

Breathing space

A response to Government proposals for the introduction of a breathing space scheme and statutory debt repayment plan

The Money and Mental Health Policy Institute is a research charity, established by Martin Lewis to break the link between financial difficulty and mental health problems. This response to the Government's consultation on its proposals for a breathing space scheme and statutory debt repayment place sets out evidence from our research and policy work on how this scheme should best be designed, implemented, administered and monitored. Money and Mental Health's research is informed by our Research Community, a group of over 5,000 people with lived experience mental health problems. All quotes are from members of the Community who have participated in our research.

Background

- Mental health problems can be both a cause and consequence of problem debt.
- People experiencing mental health problems are three times as likely to be in problem debt,¹ and nearly half of people in problem debt are also experiencing a mental health problem.²
- Mental health problems can cause problem debt by reducing our ability to both earn and manage money. Some people may become too ill to work, resulting in an income shock which can quickly lead to escalating debt - from which breathing space is an essential protection.
- Mental health problems can also affect a person's cognitive and psychological functioning, making controlling impulses to spend, keeping up with financial paperwork and form filling and contacting creditors when something goes wrong much more difficult.³ This can both lead to problem debt, and make resolving the debt more difficult.
- Mental health problems are also a common consequence of problem debt, with both the debt itself and the actions of creditors contributing to psychological symptoms. People with mental health problems who are also in financial difficulty frequently report feelings of hopelessness and people in problem debt are twice as likely to think about suicide as those not in financial difficulty.⁴
- Financial difficulty drastically reduces recovery rates for common mental health conditions, which as well as carrying a heavy human cost, increases demand within the health and social care system and reduces national productivity.

¹ Jenkins R et al. Debt, income and mental disorder in the general population. *Psychological Medicine* 2008; 38: 1485-1493.

² Jenkins R et al. Mental disorder in people with debt in the general population. *Public Health Medicine* 2009; 6, 3: 88-92.

³ Holkar M. Seeing through the fog: how mental health problems affect financial capability. Money and Mental Health Policy Institute. 2017

⁴ Meltzer H et al. Personal debt and suicidal ideation. *Psychological Medicine* 2011; 41, 4; 771-778.

“The relentless managing & dealing with financial issues, compounded my already weak state, physically and mentally... If only I could have had some breathing space or a sabbatical allowed, that enabled a period to convalesce, recovery could have been sooner, with a fitter mind to make decisions.”

Access: the characteristics of breathing space participants

1. 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 believe that the Government should use the Financial Conduct Authority’s definition of financial difficulty – that is that payments for any credit commitments or domestic bills have been missed in any three or more of the last six months.⁵ This will ensure consistency across the financial services industry, and in particular maximise the compatibility of the new breathing space scheme with any existing schemes in place from individual firms which will be based on the FCA definition.

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

At a minimum, the scheme should be open to anyone who meets the FCA definition of financial difficulty and who is accessing debt advice. However, the benefit of the scheme would be increased were it to also be made available to those who are over-indebted but who have not necessarily missed sufficient payments to be considered to be in ‘financial difficulty’ by the FCA definition.

Individuals are frequently also considered ‘over-indebted’ if they find keeping up with bills and credit commitments is a heavy burden. In some cases, people may find they are financially over-stretched, but go to extraordinary lengths to avoid defaulting on credit payments – including going without essentials, such as food or heating. At present 8% of the population are considered to be in financial difficulty, and a further 7% are considered to be over-indebted.⁶ Widening eligibility to ensure that people who are over-indebted but do not meet the definition of financial difficulty are also eligible for breathing space could be an important way of encouraging them to seek help, improving health outcomes and reducing the likelihood that they will end up in financial difficulty.

Experiences of debt can vary significantly between individuals; what may feel manageable for one person may be entirely overwhelming for another. For this reason we believe that an element of discretion is important when determining eligibility.

⁵ Financial Conduct Authority, Understanding the financial lives of UK adults, 2017

⁶ Financial Conduct Authority, Understanding the financial lives of UK adults, 2017



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

We believe that regulated debt advisors are best placed to exercise this discretion.

- Are there any other entry criteria and/or exemptions the government should consider?

As covered in more detail below, we believe that breathing space should also be triggered for anyone in the care of a mental health crisis team, or receiving mental health treatment in an inpatient setting.

Entry: the trigger point for starting a breathing space

2. What should be the trigger point for a breathing space? In particular:
 - Should a breathing space only be available for a person who seeks regulated debt advice?

Focusing the breathing space scheme on people who are accessing regulated debt advice will provide a helpful incentive to accessing support. However, we believe that there are some exceptions where an individual may be unable to access debt advice, but where breathing space would be both appropriate and helpful.

