

CHALLENGES EXPERIENCED BY DEBT COUNSELLORS IN GAUTENG

*Kgomotso Masilo**

Abstract

Gauteng, Province of South Africa is experiencing a decreasing number of registered and practising debt counsellors. This paper investigates and assesses the challenges that debt counsellors in Gauteng experiences. Fifteen debt counsellors from three municipalities of Gauteng were interviewed. Data was analysed using ATLAS ti. The paper concluded that though debt counsellors are complying with the regulations in rendering debt counselling service, they still had challenges regarding backlogs in debt review. The paper recommends that debt counsellors should be adequately trained and should restructure their rehabilitation methods on the one hand and the National Credit Regulator should monitor debt counsellors' practices and assist them with their queries on the other hand.

Key Words: Debt counselling, National Credit Regulator, Gauteng, South Africa

* *Department of Management and Entrepreneurship, Tshwane University of Technology, South Africa*

1. Introduction And Background

Consumers often turn to debt counsellors when their credit becomes unmanageable and debt problems make it impossible to meet their financial obligations (Wang, 2010:47). Debt counselling in South Africa was introduced to provide a definite process for assisting consumers who are encountering problems with debt repayments (Kelly-Louw, 2008:201).

Debt counselling process provides a consistent system of debt restructuring and enforcement, and prioritises on the eventual satisfaction of the consumer's obligations under the credit agreements (De Wet, 2011:1-2). De Wet (2011:1) further affirms that the goal of debt counselling is to develop a repayment plan that is affordable and acceptable to consumers and credit providers alike. The repayment plan should be developed in such a manner that the consumer can afford to meet his or her basic living expenses.

According to the National Credit Regulator (NCR, 2014) report, the number of registered debt counsellors in South Africa increased from 324 in 2008 to 2 048 in 2013. Of these registered debt counsellors, Gauteng Province, hereinafter referred to as Gauteng, had a total of 1 001 in 2013. However, some of these debt counsellors were no longer practising because they believed that the debt counselling was not financially feasible (NCR, 2014). The purpose of this article is therefore to highlight the challenges that debt counsellor's experience in Gauteng, and to determine how these challenges should be addressed.

The rest of the article proceeds as follows: section 2 provides the literature studied on the debt counselling processes. Section 3 discusses the

methodology used in this study. Section 4 presents the findings obtained. Conclusions and recommendations are provided in section 5.

2. Literature Review

Various reports show growing concerns about the withdrawal of registered debt counsellors in South Africa (Business Enterprises, 2012; Daily Industry News, 2012). It is against this background that this section focuses on the development of debt counselling, the debt counselling process and the challenges that debt counsellors experience.

2.1 Development of Debt Counselling

Debt counselling was introduced in 2007, following the establishment of the National Credit Regulator (NCR) in 2006. The NCR was established following the introduction of the National Credit Act No. 34 of 2005 (NCA). It is responsible for the regulation of the South African credit industry. It is tasked with carrying out education and creating awareness of the NCA, which includes registering of debt counsellors; receiving and investigating complaints of the consumers and ensuring that consumer rights are protected (Republic of South Africa, 2006).

According to NCR (2010), any natural person who has Grade 12 certificate or an equivalent level 4 qualification issued by SAQA, and who has successfully completed a debt counselling course approved by NCR may register and practice as a debt counsellor. In addition to the qualification, a debt counsellor need to have at least two years working experience in consumer protection, complaints resolution, accounting services or general business

environment (Roestoff, Haupt, Coetzee & Erasmus, 2009).

2.2 Debt counselling process

A consumer who is encountering debt repayment problems may seek debt restructuring assistance by applying for debt counselling service to any debt counsellor of his or her choice. The debt counsellor has to explain all the details pertaining to the debt counselling process to the consumer prior to the latter signing any debt counselling application and agreement forms (Debt Counselling Help South Africa, 2009).

