Advising in Austerity
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Second unsupervised interview. Client had come in with water debt, but then mentioned that she had an unpaid Council Tax Bill. She was visibly upset when I explained the importance of engaging with this. Had a sudden, strong feeling of how easy it is to end up in this position, where outgoings are so much more than income, where it’s impossible to imagine how you can afford to meet ongoing bills, and have difficulty opening the post. (Field Diary)
Introduction

My diary of participating in the Citizens Advice training programme is littered with these experiences. Notes on Debt Relief Order procedure are followed by my own worries about forgotten credit cards or the Council Tax Bill – debt in the abstract intertwining with debt as personal anxiety. We are used to thinking of debt as a question of morality (I am frequently reminded by friends that both Swedish and German hold the same word for ‘debt’ as for ‘guilt’), or of time: debt as the purchasing of today’s consumption with tomorrow’s labour. It is unusual to think of debt as a legal question. Yet it is through debt that many people will become enmeshed within the reaches of law, whether being forced to engage with the power of a contract or to question the nature of ownership. What defines different debts, as opposed to debt generally, are the legal framings that shape, among other things, how, when and by whom they can be enforced and collected.

I will explore here what debt advice tells us about how ‘law’ and ‘life’ are intertwined in the practice of advice. This intertwining, I argue, has important implications for the ongoing role of advice in the context of an assumption, presented in a Ministry of Justice paper that preceded the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO), that volunteer advisers merely provide the public with ‘practical’ information (MoJ, 2010). I will focus on the question raised by this assumption: is there a difference between the advice they give and formal ‘legal advice’, and does this difference matter?

The debt advice process

From our interviews and diaries of the Citizens Advice training programme, trainees noted that, compared to the perils of negotiating the labyrinthine intricacies of the UK benefits system, debt advice appears reasonably straightforward.¹ The debt training pack introduces a flowchart for debt queries, one that begins, in the rectangle at the top of the chart, with an initial exploration of the client’s circumstances, following which the chart splits in two, defining two strands of work.
On the left the process moves through an identification of emergencies, separation of debts and assignment of priority, of which more below, to each particular debt. On the right, the drawing up of household budget sheets through the Common Financial Statement (CFS). The flows join together in an exploration of various options.

Yet, in contrast to the simplicity implied by this flow diagram, one money specialist made a claim for money advice to be the most complicated of advice areas given the extent to which the adviser must allow the client to make their own decisions. What this claim reflects, I argue, is the complexity of the emotional relationship between adviser and client that forms the fabric of the debt advice process. Described across our interviews are the particular forms of attachment and detachment that characterise debt advice; seeking to form a relationship between the client and their budget but ultimately being detached from the contents of this budget, and never being able to fully know if the client will stick to it. More than any other area the labour carried out by debt advisers shifts emphasis from the client as a bureaucratic entity composed through legal frameworks to the individual as a set of emotional attachments in the everyday.

The boundaries of ‘legal’ advice

I argue that it is these dimensions of the practice of advice that can explain the different responses advisers gave to our questions of whether they are carrying out ‘legal’ advice. A first interesting point from responses to these questions was that there were those who were certain either that the Citizens Advice service does give legal advice, or that it does not. The first perspective was typically described through an imagining of advice work as the communication of information derived from legal frameworks. It was clearly articulated by an adviser with a legal background who, discussing the misunderstandings of advice held by clients, noted: “When you say legal advice to people they think solicitors, barristers, wigs, gowns and formal letters.” They don’t realise, she went on, that “what they are coming in to see is actually legal advice” (Claire, Specialist adviser).
Where participants stated clearly that they do not give ‘legal advice’, it was sometimes in the context of noting the limits to what can be advised upon, indicated by the ‘warning triangle’ on AdviserNet; for some of our participants this symbol specifically indicated a ‘legal issue’. For others the distinction was bound to the professional differences between advisers and solicitors, whether related to the different forms of knowledge they hold, or the ways in which these different actors carry different levels of responsibility for the information they impart.