Specifically, such a policy would be extremely beneficial for people who are experiencing a mental health crisis. Mental health crisis can emerge suddenly, without people having chance to put alternative arrangements in place, and can quickly lead to severe financial difficulties. During a crisis, people are often completely unable to engage in financial management. Pressing pause on fees, charges and interest which may accrue while a person is too unwell to manage their own finances would allow both service users and healthcare staff to focus on treatment, and would promote recovery. Without this step, our research has identified that many people are discharged from psychiatric hospital to confront mounting debts, putting their mental health under additional pressure at a time were they are most in need of support. Providing a window of breathing space would also reduce the likelihood of these debts escalating out of control, reducing defaults, homelessness and other related issues.

We recommend extending eligibility for the breathing space scheme to anyone who is under the care of a mental health crisis team or receiving mental health treatment in an inpatient setting, regardless of whether they are already in financial difficulty. A quarter of people with mental health problems are in financial difficulty, and amongst those in mental health crisis this is likely to be much higher. Applying breathing space to everyone experiencing a mental health crisis would both remove the need to establish the detailed financial circumstances of a person in this difficult situation before offering help, and act as a preventative measure to protect people from the financial harm that is often caused by a crisis itself. Some financial services firms already offer this additional support; extending it to all creditors (including in the public

sector) would provide much-needed consistency for individuals and carers. This breathing space scheme would also provide a helpful prompt for mental health professionals to refer service users to debt advice as part of their ongoing care plan on discharge from hospital or the care of a crisis team. We recommend that those who have accessed breathing space as a result of a mental health crisis should remain eligible for the main breathing space scheme if they meet the criteria.

- Should individuals have demonstrated they have already taken steps to try to manage their debt?

For people who are receiving mental health support either in an inpatient setting or through a crisis team, it would not be appropriate to seek evidence that they have taken steps to manage their debt before they become eligible for breathing space. People in receipt of these services are experiencing acute mental health problems which are likely to reduce their ability to take active steps to manage their debt.

For those accessing regulated debt advice, accessing the advice in itself should be sufficient evidence that the individual is taking steps to help manage their debt.

- At what point should the six weeks start – for instance: once a breathing space has been requested, when the first advice session has occurred, or once advisor has confirmed a breathing space would be appropriate?

The barrier to the activation of breathing space should be minimal, to encourage people to take advice. As collecting information to assess the appropriateness of various debt solutions may take time, we suggest that breathing space should be started after the first advice appointment so the time can be used to put together a longer term debt solution.

Features of a six-week breathing space

5. What activities must the breathing space participant continue with to remain eligible? For instance:

- Should they be required to attend advice sessions?

Half of people in problem debt are also experiencing mental health problems. Activity requirements on those eligible for breathing space should take the implications of this into account. Expecting participants to seek debt advice, when this is the aim of the incentive, is fair, but care should be taken to maximise the accessibility of debt advice to ensure that breathing space is available to even the most vulnerable groups. If due care is not taken, the creation of a breathing space scheme could reinforce societal inequality around problem debt - widening the gap in outcomes for people with mental health problems.

While government funding of debt advice has increased its availability, some population groups, including people experiencing mental health problems, continue to struggle to access suitable advice provision. Busy advice services with long waiting lists, which rely on clients to complete volumes of paperwork themselves following advice sessions, are not suitable for some people experiencing mental health problems. A broader approach to advice provision is needed, including co-location and integration of medical and advice services. Timely, warm referrals, from health services, sharing information (with service user consent) and link workers or peer supporters to help people access support significantly improve the likelihood of engagement with debt advice and the likelihood that financial difficulties can be resolved.

It should also be understood that the fluctuating nature of many mental health problems will mean that some people will not be able to consistently attend advice appointments. It would be inappropriate for people in these circumstances to face a further financial penalty for being unwell by losing their ineligibility for breathing space.

11. Who would be responsible for notifying creditors that a customer has entered a breathing space? What updates are required during the breathing space period?

It is important that the emphasis is not solely on the consumer themselves notifying their creditors that they have entered a breathing space. As previously stated, half of people in debt are experiencing mental health problems; this group are significantly more likely to have difficulty communicating with their creditors and may rely on a carer or loved one to support them. It would be appropriate for a representative of the consumer (for example a carer, peer supporter or advice worker) to be permitted to notify creditors, and for some people this could count as a reasonable adjustment under the Equality Act.

As the proposed breathing space period is very short, we suggest that no updates to creditors should be required, but instead progress reviewed at the end of the period.

14. What benefits could creditors see as a result of a statutory breathing space scheme?

Money and Mental Health's research has found that most people remain very keen to make payments towards their debt, even when experiencing serious mental health problems or financial hardship. Many people derive an important sense of dignity and self-efficacy from working through the situation and finding a resolution. However when things go wrong people often find it difficult to reach out to creditors and work through a way forwards themselves – particularly if they are experiencing a mental health problem which can make communicating with other people more difficult. We believe that a breathing space scheme would provide more consumers with the time, space and support needed to set up effective repayment plans with their creditors.