After the explanation about the debt counselling process, and once the consumer understands and agrees to start the process, he or she can then complete and sign a debt counselling application form referred to as Form16. The form must be accompanied by supporting documents (such as copies of the applicant's identity document, pay slip, proof of residence, and bank statement), which must be handed to the debt counsellor. The information on the application form is captured by the debt counsellor, and within five working days, the debt counsellor must complete Form 17.1 to inform and notify all the creditors listed in the application that the consumer has applied for debt counselling. Creditors must respond and confirm the account details of the consumer by completing Form 17.2 within five to ten working days and send the form to the debt counsellor. If the debt counsellor does not receive confirmation from the creditors within the stipulated period, it is presumed that the figures and details provided by the consumer are correct (Debt Counselling Help South Africa, 2009).

The debt counsellor may then start determining and verifying if the consumer is indeed over-indebted. The debt counsellor prepares a debt restructuring proposal, which is sent to the creditors within 25 working days. Once a proposal is accepted, the payment re-arrangement can be formalised and be sent to the Payment Distribution Agency (PDA) to start the payment distribution process to the creditors. As soon as the application is filed, creditors are informed that no legal action can be taken against the consumer. The debt counselling process should take 60 months to be finalised (NCR, 2012).

Since its inception, the debt counselling process has been plagued by challenges and obstacles and as a result, some debt counsellors' performance is hindered causing backlogs in the debt counselling process (Groenewald, 2010). Davel (2010) concurs with Groenewald (2010) and states that some of the credit providers have neither the capacity nor the appropriate policies and procedures to respond adequately to debt restructuring proposals, and as a result, backlogs in the debt counselling process are experienced. Some of the challenges and obstacles are discussed in the next subsection.

2.3 Challenges and obstacles experienced by debt counsellors

The challenges experienced in debt counselling differ in terms of the competencies of the debt counsellors, backlogs of the debt counselling process, ineffectiveness of the debt counselling processes and the capacity of the debt counsellors in performing their tasks.

(a) Competencies of the debt counsellors

The National Credit Regulator (NCR, 2012), reported that, by the end of 2011, a total of 2094 debt counsellors were registered with the NCR in South Africa, however, not all of them were practicing at that time. Of the current levels of competencies of debt counsellors, education and experience in debt review have been identified as some of the barriers to an effective debt counselling process. In order to assess the preparedness of the debt counsellors to start with debt review processes, Groenewald (2010) launched an intensive study to determine the competency requirements and the skills needed for the debt counsellors.

The findings revealed that some of the debt counsellors were incompetent. They lacked professional integrity and knowledge of financial management as well as knowledge of credit legislation, and required better debt assessment and interviewing skills (Groenewald, 2010). After assessing debt counselling processes in South Africa, Business Enterprises (2012) also indicates that the two-week course that debt counsellors undergo, is only based on the theoretical issues of debt counselling, and does not empower debt counsellors to deal with complex administrative tasks and management of the consumer's file, including management of consumers with financial difficulties. In addition, a lack of commitment, understanding or knowledge about the process and credit as a whole was also indicated (Business Enterprises, 2012).

(b) Backlogs of the debt counselling processes

The National Debt Mediation Association (NDMA) was established in May 2007 as an industry intervention to implement joint initiatives between the credit providers and the debt counsellors in order to help reduce the backlogs in the debt counselling processes (NCR, 2010). The NCR and the banking industry co-funded national workshops through which the debt counsellors were informed of the procedures for debt restructuring. These interventions did not bring any improvements in facilitating the debt counselling process, and so, in 2009, the NCR formed a task team to address the backlogs that were increasing (MFSA, 2010).

According to MFSA (2010), the task team recommended that a Debt Review Advisory Committee (DRAC) be established for the purpose of developing, implementing and monitoring the effectiveness of the debt review process on an ongoing basis.

