in heterosexual or same-sex relationships. They provide emotional support and practical advice, and can provide details of specialist services that advise on legal, housing, child contact, mental health and other issues.

Helpline: **0808 801 0327**

The helpline is open Monday to Friday, 10am–1pm and 2pm–5pm

Email: info@mensadviceline.org.uk

Website: www.mensadviceline.org.uk

The ManKind Initiative is a charity offering information and support to men who are victims of domestic abuse or violence. This can include information and support on reporting incidents, police procedures, housing, benefits and injunctions. They can refer men to a refuge, local authority or other support service where this is appropriate.

Telephone: **01823 334 244**

Open Monday to Friday, 10am–4pm and 7pm–9pm
(except Friday evenings)

Email: admin@mankind.org.uk

Website: www.mankind.org.uk

There are many sources of help, some targeted at women, some at everyone, some at particular groups of people or at dealing with particular problems – Citizens Advice maintains a list of organisations on its website.

Recommendation four: Be proactive

People can find it easier to disclose abuse and access help if individuals and organisations cultivate a climate where abuse is talked about more often

We recommend that organisations identify ways of proactively challenging abuse. There are many ways of doing this and the ones that are suitable will vary between organisations and at different times.

Examples of initiatives organisations can consider are:

- Raise awareness and understanding at the frontline – the Welsh Government is rolling out a programme of extensive training for all public sector staff in local and national government in Wales.
- Develop policies for staff so that employees affected by abuse know they will be supported by organisations in their role as employers.
- Talk about abuse – use posters, staff newsletters, websites, information about products and services as opportunities to show that your organisation supports people affected by abuse. One way to do this would be to use resources from the Citizens Advice Talk About Abuse campaign and posters from Women’s Aid with the national helpline numbers.
- Provide guidance material for people affected by financial abuse as part of the assistance for customers – this could be material produced in-house or from organisations that support victims of abuse.
- Look at the design of products and the terms and conditions to assess whether they take into account the fact that a significant proportion of the population is likely to experience domestic or financial abuse.²³ Review case studies of how victims of abuse have used your products and looked at how those customer journeys could be improved. Look at your processes for customers who change the name on their bill for their utilities and joint services – are there sufficient protections in place?

23. P8 Freya Johnson-Ross (2014)

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- Where customers take out new products, consider reminders that may assist them to understand the risks of abuse alongside the standard information about terms and conditions, and cooling off periods.
 - Reminders at appropriate points in the customer journey including the use of nudge techniques may help to raise awareness of financial abuse for customers who may be leaving themselves financially vulnerable. For example in online application processes and online communications about an overdraft facility there could be a pop-up box to prompt customers so they understand the extent of joint liabilities they may have or be signing up to, and to note alternatives.
 - Look at your data. What can advice services and creditors learn from their data? Are there lessons from examining customers' experiences and customers' data that could help organisations tackle abuse more effectively?
 - Look at data sharing. This might best be done on a cross industry basis or by firms that specialise in this credit data.

The Citizens Advice service is beginning to integrate proactively asking their clients about abuse in some face to face advice settings. This approach requires staff and volunteers to have specific training, support and referral processes. This approach can be a successful intervention in the right circumstances and when coming from trusted and appropriate organisations, but the working group agreed this would not be an appropriate step for creditors.

Members of the working group agreed to seek further discussions with creditor industry stakeholders to explore supporting victims of abuse to understand their credit reference data, and to consider ways that victims might choose to report and flag these circumstances on their records.

Recommendation five: Help victims to regain control of their financial affairs

Customers need organisations to help minimise the barriers they face in dealing with the effects of financial and domestic abuse and in managing their own affairs

In many cases a victim will be experiencing several forms of financial abuse and their affairs can become complicated. Financial abuse can be a practical block to: leaving an abuser; using advice services; obtaining identity documents; accessing justice, information, housing, or benefits income; accessing or using money and banking services. Otherwise ordinary processes and transactions can become stressful and difficult to deal with for victims.

We recommend that organisations adopt appropriate measures to help victims of financial abuse regain control their financial affairs.

To do this organisations can consider:

- Ensuring that victims of domestic abuse are not required to make contact with an abuser when this could be dangerous, frightening or unwanted.
- Supporting customers to quickly access new services – for example new accounts, or advice.
- Providing a straightforward process to help victims re-gain control of services that have been compromised by an abuser accessing them fraudulently or under duress – for example by using their partner’s online banking or ATM machines.
- Putting customers in contact with named specialist teams or individuals who can support them.
- Helping customers who struggle to manage their accounts and services because the abuser refuses to engage on joint products, as way of seeking control over the victim’s affairs.

