

**Society of St Vincent de Paul
Submission to the Central Bank of Ireland on
the Consultation on Additional Consumer
Protection Requirements for Debt
Management Firms**

**Social Justice and Policy Team
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Society of St Vincent de Paul

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1. Introduction

The Society of St Vincent de Paul (SVP) welcomes the opportunity to contribute to the Central Bank's consultation process on Additional Consumer Protection Requirements for Debt Management Firms (DMFs). We recognise the importance of the effort to promote transparency, quality of service and a culture of consumer protection among DMFs.

2. The Society of St. Vincent de Paul

The Society of St. Vincent de Paul is the largest, voluntary, charitable organisation in Ireland. Its membership of 11,000 volunteers throughout the country are supported by professional staff, working for social justice and the creation of a more just, caring nation. This unique network of social concern also gives practical support to those experiencing poverty and social exclusion, by providing a wide range of services to people in need.

The SVP's expenditure on direct assistance to households increased by 50% comparing 2012 with 2008 and increased by 11% between 2010 and 2012. In monetary terms, €42,817,000 was provided directly to households in need in 2012 compared to €28,494,000 in 2008. In 2012 SVP spent over €22 million on food and cash assistance and over €11 million was spent on helping households with their energy costs. Indeed, help with fuel and energy costs are up by almost 200% since 2008 and assistance with education costs are up by 22% since 2008. It is in this context that we make our submission.

3. Response to Consultation Questions

There follows a response to the 11 questions posed by Consultation Paper 75. In addition we supply a case study of our work with a household in debt and some of the options that the head of the household considered.

1. Do you agree that the current advertising requirements under the Code adequately protect consumers from the potential for consumer detriment associated with debt management services?

SVP believes that Requirement 2.2 of the draft Additional Requirements for DMFs is an appropriate addition to the requirements, ensuring as it does that firms do not avoid sanction under the advertising requirements simply because it was the lead generator firm, and not they, that contravened the regulations. We feel it is particularly important that DMFs are compelled to retain evidence that an appropriate assessment of the lead generator firm's advertising methods was carried out.

2. If you believe that additional advertising rules should be introduced for the activity of debt management services, please outline what measures you think should be considered.

SVP believes that, if implemented robustly, the current provisions of the Central Bank's Consumer Protection Code adequately protect the consumer in relation to the advertising of debt management services.

3. Do you agree with the proposed approach relating to client leads as outlined above? If not, please explain why?

Given that lead generator firms do not fall under the jurisdiction of the Central Bank, it seems that the proposed approach – that of regulating the DMF’s interaction with lead generator firms – is the only practicable solution. See response to question 1, above.

4. Do you think that these information requirements for improved transparency of charges are sufficient? If not, please outline any further measures you think are necessary in the area.

Requirement 1.1 is a welcome development.

We believe two additional requirements would help improve transparency and general consumer well-being, particularly for low-income consumers of such services.

- (1) With regard to the possible impediment to competition posed by a large upfront fee, we recommend that the stipulations originally proposed under Requirement 4.7 be moved to Requirement 1.1, in order that the consumer is aware from the outset of the potential repercussions of withdrawing from the arrangement, including the loss of any upfront fee. This will potentially give the consumer cause to consider other possibilities such as a DMF where such a charge is not present (or not as substantial), allowing them more freedom of movement. Consumers in such difficult situations should be given as much opportunity as possible to find an arrangement that is suitable for them.
- (2) SVP recommends the consideration of a requirement for the DMF to provide a break-down of how much of their fee relates to debt management services and how much relates to money-transfer or other services. At the very least it would be possible for the consumer to discern how much of the fee is related to essential services and how much relates to services that might be obtained elsewhere.

5. Do you think that there should be a prohibition on the payment by means of credit of fees or charges for debt management services?

Payment of fees by means of credit serves to exacerbate an existing issue, making the DMF part of the problem rather than the solution. This is particularly so if the repayment of this new aspect of debt is made a priority payment over essential debts like rent/mortgage, utilities and basic necessities. Were this to reduce the amount being paid to creditors (in favour of payment to the DMF) it will likely serve to increase the repayment term and thereby the amount of money paid in the long term.

While payment from existing funds isn’t ideal, SVP feels it is better than extending additional credit to the already indebted person.

