

# The Social Legal Aid's ethics code for debt counselling

## **1. The purpose of the ethics code for debt counselling**

This ethics code will function as guideline for debt managers with regard to their counselling duties when they are counselling on step 1-3 for The Social Legal Aid (TSLA).

## **2. To whom the code applies**

This code applies to all debt managers, who are working with TSLA, among others the volunteers, interns, the paid staff and professionals; see TSLA's form of authorization.

## **3. Demands to the responsible organisation (TSLA)**

TSLA is obligated to have a general liability insurance and other corresponding warranty against claim for compensation.

TSLA is obligated to hire qualified and competent employees; see TSLA's form of authorization; furthermore TSLA must educate all employees, who work with debt counselling on step 1-3, and to retrain them on a regular basis.

TSLA is obligated to ensure that managers have the latest and most recently updated tools, among other things letter- and mail-templates, budget schedules, guides, work procedures, relevant legal books and other legal works etc.

TSLA is obligated to follow up on any new laws, processes etc. furthermore TSLA must keep their employees updated on the aforementioned developments.

TSLA is obligated to perform regular supervision of the manager's competences and their wellbeing; see TSLA's supervision programme.

TSLA is obligated to find and ensure upkeep funds; to make sure that TSLA can offer debt counselling free of charge on steps 1-3 to exposed/vulnerable citizens with an income low enough to gain free legal aid.

TSLA is obligated to ensure that all client cases are closed responsibly, informing all relevant parties, if the upkeep of TSLA can no longer be properly maintained.

TSLA is obligated to maintain relevant case material, among other things also electronic data, for a period of maximum 2 years, beginning after the case has been closed.

TSLA is, if it is possible, obligated to refer cases, which lie outside the scope of TSLA's competences, to other competent counsellors. When referring clients to new counsellors TSLA is obligated to refer them to different qualified and free of charge counselling, if this is possible.

## **4. The title of Debt Manager**

The title of Debt Manager can only be utilised by employees at TSLA, these are the volunteers, interns and paid employees (Students as well as professionals).

TSLA certifies the Debt Manager when they satisfy the following conditions:

- A debt manager must satisfy the demand of suitability toward clients as well as private and public creditors and authorities.
- A debt manager must not have been punished for serious economic crimes such as deceit and fraud against creditors etc. Whether former crimes will make a debt manager unsuitable for debt counselling depends on individual judgement.
- A debt manager must have control over his/her private economy, and may not show irresponsible economic acting or have been declared bankrupt in the past three years.
- A debt manager must have a relevant educational background; see TSLA's form of authorization.
- A debt manager must satisfy the demands and process description in order to counsel on steps 1 through 3; see TSLA's Debt Counselling Steps, by receiving and having received education with a satisfying result within the step(s) on which the counsellor needs to counsel.
- A debt manager must furthermore have received legal and ethics education and also relevant education to ensure they have the right competences, with a satisfying result. It will in special cases be possible to transfer merit from former received education or work experience within the relevant areas. Whether merit will be awarded is an internal and individual decision made by TSLA.
- A debt manager must not be judging or biased and must be aware of cultural differences because TSLA helps people no matter religion, skin colour, speech impediments, political stance etc.
- The job of a debt manager is to provide and to further thorough, qualified and uniform counselling on the debt area, while at the same time working at stopping random, unqualified debt counselling.
- A debt manager must actively manage his or her clients legal interests as well as being their client's confidential counsellor.
- A debt manager has both legal and ethical obligation towards both the client and the creditors.

### **5. Debt counselling on step 1 and/or step 2 by legal and social managers**

Usually it will be debt managers who perform the debt counselling on step 1-3. A legal or social manager can though perform debt counselling on step 1 and/or 2 too, after finishing an education with satisfying results.

The ethics code for good debt counselling thus also applies to TSLA's legal and social managers who provide debt counselling on step 1 and 2.

### **6. good debt counselling practice**

A debt manager must show good debt counselling practice by performing his or her work thoroughly, being conscious of their responsibility, and by making sure that the client's or the creditor's interests are managed equally.

A debt manager must, while performing his or her duties; see TSLA's process descriptions, show the necessary respect towards the people, including creditors, and other relevant authorities, with whom the debt manager has contact on the client's behalf.

A debt manager must work with the necessary speed and thoroughness; see the process descriptions for step 1 and step 2-3.

A debt manager must not, outside his or her work as a debt manager, behave in a manner that is not unworthy of a person performing debt counselling.

A debt manager must, when representing their client(s), keep his confidence, stay independent and keep his or her professional integrity.

