



The Money Charity response to the 'Breathing Space: Call for evidence'

The Money Charity is the UK's leading financial capability charity.

We believe that being on top of your money means you are more in control of your life, your finances and your debts, reducing stress and hardship. And that being on top of your money increases your wellbeing, helps you achieve your goals and live a happier more positive life as a result.

Our vision is for everyone to be on top of their money as a part of everyday life. So, we empower people across the UK to build the skills, knowledge, attitudes and behaviours, to make the most of their money throughout their lives.

We believe financially capable people are on top of and make the most of their money in five key areas:

Planning (including budgeting)

Saving

Debt

Financial services products

Everyday money (including wages, cash, bank accounts)

The **MONEY** Charity

Introduction

1. The Money Charity welcomes a Breathing Space initiative set out by the Treasury. A scheme which provides those in serious problem debt the time to put in place key steps to paying back their loans is crucial to getting debtors the help they need.
2. A similar scheme by the Lending Standards Board's voluntary 30-60 days of Breathing Space for all registered firms has had many successes in providing time and expertise to those in problem debt, helping them structure a repayment plan or obtain advice or support for other appropriate remedies such as a Debt Relief Order (DRO) or Individual Voluntary Agreement (IVA). We welcome extending such a scheme to other creditors in the sector.
3. The argument and justification for a Breathing Space programme is well made and consistent with the changes made across the board by the likes of MAS and the FCA. We agree with the need for such a scheme which is laid out in the consultation, in that both creditors and consumers could see tangible benefits from the idea of a Breathing Space.
4. However, we have a number of recommendations with regards to the implementation and structure of a Breathing Space programme laid out in the consultation. These are primarily that:
 - The Scottish Debt Arrangement Scheme (DAS) demonstrated a number of unintended consequences and should therefore be used as a springboard, rather than a template.
 - 6 weeks may not be long enough for some indebted consumers to get their finances in order and arrange steps to be able to start repayments again.
 - The Scheme could increase pressures on an already stretched debt advice sector to provide support and new information for consumers looking to activate a Breathing Space.
5. Without addressing these main issues we have identified, we believe a Breathing Space Programme could fall short of having its intended positive impacts on people with serious problem debt.
6. The following is a response to the questions for which we have expertise and a view to provide.

Q1. In your opinion, how should the government decide who is eligible for a Breathing Space? In particular

- **How should the government define serious problem debt in the context of a Breathing Space?**

We recommend a debt to income ratio or similar metric be established, which includes all debt and income sources applicable to the consumer. This metric coupled with a detailed income & expenditure assessment should enable an accurate assessment of the consumer's ability to manage their overall debt burden.

- **Should eligibility be determined by a set of defined characteristics, or should there be some discretion to determine eligibility?**

Eligibility for Breathing Space via self-certification should be available to consumers on an annual basis. Extensions and additional time should be available via a regulated debt or money advisor following completion of a Common Initial Assessment (CIA) and a detailed Income & Expenditure (I&E) assessment according to the Common Financial Statement (CFS).

- **If there is some discretion, who should be tasked with exercising it – a regulated debt adviser, or some other person?**

Discretion should be available via a regulated debt or money advisor. Extensions to Breathing Space without the engagement of a regulated advisor should be available but are done on a goodwill basis and should not be a requirement. Consumers applying for a Breathing Space with certain vulnerabilities such as mental health issues or learning difficulties should be granted a Breathing Space along with support from an organisation's vulnerable consumer process/team.

- **Who should be responsible for regulating and enforcing access to a Breathing Space and how can disputes be resolved?**

For regulated lenders and public sector lenders, access to Breathing Space can be regulated by the FCA, or an independent government body.

Q2. What should be the trigger point for a Breathing Space?

Once informed they can apply for a Breathing Space, a request from a consumer can act as the initial trigger allowing the process to begin based on self-certification. The next steps would then be as outlined above.

Q3. Should all debts be eligible for a Breathing Space?

We believe that it is right to include all debts in eligibility for a Breathing Space. This includes debt held by the self-employed and sole proprietorships. If a strong link can be made between personal finances and the finances of a limited company, such debts can also be included, along with additional rules and discretions.

Q4. Should all interest, fees and charges be frozen throughout a Breathing Space period?

Yes. Without freezing the fees and charges, the idea of giving someone time to put in place steps to resolve their debt, without having to worry about payment during that period, is redundant. Such action also provides an incentive for consumers to take up a Breathing Space and receive support.

Q5. What activities must a Breathing Space participant continue with to remain eligible? For instance:

- **Should they be required to attend advice sessions?**

Yes, but the participant should be able to choose the way the session is carried out, whether that is face-to-face, over the phone or online. Contact between the consumer and advisor should be enough to constitute compliance for the initial period. Furthermore, we suggest that the participant be offered services from financial capability organisations as part of a rehabilitation process, so that the likelihood of future financial difficulties can be prevented.