(c) Ineffectiveness of the debt counselling process

In 2009, the NCR and the Business Enterprises at the University of Pretoria (UP) agreed that the Law Clinic of the University would conduct a survey to determine reasons for the ineffectiveness of the debt counselling process (NCR, 2010).

The findings indicated that the debt counselling process was not conducted effectively due to a lack of co-operation between credit providers and the debt counsellors. Both the credit providers and the debt counsellors were also not acting in good faith in the debt counselling process and there was non-compliance to some sections of the NCA as well (Roestoff et al., 2009:248).

(d) Capacity of the debt counsellors

Goslett (2011:4) argues that the debt review process has a number of challenges that need to be resolved, specifically with regard to the lack of expertise and the ability of certain debt counsellors. Goslett (2011:4) further states that the debt review process takes longer than it should, which is contrary to the stipulations of the NCA.

From Goslett's (2011:5) observations it seems that some of the debt counsellors do not have the necessary education, and as such cannot understand and interpret the NCA. He further suggests that the training given to debt counsellors be improved.

(e) South African media reports on the debt counselling challenges

Different articles from the South African media also indicate several reasons for the ineffectiveness of the debt counselling process. The following are some of the reasons found in the media:

- Steward (2008) maintains that a sharp increase in the number of consumers applying for debt review, associated with a shortage of competent debt counsellors, led to the debt counselling process not being completed. This added to the backlogs that the task team and Law Clinic of the University of Pretoria (UP) had identified (NCR, 2010).

- Naidu (2008) alludes to the fact that many debt counsellors trained and registered by the NCR were no longer practising because they believed that debt counselling was not financially feasible.

- Consumers were still uneducated on the objectives of the debt relief process. Debt counsellors sometimes fail to inform consumers of the consequences of debt counselling. Consumers often think that debt counselling affords them a payment holiday (Star, 2008).

- According to Gillingham (2008), consumers are often not willing to accept that they cannot maintain the same standard of living that got them into their financial predicament in the first place. He further states that consumers need to be informed about what the debt counselling process entails and what is expected from them.

It is indicative from the above findings and the reports from the South African media that debt

counselling faces challenges regarding backlogs in debt reviews, inadequate training of debt counsellors, non-cooperation by credit providers, interpretation of the NCA and non-compliance with the NCA.

3. Research Methodology

A qualitative approach was adopted. With this type of approach, which is exploratory in nature, it was envisaged that the qualitative research method would provide an opportunity to unravel the debt counsellors' experiences. Five debt counsellors from each of the three municipalities (Johannesburg, Tshwane and Ekurhuleni) of Gauteng were randomly selected to make a total sample of 15. The researcher selected the debt counsellors who had been in practise since the inception of the debt counselling services. The decision to select a total of 15 debt counsellors from the three municipalities was guided by the principle of saturation. Creswell (2007:240) states that when the researcher interviews 15 participants, by the time the researcher interviews the 9th or the 10th participant, there is no more new information or themes that are observed.

3.1 Data collection

Data for the study was collected by using semi-structured interviews, which were scheduled in advance and were expected to last at most an hour each. The semi-structured interviews were used because firstly, it is easy to determine the frequency of various answers and to find relationships between answers to different questions. Secondly, such interviews help to overcome misunderstandings and misinterpretations of words or questions, and lastly the researcher was assured that all items had been considered (Leedy & Ormrod, 2010: 189).

Selected debt counsellors were visited per appointment. A set of specific questions were set and asked. These questions were presented to every interviewee in exactly the same format. Responses from these interviews were recorded by making use of a digital voice recorder and the information was transcribed afterwards. Digital voice recorders are useful and important because they assist the researcher to capture without any error, all the responses exactly as given by the interviewee (Babbie & Mouton, 2011:251).

3.2 Data analysis

The data collected from the debt counsellors was analysed using one of the Computer Aided Qualitative Data Analysis Software (CAQDAS) package namely ATLAS.ti for the following reasons:

The data that was collected was analysed by means of themes and sub-themes that emerged from the open-coding that was designed. The themes that

emerged were analysed and the results are reported in the next section.