A debt manager must always stay completely independent. Thus a debt manager cannot allow him- or herself to be influenced by own or third-party interests, they must not compromise with the professional standards and the ethics to please their client or any third-party.

It is a preconception that you as a debt manager, will not provide paid debt counselling besides your work at TSLA. It is a further preconception that you do not provide debt counselling at a different voluntary organisation. This is to ensure that our clients will always receive an independent treatment that TSLA can accept.

## **7. Common information**

TSLA's clients have the right to be informed about the following:

- The name (at least the first name) of the debt manager and his or her professional background.
- What kind of debt- and case management is offered and to whom is it offered; see TSLA's Debt Counselling Steps.
- That debt- and case counselling is free of charge at TSLA.
- The alternative options available from public- or insurance covered legal aid and other (free of charge) counselling.
- That after concluding their case, their casefiles, among other also digital data, will be stored for a period of maximum 2 years, after which the casefiles will be shredded for good. All information and data concerning our clients will be treated in accordance to the GDPR.
- That TSLA has taken out a liability insurance at Tryg Insurance.
- The address and other contact information of TSLA, among other things: phone number and email.
- That TSLA will generally refer to the TSLA website for relevant information.

## **8. Confidentiality**

A debt manager is subject to a confidentiality contract and must treat all information, which he or she learns during their work as a debt manager with confidentiality.

The confidentiality contract is indefinite and applies to all employees within the organisation of TSLA.

## **9. Storage and use of valuables and means of payment**

A manager must under no circumstances store money, bonds/stock/IOUs, valuables, NemID or other means of payment for any of their clients.

A manager may help a client use their online bank etc. The client is at no point allowed to disclose his or her username, password or NemID, and thus any help where these are needed must be done at a physical meeting between the client and the debt manager, where the client brings the relevant information, or through the telephone where the debt manager instructs the client it is done. Considering SKAT (tax) the manager can make the client order a TastSelv-password.

## **10. The minimum demands for debt counselling**

Please see TSLA's Debt Counselling Steps and the Process Descriptions for step 1, step 2 and step 3, here also TSLA's minimum demands on debt counselling on steps 1-3.

A debt manager must show empathy and understanding for the client's situation; empathy though must never be mistaken for sympathy, as a debt manager manages the client's economy and must not get emotionally involved.

A debt manager must endeavour to expand the client's economic understanding and promote help to self-help, by making the client capable of reasonably administering his or her own economy moving forward.

A debt manager must counsel with basis in the individual client's resource capacity, i.e. our managers make individual decisions on whether the client can be guided through their problems as described in step 1, or whether the problem must be solved in collaboration with the client and a debt manager as described in step 2 and step 3.

A debt manager must initially treat all creditors the same.

A debt manager must inform the clients about the legal and practical options available to the client, and what consequences there might be. This is because it ultimately is the client, who must approve any of the plans put forward by the debt manager.

A debt manager must, on behalf of the client, enter into realistic agreements based on coherent judgements as well as the expected circumstances.

## **11. Day-to-day work**

A debt manager must not represent a client without an original signed written authority.

A debt manager must as the independent representative of their client take care of the client's interests with a sense of responsibility, thoroughly, and in agreement with needs of the client's problem(s).

A debt manager must keep the client informed on the developments in the debt counselling process; the debt manager must also continuously gain the necessary approval from the client, before the client is committed to creditors e.g. when agreeing on part-payment agreements.

## **12. The boundaries of the debt managers aid**

A debt manager must not go further than the wishes of the client when working on the client's case.

A debt manager must not seek to promote a client's interests in an unseemly manner, e.g. by aiding the client evading the demands of the creditor(s).

A debt manager must not in any given case directly contact a client, who is represented by another debt manager, without the approval of said debt manager. This prohibition may be ignored if the contact is justified by the management of a client's interests, or if the other debt manager does not perform his or her duties to the extent of what is considered good debt counselling practice. The debt manager must in all instances of contact with another debt manager's client notify the said debt manager about the given contact.

A debt manager must not record or help facilitate the recording of any phone conversation or any other conversation without the fully informed approval of all parties involved. The approval of any recording must be written and without any doubt.

### **13. Conflicts of interest**

A debt manager must, when receiving a new case, to a reasonable extent make sure that there can be no doubt about there being any conflicts of interest between the debt manager, the client and his or her case.

A debt manager must not help a client in cases where conflict(s) of interest have arisen, or where there is a risk for such conflicts to arise.