- **Should they be required to make any repayments during a six-week Breathing Space, if their financial situation allows it?**

If there is a significant positive change in the individual's financial situation, or a consumer is able to resume repayments immediately without facing any financial hardship, then this would be acceptable. The ability to repay should be evidenced via an Income & Expenditure assessment, working out if any possible payment is affordable. However the focus should be on cancelling a Breathing Space scheme if a better outcome will be achieved through an appropriate alternative remedy like an IVA or DRO

Q6. Are there circumstances in which a Breathing Space period could end before six weeks, such as if an appropriate solution is found? Who could be responsible for enforcing this?

Yes, if there is a better outcome for the consumer and a repayment programme or any other remedy has been agreed before a Breathing Space period is up, then a Breathing Space period should end early, and the appropriate solution enacted as soon as possible through mutual agreement between parties.

Q7. Should Breathing Space protections only cover debts existing at the outset, or also include new debts arising during the six-week period?

Debts accrued in the build up to or during a Breathing Space should not be covered, as it could lead to exploitation of the system, as someone could take out a new loan in the knowledge that in less than a few weeks, they could freeze the payments and interest for at least six weeks. As previously stated, a loan should be active for at least 90 days before it can qualify for protections under a Breathing Space Scheme.

Q8. Should a Breathing Space be noted on a person's credit file?

In order to ensure full transparency with regards to an individual's credit behaviours, a Breathing Space should be noted. Status codes for use on credit files should be developed to highlight formal Breathing Space taking place, as well as other codes to indicate if a Breathing Space has been completed, or failed.

Q10. What challenges would creditors face in implementing the scheme?

There are a number of ways in which creditors could struggle to implement a Breathing Space scheme.

- The scheme may discourage consumers to organise a repayment method, when they know they can rely on a Breathing Space scheme.
- Creditors may not have any system in place that allows for management of a Breathing Space.
- Furthermore, the scheme could lead to a spike in the number of queries and cases for debt and financial advisers as well as for charities, causing unmanageable demand, as consumers get in touch with them to ask questions about the scheme and want to know how to get access to it.

- There are a number of other changes in process and regulation that government need to be aware of. For example, with the introduction of IFRS 9, a lender who is subject to this set of accounting principles will have increased provision expenses which may provide a disincentive to offering Breathing Space programmes or take a more conservative view when discretion is permitted.

Q13. Should any creditor be exempt due to the size of their business?

No. This scheme is devised to help consumers in problem debt, and should therefore focus on their need, rather than the size of a creditor business.

Q15. How could the government ensure that a Breathing Space works with and adds value to existing support structures?

We would like the government take a holistic approach to a Breathing Space and how it contributes to existing structures, thinking about all the other issues surrounding how people get into problem debt in the first place, how to help them out of it, and how to prevent it. To do so, the strategy must incorporate lenders, charities, government agencies, credit reference agencies etc.

Q17. Should a Breathing Space be extended to Wales and Northern Ireland as well as England?

We do not see any reason as to why a Breathing Space shouldn't be extended to Wales and Northern Ireland.

Q21. For whom and for what debt solutions will a statutory repayment plan be most appropriate?

The statutory repayment plan is most appropriate for those who are in serious problem debt, meaning someone with multiple unaffordable debts and a mix of priority and credit debts, and having some form of income. Such a plan would be less appropriate for someone with single issuer debt or only a short term debt issue.

Q25. For the included debts, should some debts be prioritised for repayment?

Practices around prioritisation of debt for repayment are already in place in the Lending Standards Board Lending Code and the Scottish Debt Arrangement Scheme. We believe those practices should be followed in the statutory debt repayment plan. Emphasis must remain on enabling consumers to maintain their existing accommodation and meeting their personal basic needs, e.g. food, gas & electric, water, etc.

Q31. Should a statutory debt management plan be extended to Wales and Northern Ireland as well?

Yes, The Money Charity sees no reason why the statutory debt repayment plan should not be extended to Wales and Northern Ireland.

Q32. For each of a six-week Breathing Space and a Statutory Debt Management Plan, please describe in detail, and with supporting evidence, the positive impact expected through:

- **Improved access: How will it encourage more people to seek debt advice earlier?**

We believe the repayment plan and Breathing Space will surely be encouraging for those with unmanageable problem debt. Through a Breathing Space period and sorting out the debt repayment plan, those in problem debt will be able to tangibly see the benefits of communicating with their creditors and the advice industry and cooperating to put steps in. This incentivises them to obtain support quickly.

- **Better support: How will it improve outcomes for consumers who are already in problem debt?**

Allowing debt charities to administer such repayment plans will reduce the amount of consumers using expensive, for-profit debt management organisations. In terms of wellbeing, such early intervention will help them achieve better financial wellbeing in the long-term. Furthermore, consumers with positive outcomes from repayment programmes can have their outcome reported to Credit Reference Agencies, allowing potential creditors to know they are financially responsible. Such regulation of advice agencies and overall improvement in funding for debt and money advice can ensure all consumers have access to support when needed. In the long-term, this could prevent consumers from needing such action to be taken if they fall into problem debt.

- **Increased repayments: How will it increase the amount of debt repaid to creditors?**

Repayment programmes will ensure creditors receive full payment of debts, even if it is a slightly longer period of repayment than originally agreed. We believe this will also encourage mainstream lenders to provide products and services for a diverse set of consumers reducing reliance on high cost short term credit and/or illegal money lenders.