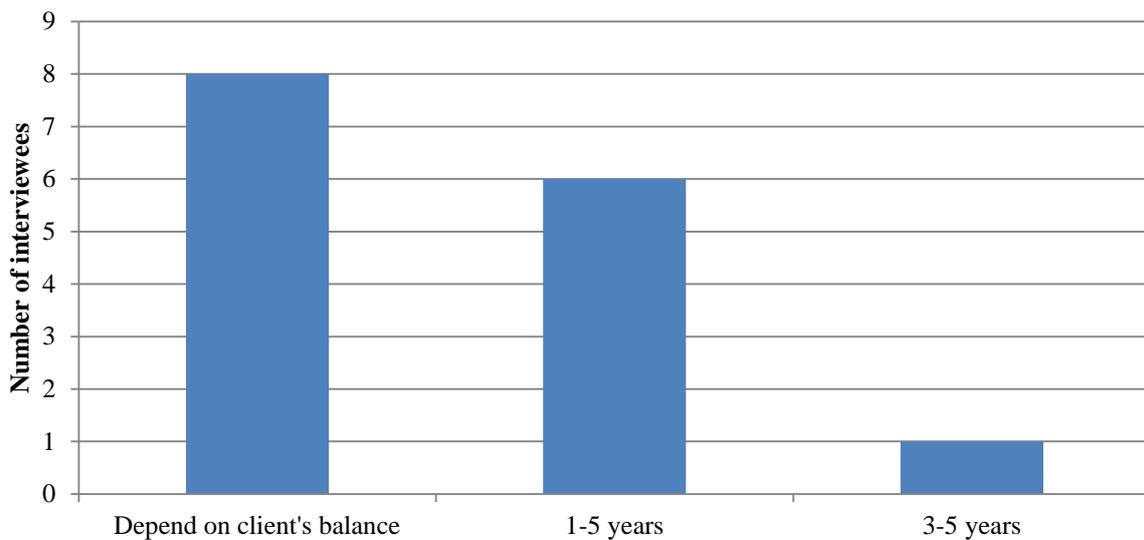
4. Empirical Findings

4.1 Duration of debt counselling

Participants (debt counsellors) were asked how long it takes them to assist consumers to recover from over-indebtedness, varying answers were given. More than half (8 out of 15; 53.33%) of them indicated that the

process depends entirely on the amount the client owes. Six participants (40.0%) pointed out that it takes one to five years for consumers to pay all their debts and according to one participant (6.67%), it takes three to five years for the process to be completed. The NCR stipulates that the maximum duration for the debt counselling process is 60 months or five years (NCR, 2010). It is evident that participants are abiding with this stipulation (Figure 1).

