Written evidence submitted by StepChange Debt Charity (DEB 31)

Background

1 StepChange Debt Charity is the largest specialist service providing free and independent debt advice. In 2016 we expect more than 600,000 people to come to us for help with problem debt.

2 There are 2.6 million people facing severe problem debt in the UK and millions more whose finances are insecure. The hardship, distress and disruption to family life that problem debt causes creates additional problems such as debt related ill health, reduced productivity and relationship breakdown. Problem debt weighs down both individual households and the economy, costing us all an estimated £8.3 billion.

3 There are two parts of the Digital Economy Bill that we believe could help to redress the detriment and hardship flowing from problem debt:

- The data sharing powers in Sections 40-47 – in particular, the focus on debt collection practices of public authorities
- The provisions in Section 77 on a digital marketing code that could help reduce nuisance calls for high cost credit

4 Data sharing powers and debt collection practices – key points

- **The Digital Economy Bill will introduce greater powers for public authority creditors collecting debt owed by individuals.**
- **StepChange Debt Charity believes these powers are being introduced without due regard to the problems faced by households facing severe financial difficulties.**
- **We know that debt collection and enforcement practices that are not focused on the affordability of debt repayments make household debt problems worse and delay recovery and a return to financial health.**
- **The Bill provides an excellent opportunity for the Government to introduce clear, coherent and binding standards for public authority creditors collecting and enforcing individuals' debts.**

5 Sections 40-47, Chapter 3, Part 5
This section of the Bill enables public authorities to share data to make it easier for Government and public authorities to collect outstanding debts from individuals; particularly where debts are owed to more than one public authority.

6 Debt collection practices of public authorities
There is real concern that public sector creditors pay too little regard to the problems faced by households facing severe financial difficulties when collecting outstanding debts.

7 While commercial creditors like banks and other consumer credit lenders must adhere to standards set by the Financial Conduct Authority, there are no equivalent requirements on

public authority creditors that prevent the problems faced by vulnerable households from getting worse.

8 The consequences of unreasonable debt collection practices are highlighted in research looking into the experiences of StepChange Debt Charity clients. Our recent poll asked people trying to recover from severe debt problems how helpful or not their creditors had been. As the table below shows, people dealing with problem debt were most likely to say they had been treated unfairly by a public sector creditor.

Our client survey in 2016 found that people are more likely to feel unfairly treated by public sector creditors

Rank	Type of organisation	"I was treated unfairly"
1	Bailiff	50%
2	Local authority	42%
3	Dept. for Work and Pensions (DWP)	36%
4	Mobile phone company	32%
5	Debt collection agency	30%
6	HM Revenue and Customs (HMRC)	28%
7	Payday lender or short term lender	28%
8	Utilities company	27%
9	Catalogue lender	26%
10	Fee-charging debt management firm	26%
11	Store card lender	23%
12	High street bank	21%
13	Credit card company	20%

9 Hard pressed households feel public sector creditors are behaving worse than private companies like banks and even payday lenders. This is an indictment on the lack of binding standards that apply to government bodies chasing outstanding debt.

10 Impact of poor debt collection practices

It is particularly important to understand how poor debt collection and enforcement practices can make debt problems worse, increase hardship and delay financial recovery. Our research found:

- Six in ten of those people that did not get the help they needed from their creditors <u>went on to take out more credit</u> to try to cope with their debt problems, including 21% who took out a payday loan.
- 29% said that a creditor's actions prompted them to <u>fall behind on other bills</u>.
- 28% said that the unrelieved stress from debt made it <u>harder for them to focus on applying for new or better paid work.</u>

11 In particular, people who faced an unaffordable payment demand for Council Tax were:

- Almost three times as likely to <u>borrow more money from an existing credit line or take out a payday loan.</u>
- Almost <u>50% more likely to fall behind on other bills</u> to try to meet that tough demand for Council Tax.

12 The impact of poor debt collection practices for people in debt is highlighted by these examples of problems recently experienced by StepChange Debt Charity clients.

A StepChange client said she had just received a letter about an overpayment of tax credits from 10 years ago. This is the first time she had been told about this and was very unhappy that it had taken them 10 years to finally contact her.

A woman said she had contacted HMRC to ask why she was being asked to repay a large overpayment where it was from. HMRC responded to the enquiry by telling her she would have to pay the debt or bailiffs would collect goods.

A man had an overpayment of DLA/PIP that was being deducted at source at £178 per month. The client called to discuss this further to look at any options to reduce the potential payments as the current deduction was unaffordable. The client didn't feel other options were discussed in full and there wasn't a reasonable repayment plan offered for his query. He was just told that 'he got into debt' and that's the reason it was being deducted

13 Our research also found that 60% of clients we surveyed said that their financial situation had stabilised once all of their creditors agreed to offer help like freezing further interest, charges and enforcement action. But no one said their financial situation had stabilised in cases where none of their creditors had agreed to give them this help.

14 Without effective standards for good practice for debt collection by public authorities, the proposals in this legislation are likely to make household debt problems worse.