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- Providing and referring customers to sources of information and advice on dealing with abuse. The National Domestic Violence Hotline is an important source of information in England, and in Wales the Live Fear Free website is the central resource on domestic abuse. There are links to a wide range of resources on the Citizens Advice website.
 - Reviewing the way that customers experience the process to protect and separate joint accounts and assets and establish independent accounts and services. Can these processes be explained more clearly, be invoked more quickly or be adapted to help victims of abuse?
 - Providing materials for customers and advice providers that explain the processes available to customers seeking to manage or separate themselves from joint products.
 - Reviewing joint products including joint mortgages, loans, bank accounts and utility supply arrangements. Identify opportunities to offer a flexible approach to joint accounts in appropriate circumstances.
 - Debt advice providers need to ensure their conflict of interest checks are robust so that no conflict emerges during the course of providing advice to victims of domestic and financial abuse.

Recommendation six: Offer forbearance

Victims of abuse are likely to find it more difficult to deal with their debt problems and will need more support and understanding from their creditors than most customers

We recommend that organisations develop appropriate support for customers with debt and arrears and who are dealing with domestic and financial abuse.

We note that many firms have highly refined systems to support customers in financial difficulty and these systems need to be able to take into account the specific circumstances of victims of financial abuse.

Customers who are victims of abuse may struggle for long periods of time before achieving financial independence, and struggle to protect their own and their children's safety even after they have separated from an abusive partner. Their housing, essential services and their basic well-being may be under threat. It is important to understand that abuse can continue after separation, and that the difficulties of recovering from abuse can undermine the stability of the survivor's finances. Indeed many victims experience the most abuse, and the most serious abuse, when, or shortly after, they leave the relationship.²⁴ *Money Matters* shows that more people reported financial abuse after separation than before – one in four women and one in five men who completed a representative survey.²⁵

Organisations can seek both to support a customer to have independent, stable finances free from these effects and seek to collect payments properly due.

24. p8 Freya Johnson-Ross (2014);

25. p23 Nicola Sharp-Jeffs (2015).

We recommend:

- Firms and advice agencies should take a sensitive approach.
- Communication should be handled in a safe and appropriate way.
- Allow the person in difficulty the time to seek advice and establish affordable repayments.
- Sufficient time is taken to resolve customers' problems – cases involving abuse may need longer appointments, longer or more frequent calls, and additional time to be dealt with properly.
- Forbearance arrangements should be flexible and firms should seek to understand the customer's needs before changing or withdrawing help. For example a customer may still need support even after a non-molestation order is removed or they return to live with their partner.
- Firms need to have realistic and appropriate expectations about how debts will be dealt with. Disrupted payments and broken arrangements may be the direct or indirect result of abuse. Customers in these situations may need alternative treatment from the usual collections, recoveries and enforcement cycles. Debt advisers will need to set realistic expectations too, to explain to clients what their liabilities are, and what forbearance or write-off opportunities are likely to be available.
- Forbearance measures should include referral and signposting to free advice. The customer may also need independent legal advice.
- Forbearance and write off policies should be kept under regular review.
- Third party debt collection and debt sale arrangements should be managed to ensure that only appropriate cases are passed on, and that protections and support are maintained when third parties are involved.

Recommendation seven: Develop and implement a policy across your organisation

People who contact organisations about problems arising from abuse need the organisation to be ready to help

People should not have to rely on coming across a helpful individual. Organisations need to consistently offer sensitive, flexible and responsive support to customers and staff members affected by financial and domestic abuse.

Participants in the AFD workshops stressed that staff need to understand what their organisation expects of them in this area – and that means providing clarity about policy and processes, training and support.

To manage these requirements we recommend that organisations have a clear policy on dealing with financial abuse in intimate partner relationships.

This policy would inform how the organisation deals with customers in vulnerable situations, their own staff, their product and service development and relevant third parties that they work with.

We recommend that organisations develop training programmes on understanding abuse and dealing well with customers who may be experiencing abuse or the consequences of abuse.

The training programme and policy could be part of a wider strategy, for example customers in vulnerable situations policy or a wider financial abuse policy, or it could be a distinct policy of its own. The policy needs to be used across the organisation, to draw on expertise from domestic abuse charities and other sectors, to be actively managed and to be kept under review and up to date.

Appendix:

A note on financial abuse and undue influence

It is a basic principle of law that the influence of one person over another should not be abused. The issue of financial abuse is not a new one and a legal remedy for victims of financial abuse has been part of the law of England and Wales for more than 200 years. The law has set limits on this principle. Initially, common law developed the principle of duress, restricting the limits of unacceptable abuse of influence to physical coercion. Equity supplemented the common law, extending the limits of the basic principle to other unacceptable forms of persuasion.