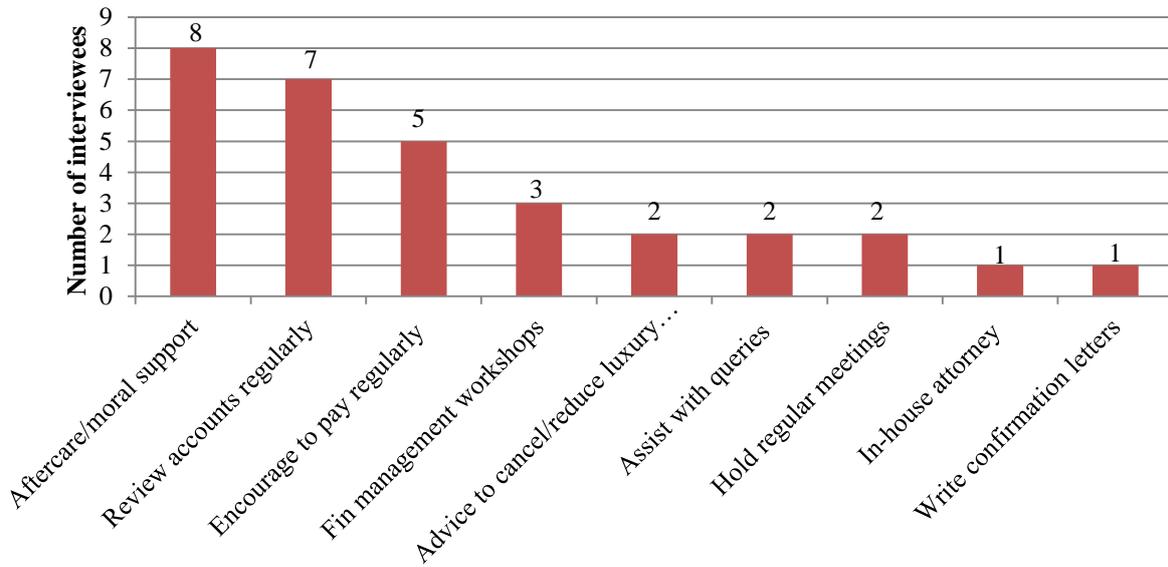
Figure 1. Duration of debt counselling



4.2 Intervention methods

Participants were also asked to identify the intervention methods that they employed in assisting the over-indebted consumers. The responses (as indicated in Figure 2), revealed that eight of the participants (53.33%) provided aftercare or moral support to their clients as part of an intervention method, seven participants (46.67%) reviewed their clients' accounts regularly, and only five (33.33%) encouraged their clients to pay their debts regularly. Three participants (20.0%) encouraged consumers to attend financial management workshops, two (13.33%) either advised clients to cancel or reduce unnecessary expenditure items, assisted clients with their queries or held regular meetings with clients. Only one participant (6.67%) indicated that he provided the services of an in-house attorney, and wrote confirmation letters that clients were under debt counselling when requested.

Figure 2. Intervention methods



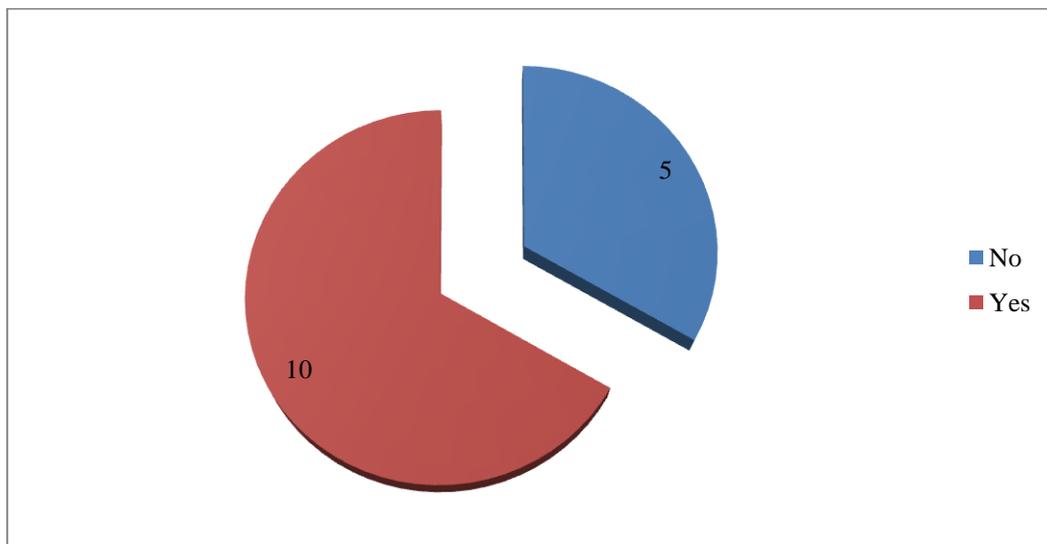
4.3 Support from the NCR

Participants were asked whether they received support from the NCR and to substantiate their answers with reasons. Figure 3 indicates that ten participants (66.67%) agreed that they received support from the NCR, because the NCR provided circulars and held workshops regularly. They also stated that the NCR monitored and visited regularly, and as such, through these visits they got an opportunity to share their problems with NCR staff.