<u>15 Section 44: A stronger code of practice and a firmer commitment to good practice</u>

This section of the legislation requires a relevant Minister to issue a code of practice about

a) Disclosure of information; and
b) The use of information disclosed under that section.

16 The Cabinet Office has previously consulted on the data sharing powers proposed in this legislation, with a view to ensuring that 'fairness is paramount when making decisions about affordability for vulnerable debtors who owe multiple debts'.

17 We understand that this has led to some outline principles for debt collection by public authorities. This is welcome, but it is far from clear that these will be effective given that the legislation is silent on the scope of any such principles. Furthermore, it does not make public authority creditors commit to them – merely asking them to "have regard" to the new data sharing code.

18 Stronger code of practice

StepChange Debt Charity believes the Bill needs to be strengthened to include a reference to what good practice for debt collection and enforcement looks like. Such principles should include:

- **Ensuring debt repayments are affordable in line with accepted budgeting guidelines like the *Standard Financial Statement*.**

- **Requiring public authority creditors to actively audit their collection and enforcement practices to ensure these do not make debt problems worse for financially vulnerable households.**

- **Ensuring that public authority creditors are focused on helping people recover from financial difficulties.**

19 Duty for public sector creditors to comply
Section 44(2) requires public authorities to only 'have regard' to the code of practice. We believe this should be strengthened to require public authority creditors to comply with the principles, embedding them in their policies and practices.

20 The principles in the Bill only apply where public sector creditors are making use of the data sharing powers – i.e. in a limited range of circumstances.

21 However, there is a need more generally for better support for struggling households who are trying to deal with their problem debts.

22 Breathing Space Review
The Government is looking at how a new statutory Breathing Space scheme could help to protect struggling families from escalating debts.

Our evidence shows that when creditors provide a temporary 'breathing space' from default interest, charges and enforcement, people are able to stabilise their financial situation and start to recover.

We believe it is important that proposals the Government is due to set out apply to raise the standards of both central and local government who are regarded by hard pressed households as worse than payday lenders when it comes to collecting debt.

People's debt problems should not be made worse even when they have done the right thing and sought creditors' help.

We are proposing that a new Breathing Space protection should be available for an extended period – usually of up to a year – to help people recover from a temporary setback, stabilise their finances and start to resolve their debts.

The impact of such a protection would be to reduce the harm caused by problem debt both to individuals and to the wider economy.

23 Nuisance calls – key points

- **The Digital Economy Bill introduces a code of practice for direct marketing.**
- **More than half of people in the UK receive unsolicited phone calls offering high-risk credit products and around one in eight are being called every single day. People already struggling with debt are particularly vulnerable to direct marketing of a 'quick fix' to their financial problems.**

- **StepChange Debt Charity believes the proposed code of practice should introduce bounded consent so that consumers know when they are consenting to share personal data, whom they are sharing data with and what will happen to that data once shared.**
- **We believe firms should be obliged to tell you to which third parties they have passed your personal information.**

24 Section 77: Direct marketing code
Section 77 of the Digital Economy Bill proposes the Information Commissioner's Office (ICO) prepares:

> *'a code of practice which contains…practical guidance in relation to the carrying out of direct marketing in accordance with the requirements of this Act and the Privacy and Electronic Communications (EC Directive) Regulations 2003…such other guidance as the Commissioner considers appropriate to promote good practice in direct marketing' (Section 77 (2) (1) (a) (b))*

25 StepChange Debt Charity supports this proposal. It is vital firms engaging in direct marketing act appropriately to prevent consumer harm. Our data shows:

- More than half of adults in Britain (29.5 million people) receive unsolicited phone calls offering high-risk financial products[1] and around one in eight are being called every single day[i]
- The problem is particularly acute for financially vulnerable people who are already struggling with debt. A survey of the charity's clients found that a third are receiving more than five calls a week[ii]

26 It will be important that the proposed code of practice is strong enough to adequately protect consumers. We believe the proposed code of practice should include the following elements:

27 Bounded consent. It is often unclear to consumers when they have given consent for their data to be shared. This is because privacy notices are not correctly worded or consent is not sufficiently separated from the decision to purchase. *We believe consent should be bounded so that consumers know when they are consenting to share personal data, whom they are sharing data with and what will happen to that data once shared.*

To achieve this, government could legislate so that:

- When requesting consent to share data for marketing purposes firms must list each organisation separately, so consumers can then give or withhold individual consent to each third party.

- Third parties receiving consent should then not be able to share it with any additional firms for marketing purposes.

[1] A payday loan, or the services of a fee-charging debt management company

28 **Firms should be obligated to tell you to which third parties they have passed your personal information.** This could be done through the proposed code of practice, amending rules surrounding Subject Access Requests (SARs). At present firms are only obligated to tell you that your information has been passed on, but do not have to disclose the names of the firms it has been passed on to.

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[i] https://www.stepchange.org/Mediacentre/Pressreleases/Overhalfofadultsnuisancecallsfinancialproducts.aspx
[ii] Ibid