Undue influence arises where a relationship exists between two parties where there is “trust and confidence, reliance, dependence or vulnerability on the one hand, and ascendancy, domination or control on the other”²⁶

The most well-known cases of undue influence involve the matrimonial home being used to provide security for loans for businesses and other ventures. However, it is not confined to these types of cases and it is important for any provider of credit to be aware of the potential for the doctrine of undue influence to arise. A contract that has been entered into as a result of undue influence is voidable and can be set aside by a court.

The burden of proving undue influence will normally be satisfied by establishing that:

- the complainant placed trust and confidence in the other party in relation to the management of the complainant’s financial affairs. (e.g. parent/child or husband/wife)
- the transaction entered into allegedly by reason of undue influence, calls for some explanation (e.g. it was manifestly to the disadvantage of the complainant)

26. *Royal Bank of Scotland Plc v Etridge (No 2)* [2002] 2 AC 773

If the warning signs are present, the creditor is 'put on enquiry' and it is suggested that a creditor should either:

- insist that the customer attend a private meeting or have a private call in the future with a representative of the creditor at which that representative:
 - tells the customer the extent of their proposed liability
 - warns of the risks involved for the customer, and
 - urges the customer to take separate legal advice
- communicate directly with the customer to tell the customer that, for the creditor's protection, it will require the customer to take separate legal advice and will require confirmation as to certain matters from the solicitor providing that legal advice

In exceptional cases, the creditor, to be sure of being able to rely on the financial contract, should insist that the customer is separately advised.

NB:

i) Water companies work on the basis of joint several liability for whoever is currently residing in the household. This means there is no contract as such, which avoids some of the problems of undue influence. However, if a partner leaves the household then the remaining partner may find themselves left with liability for debt. These cases can fall into the category of customers with financial difficulty and there is a process for dealing with them and a debt repayment plan would be put in place.

ii) In contrast, energy firms require a single person to take out a contract with them. Others may add their names at a later date. This may leave customers open to the issue of undue influence. Energy companies also have processes for dealing with customers in financial difficulty and vulnerable customers, and these processes can also benefit people experiencing domestic abuse.

iii) When HMRC are pursuing tax credit overpayments that arise after a couple have separated they generally agree to divide the debt between the individuals and pursue them for half each.

Please note that this appendix is for general information and should not be treated as legal advice. Thanks to Helen Mariott for her assistance with this note.

The AFD Financial Abuse working group participants

The AFD held a full meeting in April 2015, hosted by Eversheds, with speakers from Women’s Aid and Citizens Advice who talked about the issues of financial and domestic abuse. This meeting agreed to set up a working group to look at the issue in more detail and produce this framework. The working group met in July and November 2015, again hosted by Eversheds. The working group had speakers from Eversheds, Citizens Advice, Women’s Aid and the Home Office. It considered case studies from Citizens Advice clients and the latest research on domestic and financial abuse.

Alistair Chisholm*	Citizens Advice
Antoinette Eaton*	Lloyds Banking Group
Bee Thakur	Money Advice Service
Beth Tonkin	Wescot
Bushra Zia	TSB
Cathy Burman	NRB Ltd
Clare Laxton#	Women’s Aid
Clare Reilly	Citizens Advice
David Hawkes	AdviceUK
Dhara Vyas	Citizens Advice
Dorothy Liviabella	Santander
Elle McNeil#*	Citizens Advice Cymru
Fiona Bonsar*	Royal Bank of Scotland
Gareth McNabb*	Nationwide
Helen Mariott#*	Eversheds
Helen Scadding#	Citizens Advice
Imogen Parker#*	Citizens Advice
James Mole#	Citizens Advice
Janet Tremayne	British Gas
Kate Daley*	The Co-operative Bank
Katerine Rock	Money Advice Trust
Representative of the Public Protection Unit	The Home Office
Lisa Bowman	NRB Ltd
Lynda Fletcher	MBNA
Lynne Winters	HMRC
Neil Taylor	Royal Bank of Scotland
Nick MacAndrews	Citizens Advice
Rachel Burr	Citizens Advice
Rob Morrison*	Santander
Sarah Reeve	Payplan
Sophie Parkes	Coventry Citizens Advice
Stuart Laidler*	UKAR
Sue Lindsay	Wessex Water
Vanessa Whale*	HSBC
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* These members of the working group volunteered to comment on and edit the text.

These people attended as speakers

The Addressing Financial Difficulty group

The Addressing Financial Difficulty group is a forum that discusses and promotes good practice to help consumers address and overcome periods of financial difficulty. Participants include firms, charities, national and local government departments, trade bodies and other organisations involved in dealing with consumer debt and financial difficulty more broadly. Regulators are invited to participate in the group from time to time.

The group is chaired and convened by the Creditor Liaison Policy Officer at Citizens Advice. To get more information about the AFD please email alastair.chisholm@citizensadvice.org.uk

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