On the other hand, the remaining five participants (33.33%) disagreed to the question regarding support from the NCR (Figure 3). The participants authenticated their discontent, according

to their perceived importance, by stating that queries were not handled efficiently and to their satisfaction by the NCR and they also indicated that they had problems of co-operation with certain credit providers and the NCR was not attending to the matter. Furthermore, the NCR took a while to implement transfers of consumers from one debt counsellor to another, despite the fact that debt counselling process had deadlines. In addition, some consumers struggle to receive their clearance certificates and getting their names expunged from the credit bureaux after paying off their debts. Finally the NCR did not involve debt counsellors when taking decisions that affected them.

Figure 3. Support from the NCR

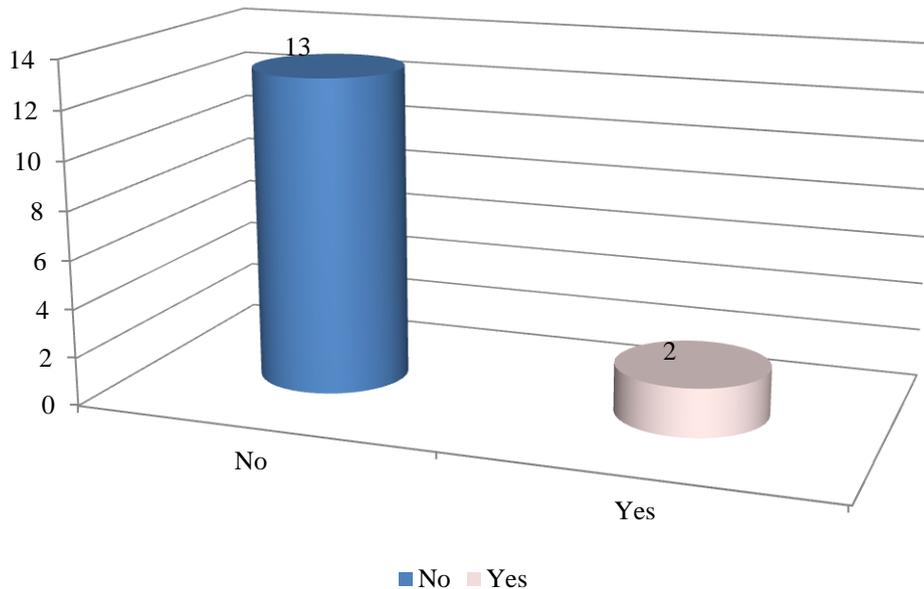


4.4 Mechanisms to verify financial well-being of clients

Participants were asked whether they had mechanisms that they used to follow up the rehabilitated consumers in order to verify their

financial well-being. Thirteen of them (86.67%) said they did not have any mechanisms, while only two (13.33%) said they did have such mechanisms (Figure 4).

Figure 4. Mechanisms for rehabilitated consumers



4.5 Debt counsellors' experiences and recommendations

The participants were requested to share their experiences in providing debt counselling services and to make recommendations to the processes of debt counselling. The open-ended questions allowed for multiple responses, and as many as 13 experiences and 5 recommendations were shared and proposed respectively, as listed below.

Debt counsellors' experiences (quoted verbatim):

- The NCR takes a long time to process transfers of consumers from one debt counsellor to another.
- There is no uniformity in terms of how the magistrate courts operate; they operate differently from one court to another.
- There is a bit of improvement in terms of co-operation between debt counsellors and credit providers.
- The NCR dictates how debt counsellors should run their businesses.
- Clients struggle to receive clearance certificates because they still have home loans.
- Lack of debt counselling information and education.
- The NCA is unjust to debt counsellors; credit providers do not comply but nothing is done.