Examples of conflicts of interest:

- 1) If the debt manager has a job at the client's creditor e.g. a bank or a debt collection company.
- 2) If the TSLA representative represents both debtor and creditor in the same case.
- 3) If the TSLA representative represent multiple clients in multiple cases that have a connection to each other, and in cases where there is a risk of confidential information, which TSLA has received in any given case, can have a damaging effect on a client in one of the cases.
- 4) If the debt manager has a close family or friend relation or a substantial economic, work related or any other connection to the client or to any of his or her creditors, who have opposing interests to the client.
- 5) If the debt manager has a business or any other connection or agreement with the client that creates a risk that the debt manager will not be able to counsel the client impartially of these interests.

*In case of point 1), 4) and/or 5)*

Here TSLA will find a different debt manager, who can take over the case.

*In case of point 2) and/or 3)*

Here TSLA will make an individual judgement of what client TSLA will be able to continue representing and what client TSLA will have to leave. Usually TSLA will continue to represent the client who was the first to seek out over help; we can though consider which of the clients who has the largest need for our help. The debt manager must though ensure that the client does not suffer unnecessary harm, and after this refer the client to the right authority (For instance a different legal aid organisation).

Whether there is a conflict of interest can under special circumstances be determined from the consent given to the debt manager by the clients.

When one of the five abovementioned situations occur, the debt manager must recuse him- or herself from the case.

When the debt manager recuses him- or herself, the debt manager must make sure, that the client does not suffer unnecessary harm and that the client is referred to a new qualified authority, e.g. another legal aid organisation.

#### **14. Recusal**

TSLA can only recuse themselves from a client's case(s) under special circumstances, because this can have grave consequences for the client.

If the client on several occasions have showed lack of desire to contribute to the case, also if they do not want to cooperate and on several occasions does not keep appointments made with the debt manager, or in general shows distrust to the work of TSLA and the organisation, TSLA can recuse themselves from their case(s).

If the client behaves in a way that cannot be considered commonly decent, e.g. if he or she lies to the manager on purpose or to the opposing part, if the client acts threatening, or generally acts indecently, TSLA can recuse themselves from their case(s).

No matter why TSLA has chosen to recuse themselves, TSLA can refer the client to a different authority (e.g. another legal aid), to which TSLA will ensure a responsible transfer of the clients files in accordance with the GDPR, if TSLA considers this to be necessary.

#### **15. Supervision and sanctions when breaking the ethics code**

It is the job of TSLA's day-to-day managers to supervise the debt managers and ensure that they do not break the ethics code for debt managers.

Breaking the ethics code can, depending on the severity of the circumstances, can lead to a warning, notice of resignation or immediate firing from the position at TSLA.

If the debt manager breaks the law, he or she will immediately be expelled from the premises and reported to the police.

#### **16. Collegial culture**

TSLA's work demands close cooperation between the organisation's employees across professional boundaries and work areas. To ensure that this work is as fluent as possible, it is important that all employees treat each other and their work areas with respect and keep a respectable tone of voice. Because of this TSLA has made an internal social policy with the purpose of maintaining a strong dialog and a constructive and smooth cooperation between the organisation's employees. The organisation's APV-committee regularly supervises the wellbeing of the employees. You can read more about the APV-committee's work in the APV-folder, which can be found electronically on the internal drive or physically in the organisation's kitchen.

A centrepiece in TSLA's social policy is that all employees understand how to communicate with each other in a respectful manner. In a work environment with people from many different (professional and social) backgrounds it is important to listen and to show understanding for one another's different views and methods. No employee ought to speak of a colleague, his or her methods in an unnecessarily critical manner. When giving feedback it is important to remember, that all feedback should be both constructive and professionally based to ensure that the receiver does not feel degraded, and understands why they have received the criticism and can use this in their future work. Furthermore it is important that any critique is given directly to whom it is intended, this can be done through one of the day-to-day managers, to ensure critique is not unnecessarily spread between the employees of the organisation.

Conflicts in the workspace should be resolved quickly to ensure that they will not grow with time. If a situation should arise where an employee feels wronged by a colleague, the employee should talk about this with the colleague or with one of the day-to-day managers to ensure that any misunderstandings can be solved. The team managers can, if they find it necessary, call a meeting between the employees and through this find a solution to the conflict.

TSLA does not tolerate bullying in the workspace. If an employee feels bullied it is important that he or she reports this to the department manager, a representative from the APV-committee or any other member from the organisation's managers, to ensure that the problem is taken care of. Bullying can lead to a written or oral warning and – if the bullying doesn't stop – a firing. If an employee experiences bullying in the workspace, but is not implicated him- or herself, one should always talk to the one who has been bullied, before contacting management.

For more information about TSLA's social policy please read the APV-folder on the internal drive or in the kitchen.