Most creditors do not want to apply fees or charges, or to continue with collections activity, when a customer is experiencing a mental health crisis. Extending the statutory breathing

space scheme to this group would provide creditors with a straightforward way of supporting this group, and reduce the risk that they will cause serious harm including suicidality.

“It was not as though I did not want to make repayments, as I did, but trying to make them whilst under huge mental stress made me very ill.”

17. Should a breathing space be extended to Wales and Northern Ireland as well as England?

Yes – a higher proportion of the population in Wales and Northern Ireland are classed as financially vulnerable, with nearly 700,000 people in these regions over-indebted.⁷ Applying the breathing space scheme to Wales and Northern Ireland would provide helpful consistency for consumers, creditors and debt advisors.

After a breathing space: statutory debt management plans

20. What protections should apply during the statutory repayment plan?

- For instance, should it protect debtors from interest and fees and charges, or just a selection of the three? If a selection, which of these three should be prioritised?

Ideally the statutory repayment plan would include protections from interest, fees and charges, to protect consumers from the harm caused by escalating debt and provide an incentive to taking part. However, of these we would prioritise fees, charges and collections action, which can quickly escalate and cause serious detriment. Accrual of interest, which can be paid off as an extension of credit over time, is a less immediate issue if the rate of interest is fair.

23. Should the repayment plan apply to all debt?

Experience in Scotland suggests that extending plans to cover all debts can cause serious difficulties, particularly for individuals who owe money to friends and family members or who are in rent arrears.⁸ We therefore believe the repayment plan should exclude housing arrears and loans from friends or family members.

27. What activities must the statutory debt repayment plan participant continue with to remain eligible? Must they simply meet agreed repayments to remain eligible?

The activity requirements for continued eligibility for the scheme should be minimal, so as not to diminish the attractiveness or effectiveness of the tool, or to cause specific disadvantage to participants who face barriers to taking part, for example people with mental health problems.

One circumstance where people are likely to particularly struggle to engage is during a mental health crisis. While in hospital for a mental health problem, or under the care of a community

⁷ Morawiec J, Little S and Kinloch C. A Picture of Over-indebtedness. Money Advice Service and CACI, 2016.

⁸ Gregory, R. Setting the pace: Scotland's Debt Arrangement Scheme (DAS). Christians Against Poverty. 2017.

crisis team, a person's health must be the first priority. During severe episodes of poor mental health, a person's cognition and emotions are likely to be affected to such a degree that they cannot properly engage with any process apart from essential medical help. Steps should be taken in the design of any programme to ensure that people who are unable to engage at a certain point for medical reasons are not penalised.

28. How should changes in income be dealt with? Should it be possible to suspend a plan or have reduced payments for a period of time?

As the government's consultation document acknowledges, changes in income are often beyond the control of an individual. The design of the scheme must recognise that people in statutory debt management plans face the same risks to earnings as other people, and ensure that there are systems in place to provide support through this time. As is currently the case in an IVA, the scheme should include the ability to suspend or reduce payments for a period of time.

This is particularly important for a person who experiences a period of poor mental health, who may become unable to engage at the same time as facing a loss of income. It is important not to assume that non-communication and non-payment is a wilful break with the agreement and proceed in a sensitive fashion.

29. What happens if a plan fails? Should creditors be able to apply any interest, fees or charges that they were prevented from charging during the plan?

The government's consultation document accepts that most problem debt is caused by circumstances beyond an individual's control – like sudden loss of employment, illness or a relationship breakdown. Most consumers enter a debt repayment plan in good faith, and failures are often attributable to the same issues beyond a person's immediate control. Imposing interest, fees or charges accrued during the plan if a plan fails can therefore be seen as a punishment for attempting to engage and solve the problem, and could undermine the positive incentive to seek help which breathing space aims to create. Suddenly being charged backdated fees, charges and interest accrued over a period of months or even years could have a serious detrimental impact on a person's mental health, as well as significantly harming their chances of ever successfully repaying the debt.

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

Yes – as discussed above, a higher proportion of the population in Wales and Northern Ireland are classed as financially vulnerable, with nearly 700,000 people in these regions over-indebted.⁹ Applying the statutory debt management plan to Wales and Northern Ireland would provide helpful consistency for consumers, creditors and debt advisors.

⁹ Morawiec J, Little S and Kinloch C. A Picture of Over-indebtedness. Money Advice Service and CACI, 2016.



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Money and Mental Health will be publishing new research on the financial impacts of mental health crisis in February 2018. This will include further details on our proposal for a breathing space scheme for people experiencing a mental health crisis. We will supply this evidence to the Treasury, and we hope that it will be considered alongside submissions to this call for evidence. For further details contact helen.undy@moneyandmentalhealth.org.