

The three steps of debt counselling

The Social Legal Aid (TSLA) has, with inspiration in the announcement on legal aid by lawyer, the 24h available free lawyer, and legal aid organisation on step 1-3, created a set of guidelines for the debt counselling provided by TSLA. The counselling provided by TSLA does though differ on several points of interest from the announcement; thus this document will thoroughly outline what is to be expected from the counselling provided by TSLA on the different counselling steps.

The purpose of the debt counselling steps is, in addition to the grant considerations, to give clients as well as other relevant parties a concrete view on what the different steps involve at TSLA; but also to give the client clarification considering their debt problems. Furthermore this document will function as a guide for the managers at TSLA creating a general view of what is expected of them when they are working on the different steps. At the same time the guide can help create a general view on the target groups who most frequently receives aid on each step. In addition of this it is the vision and ambition of TSLA to optimize the counselling that is provided to each client.

The three steps of debt counselling

On step 1 a general clarification of the client's legal position is made; here the client is counselled on how he or she should act (aid to self-help). On step 2 counselling and actual case work is started, clarifying the facts and conditions of the client's debt. On step 3 full and systemic counselling and case work of the client's economic situation will commence. The common guidelines are structured in accordance to the goal of providing debt counselling on the following three steps:

Step 1: Economic Counselling

Counselling on step 1 is defined as basic, concrete and oral counselling that does not merely include legal questions in connection to any given dispute, but also the practical and economical possibilities for the further action, which will help the client, who seeks legal aid, gain a basis for making the decision on whether to continue the case.

Counselling on step 1 will solely be performed via phone, email, letter, or a webcam meeting. On some occasions though, it will be more appropriate having a personal meeting, e.g. when the client has trouble speaking, or if the client does not speak or understand Danish.

Counselling on step 1 is thus especially aimed at clients, who are not aware of their legal position and options when considering their debt, but who have personal basis and resources (or have these through their network) to handle their debt problems after receiving qualified debt counselling. Counselling on step 1 handles minor economic problems that can either be taken care of in one session or with minor amount of research done by the manager, who will contact the client as soon as possible via phone or email, with either an answer or a referral to any relevant authority or legal aid organisation, who can help the client.

On step 1, the only debt counselling provided will be what could be interpreted as a debt-emergency room, where the manager as fast as possible identifies the problem(s) and the possible options that are available for solving the problem either through counselling or through a referral to another authority. There will be no actual case work done on step 1, and thus there will rarely

be any reading of any case files e.g. contracts or correspondence between the client and the creditor(s). Furthermore there will be no writing of applications, complaints nor any acting as representative for the client in court or the like – this is part of steps 2 and 3. The client and his or her network will be the one(s) to facilitate the contact with the creditor(s) and any public authority.

In general clients on step 1 will not be referred to other authorities. In exceptional cases on step 1 it is possible to make a referral to a lawyer, the 24h available free lawyer, or another legal aid organisation. This happens if it not is geographically possible for TSLA to accept the case, but the manager still estimates that a personal meeting would benefit of the client or if it is estimated that the case could develop into a step 2 or 3.

Step 2: Counselling and early case work

Counselling on step 2 is in the announcement defined as *“Counselling and the making of some written general applications”*. Step 2 counselling will be performed both via phone, emails, and letters or webcam meetings. Personal meeting will also be performed if the manager estimates it to be necessary and geographically possible. On step 2 the client themselves will in general facilitate all contact with the creditor(s); this contact will of course be based on the thorough guidance and instructions of the manager. The principle is that the manager provides help for self-help combined with minor assistance. If the client’s situation gives ground to it minor case work will also be performed by the manager. When estimating the necessity of this, special weight is put on whether the client possesses the preconditions and the resources necessary to facilitate the contact with his or her creditor(s) and the court themselves.

On step 2 actual debt counselling and minor case work will be performed on the client’s specific debt problems. This is based on the client’s own explanation of the situation and on any documents (such as documents, contracts and correspondence between the client and their creditor(s)) sent by the client to TSLA. The help provided on step 2 could e.g. be the creation of a household budget, screenings, writing complaints, making a list prioritizing the creditors, and some minor negotiation with a creditor.

In general clients on step 2 will not be referred to other authorities, provided that they fall within TSLA’s target group. In exceptional cases on step 1 it is possible to make a referral to a lawyer, the 24h available free lawyer, or another legal aid organisation. This happens if it not is geographically possible for TSLA to accept the case, but the manager still estimates that a personal meeting would benefit of the client or if it is estimated that the case could develop into a step 3.

Step 3: Expanded counselling and economic case work

Counselling on step 3 is in the announcement defined as *“a case which involves a dispute with a counterpart where it is reasonable to expect a deal to be reached”*. Here TSLA’s counselling on step 3 differs from the definition. On step 3 TSLA (*apart from what is offered on step 1 and 2*) offers an expanded and holistic counselling and economic case work where we take care of the client’s economic issues. Overall, counselling on step 3 entails a holistic review of the client’s economic health, and an administration of the client’s passives, including administration of a payment scheme. This requires comprehensive administrative work, because one needs to administer all of

the client's economic issues. This also requires the councillor to contact the creditor and the court, and to act as assessor at the enforcement court or probate court if possible. The councillor will also do screenings; calculate the client's ability to pay, budgets, ect. Finally the councillor will also be responsible for negotiating repayment schedules with the creditor, as well as to act as assessor at the filing of requests of debt settlements (in-depth assistance and practical handling and the client's fiscal problems).

Counselling on step 3 is dealt with by telephone, by writing, letter, webcam and by personal meetings when possible. At step 3, the managers of TSLA will handle the contact with creditors as well as the handling of the case on behalf of the client. Cases on step 3 will usually not be referred. But it might be necessary in some cases if, for example, the client's problems lie outside the competence of TSLA, or if it is necessary to involve a lawyer in the case, or if we are otherwise unable to conduct the administration and handling of the case.