6. Do you agree that a standardised method of financial assessment is required for this sector?

We agree that there is a need for a standardised method of financial assessment for the sector and believe that the Standard Financial Statement (SFS) represents an excellent template, though may require modification to make it less specific to mortgage-related debt.

However, SVP feels that concentration should be less on the form itself and more on the process, which should be robust and end in a solution that is affordable and sustainable; starting with household budgeting, maximising income including social welfare entitlements and tax reliefs, minimising non-essential expenditures and using whatever remains for debt payments.

The prioritising of debt is essential, with pro rata payments for non-essential debts. Prioritisation should be based in large part on the likely consequences of non-payment. The DMF should assist their consumers in protecting an acceptable minimum standard of living, including the prevention of homelessness or fuel disconnection and the loss of the ability to provide basic necessities for the consumer and their family. Having a standardised form is useful, but only in conjunction with a standardised process.

7. In respect of the potential options for a standardised method of financial assessment as outlined above, which is your preferred approach and please explain why?

See response to question 6, above.

8. What alternative measures do you think we should consider to achieve a robust and holistic approach to financial assessment?

See response to question 6, above.

9. Do you agree with the proposed requirements outlined at a), b), c) and d) and with the option outlined at e) above? If not, please outline why.

Yes. SVP is particularly keen that the statement of suitability be implemented. This is already required practice for many financial products and stands as good protection for the consumer from being sold an inappropriate product. More importantly, it gives the consumer the opportunity for redress in future in that the arrangement's suitability can be questioned at a later stage. The DMF should encourage the consumer to retain this statement for future reference.

10. Do you think these protections are sufficient to address the potential conflicts of interest risks identified above? If not, please outline any further measures you think are necessary for this particular sector.

SVP would like to see a written statement to the effect that the DMF has done everything to ensure that its remuneration arrangements are not structured in such a way as to impair the firm's obligations to act in the best interests of the consumer,

and the DMF should be obliged to disclose all sources of revenue relating to the consumer's case to that consumer in writing.

11. Do you agree with the proposed approach relating to reviews of debt management arrangements as outline above? If not, please explain why?

SVP would like to see the addition of an explicit requirement that DMFs activities on behalf of the consumer – expressly including periodic reviews – are for the consumers benefit and not an opportunity to generate further revenue. Each review that generates additional revenue for the DMF should be justified in writing to the consumer to allow record-keeping and opportunity for redress in a manner similar to that laid out in response to question 9, above.

12. Do you think that:

- (i) Such review should be allowed only at a consumer's request; or**
- (ii) Such review should be allowed only when there is a change in a consumer's circumstances; or**
- (iii) No limitations should be imposed on debt management firms in relation to undertaking reviews of debt management arrangements; or**
- (iv) Should there be an obligation for periodic reviews without specifying the frequency of these?**

SVP would prefer that the reviews be at the request of the consumer. More important is that the consumer gives explicit permission for any review or activity that will end up costing him/her money. There is a danger that the imposition of an obligation for periodic reviews, even if a frequency is not specified, might be used as a validation of a DMF's activities with regard to generating further earnings where review may not in fact be necessary.

The DMF should not exert undue pressure on the consumer to engage in a review and in instances where the review takes place the DMF should provide to the consumer a written explanation of why the review is taking place and maintain a copy of this themselves. Ideally, reviews or debt management arrangements, particularly for low income consumers, should only occur following material changes in the consumer's circumstances.

Appendix 1: Case Study

Our members recently dealt with a client who is head of a one parent family with two children; one child having special educational needs. The local Conference (branch) has assisted the family from time to time. The mother was in mortgage arrears, paying interest-only for the two years up to the case came to our attention and under severe pressure from the lender.

At the time the SVP members came to us about this case, the mother had just been in contact with two different companies claiming that they could make arrangements and manage her mortgage with the bank. The SVP members assisting the family were very concerned that the client, under pressure, may enter into business with an unknown or unscrupulous company, and they made some enquiries (the outcome of which is ongoing).

Our advice was to encourage her to approach MABS and the Insolvency Service of Ireland in the first instance. While many debt management firms are of course legitimate and serve a demand in the market, our fear is that certain operators may take advantage of particularly vulnerable customers in situations such as those set out above. The need for robust regulation in this sector is therefore of great importance to us.