However, these expressions of certainty were the exception. For the most part the issue of whether advice is ‘legal’ was recognised as being ‘a difficult question to answer’ (Greg, Specialist adviser). Considerable ambiguities and conflicts arose as participants considered the practice of advice, and what it was advisers were doing to the information – widely understood to be derived from legal frameworks – that formed the backbone of their work. Indicative of this conflicted approach was the description of the work by one adviser: “It is advice on law but not legal advice so much”. This, the adviser continued, could be explained on the basis that “we can only really advise them on how law relates to the issue that we’ve got”, as opposed to “delving into bits of law that I just don’t understand” (Greg, Specialist adviser). Yet elsewhere advisers noted that they did hold considerable legal knowledge and expertise beyond what is contained in the Citizens Advice information systems. Thus one group discussion became focused upon the extent to which advisers could interpret the law. Several participants thought that, in contrast to their work, solicitors were able to predict a judge or make a statement on the strength of a case, one stating that “we don’t get involved in the tactics” (Geoff, Generalist adviser). Another argued against this, citing employment as one area “of law where I think we can be a bit more helpful, a bit more tactical” (Enid, Specialist adviser).

What these examples show is both the importance for advisers of distinguishing their work from formal legal advice, and the frequency with which advisers questioned the particular points of distinction through which this difference might be explained. In order to better explain this relationship between advice and ‘the law’, we need to focus further upon the actual practice of advice and the question
of how it is that legal frameworks are engaged with, communicated and explained in different circumstances. As such, before making a proposition for how we might think of this relationship, we will turn to how advisers described these different forms of advice practice and the role of ‘the law’ therein.

The ‘relational work’ of advice

A key goal of the project was to understand advisers’ views on what advice is, and what it requires, beyond the passing on of information. Some responded to these questions by stressing the advice process as entirely simple:

‘We don’t advise anybody diddly squat, we give them their options and we help them with the implications of pursuing those individual options.’ (Adrian, Manager)

In this respect participants would often stress the difference between advice work and counselling, and the ways in which the former is “a lot less emotionally involved” (Miriam, Specialist adviser). Yet, at the same time, and often in the same interviews, it was recognised that this was only half the story, and that there were a range of ‘basic counselling skills’ (Claire, Specialist adviser) often employed by advisers. This recognition of there being an emotional and relational dimension to advice, defining different ways in which advisers seek to engage with and transform the client, is key, I argue, to understanding what effective advice is; it was these subtle variations that advisers emphasised when describing their expertise. I term this work the ‘relational labour’ of advice, emphasising the extent to which the work carried out by the adviser cannot be separated from the relationship with the client.

I divide the ‘relational labour’ of advice workers into three categories: facilitating understanding, creating clarity and creating ownership, noting in each case its importance to the work of debt advice.
Facilitating understanding

Advisers described the importance of knowing how to enable clients to use the knowledge they already had or that was readily available to them. They described how, by asking the correct questions, and establishing a basis in which the client feels safe and trusted, clients can work through their issues and fully understand the information being presented to them. What was interesting about this work was the emphasis on legal information being already available, but inaccessible.

A specific form of this facilitation was described as taking place in those situations where a client’s emotional state led them to focus on their ‘rights’ at the expense of the practicalities and consequences of certain actions. Advisers described how, while clients, to some extent, understood their rights (or that they had rights), they would need to engage in a difficult balancing task of explaining what action a landlord, or employer, could legally take if the client did indeed decide to act upon their ‘right’ to report a broken gate or lodge a grievance related to workplace bullying. One adviser described needing to state to the client that:

‘You are absolutely right, you are well within your rights to do that, but this is the other side, this is what they can do so you have to now go away and think very carefully of what level you want to throw this back at them.’ (Annette, Specialist adviser)

In the context of debt advice, this work of facilitating understanding can be seen to take place in the drawing up of the CFS. The spreadsheet forms the central plank of the debt process, allowing both for an organisation of the household’s financial situation and for communication with and representation to creditors. While it is no more than the presentation of information provided by the client, namely their different forms of income and expenditure, it is in the relational labour of negotiating, organising and representing this information that the client is able to gain clarification of where they are and what they can do.
Creating clarity

