

## Chapter 17

# Consumer credit debt counselling

## 17.4 Advice must relate to a particular debt and debtor

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#### Q4.1 Does debt counselling cover advice given to the public in general rather than to a particular debtor?

*Debt counselling* covers giving advice about "a" debt. This means that the advice must relate to the debts of a particular debtor or debtors. Advice will normally not be covered if it is not given to any particular debtor. So for example, it would not generally cover advice in a newspaper, periodical publication, journal, magazine, publication or a radio or television broadcast. General advice open to everyone on a website is unlikely to be *debt counselling* for the same reason. On the other hand advice given to a particular debtor over the Internet may be regulated. Please see Q5.5 about whether decision trees involve *debt counselling*.

#### Q4.2 Must advice be given to a borrower?

Yes. *Debt counselling* means giving advice to a *borrower* under a *credit agreement* or a *hirer* under a *consumer hire agreement*. So for example it does not cover advice given to *persons* who receive it as:

- a lender under a *credit agreement* or the owner under a *consumer hire agreement*; or
- an adviser who will only use it to inform advice given by him to others (but see Q4.3); or
- a journalist or broadcaster who will use it only for journalistic purposes.

#### Q4.3 What about advice that is passed on through an intermediary?

This question covers advice prepared by A which is then passed on to the debtor by B.

If the debtor knows of this arrangement and knows that B does not exercise any judgement but just acts as a conduit, it is likely that A is *debt counselling* and B is not.