- Lack of monitoring by the NCR.
- Lack of NCR's involvement in attending to problems with certain credit providers.
- Credit Industry Code of Conduct created uncertainty for debt counsellors.
- Consumers lack financial management knowledge.
- PDAs delay payments of clients, hence debt increase because of interest charged.
- Debt counselling assists consumers, and it remains to be better than administration and sequestration.

The following are the recommendations proposed by the debt counsellors who participated in the survey.

- According to the participants, the NCR should:
- embark on debt counselling education;
 - monitor credit providers and attend to debt counsellors' complaints;
 - consult all stakeholders before implementing any new rule or changes;
 - issue clearance certificates to consumers who have completed debt counselling process, irrespective of the outstanding home loan balances that consumers have;
 - improve the process of transferring consumers from one debt counsellor to another;

5. Discussion Of Findings And Conclusions

The paper examined the challenges encountered by debt counsellors in Gauteng when executing their duties. Survey data was collected from a selected focus group comprising 15 debt counsellors. The paper demonstrates that, although debt counsellors used the guidelines and procedures in conducting their debt counselling service, they did not follow these in the prescribed manner. However, they did comply with the prescribed maximum period (5 years) for debt review to be completed.

Several intervention methods were identified, but most debt counsellors cited aftercare or moral support and reviewing clients' accounts as the common intervention methods that they used. However, most of them did not have mechanisms to verify whether their clients were coping financially after the debt counselling process.

It was also evident from the results that most debt counsellors were content with the support they received from the NCR while few of them (debt counsellors) were not pleased. In addition, the experiences and the recommendations that debt counsellors made are an indication that debt counsellors have challenges that need attention.

6. Recommendations

The recommendations that follow are a culmination of literature studied and the survey results obtained.

6.1 Recommendations following from the literature study

The literature studied indicated that some of the debt counsellors are inadequately trained; there is lack of co-operation between the debt counsellors and the credit providers, and as such, backlog in the debt counselling service increases. NCR is not appropriately monitoring the services rendered by both the debt counsellors and the credit providers. The paper therefore recommended that:

- Before a person is registered as a debt counsellor, he or she must have the necessary knowledge and qualification on personal financial management matters.

- In addition to the training offered by the NCR, the debt counsellors should be subjected to formal training and assessment on business related matters. They should also be awarded with advanced certificates of competence once they have completed the course.

6.2 Recommendations following from the survey results

The results signified that debt counsellors have insufficient intervention methods to assist their clients

during the debt counselling process and that the debt counsellors also lack mechanisms that they can employ to verify their clients' financial well-being post the debt counselling service. Furthermore, it was pointed out that the NCR does not handle debt counsellors' queries efficiently, took a while to implement transfers of consumers from one debt counsellor to the other and that some consumers struggle to receive their clearance certificates and getting their names expunged from the credit bureaux after paying off their debts. In addition, the NCR did not involve debt counsellors when making decisions regarding debt counselling related matters. It is therefore recommended that:

- Debt counsellors should include and conduct personal financial management lessons to their clients as part of their intervention methods and set a period to assess their clients' running of their personal financial matters after the debt counselling process, as a mechanism for the clients' financial position verification.

- Debt counsellors should be compelled to submit names of their rehabilitated clients to the NCR for immediate issuing of clearance certificates and to the credit bureaux for credit rating changes.

- The NCR should improve on attending to debt counsellors' queries as well as monitoring their daily activities.

- The NCR must set up a special and an independent section or department that will be responsible for consumer transfers. The responsibility of this section should be to assist the over-indebted consumer who wants to be transferred from one debt counsellor to the other.

More forums or associations for debt counsellors (like the SA Black Debt Counsellors' Forum) should be established. Debt counsellors could use these forums to share their knowledge and experiences.

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