For one trainee the creation of clarity was akin to a removal of emotions from a situation:

‘There is an awful lot of emotion involved, so what you need to try and do is try and take the emotions from any dealings’.
(Steve, Trainee)

In debt cases particularly, frequently discussed in this respect was the importance of knowing how to deal with clients for whom the weight of worry, anxiety or shame was hindering their ability to deal with their problems. Advisers note in such cases the manner in which debts can overpower life – how the sight of letters building up beneath the letterbox or the fear of bailiffs aroused by reference to ‘debt collectors’, can remove a client’s capacity to engage with their situation. Yet advisers recognised that clearing these feelings away required attention to the emotional situation of the client; it was noted, for example, that effective advice can only happen once the initial work of establishing a ‘rapport’ between adviser and client is achieved.

It is the role of law in creating this clarity that I wish to focus on here. In debt advice this is firstly achieved in the communication of the difference between ‘priority’ and ‘non-priority’ debts. This distinction, used across the advice sector, simply describes the difference between those debts whose non-payment can lead to the loss of home (mortgage, rent), liberty (council tax, court fees) and essential services (gas and electricity) and those that do not (principally consumer debts). The description of the difference between priority and non-priority debts, and how this is rooted in law, can be a way of cutting through what is often a crowded field of ‘emotional attachments’. By appealing to the legal distinctions that constitute the priority/non-priority divide, advisers seek to begin a new set of emotional attachments between the client and their debts. Separated into different sets of options and consequences, debts can be moved from a space of anxiety and fear to
one of a clear, known future, allowing the client the emotional space to deal with other issues they are facing.

**Creating ownership**

The emotional interventions of advisers were recognised most clearly in discussions over the client who ‘just doesn’t care about it’ and the need for them to take ‘ownership’ (Bruce, Specialist adviser). Two advisers who specialised in debt work elaborated upon this ‘difficulty’ through a distinction between ‘blasé’ clients and those who are overwrought with emotion. One adviser described experiencing no duty to impress “rights and responsibilities” on a client who is “frightened because they owe £400 to somebody that they can’t afford to pay”, whereas “you don’t treat the ones that are a bit blasé about it in a nasty way but you can be a bit more forthright with them” (Margaret, Generalist adviser). As another stated:

> ‘I can find it quite healthy if somebody comes to me with debt problems in tears, because it shows they care. The worse type of person is somebody that just doesn’t care about it and just wants it sorted, because working with them is more difficult.’ (Henry, Focus group of advisers)

**Conclusion**

I will finish with a proposition for this relationship between advice work and ‘law’, and why it matters. The interventions made by advisers into the understandings of their clients rely, I argue, upon a labour in which advisers understand how to create and manage a distinction between an imagining of ‘the law’ and the life of the client. To create clarity, attachment or ownership relies upon knowing when and how to move between legal frameworks and the everyday life of the client. Thus, while the material backbone of the work is ‘legal’, the work itself is not so easily classified. What constitutes advice work as work, as opposed to the passing on of information, are the various ways in which
advisers understand how to weave ‘law’ into the advice interview. Thus, as *work*, its importance lies in a certain *externality* to law.

To return to the government proposition made at the outset of this chapter, to equate this work with ‘practical advice’, implying individuals with discrete problems that can be sorted through a straightforward practice of information provision, misunderstands the skills advisers hold and their relationship to the law. Not only are problems rarely discrete, meaning that advisers must address the subject as a whole, investigating multiple and interwoven problems, but individuals will come to this advice with certain attachments, preconceived assumptions and emotional states. The task of the adviser is not only to pass on the relevant legal information in a particular area, but to assess ‘the law’ *from outside* the law.

**Notes**

1. My own diary of the training programme marvelling at how an area that was so obscure to me could be so clearly laid out. This was rarely the case in my initial casework as a trainee.
2. The work of Deville (2012) has highlighted the practices used by debt collection agencies – agencies that purchase debt from creditors and other agencies and seek to recoup it – and how these hinge upon achieving an emotional connection between the client and their debts that prioritises *their* debt above all others.