

## Money and Mental Health's submission to the Scottish Government's consultation on a Mental Health Moratorium

### **Mental health eligibility criteria**

#### **1. Do you agree with the proposed initial mental health eligibility criteria?**

Disagree

#### **Please add any further comments on this proposal in the box below:**

The Money and Mental Health Policy Institute supports the decision to align eligibility with existing mental health legislation. We also recognise that individuals receiving treatment with an element of compulsion under the listed provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 are likely to include those with the most severe mental health problems who face significant risk of financial harm.

While we understand the above stated rationale for starting with this group, as outlined in our response to Q1a, we believe restricting the eligibility criteria just to those who receive treatment with an element of compulsion is too narrow.

#### **1a. If you believe the proposed mental health criteria are too narrow, please suggest an alternative that could be measured fairly and easily implemented.**

In addition to those receiving treatment with an element of compulsion, Money and Mental Health believes the eligibility criteria should be expanded to individuals who are experiencing a mental health crisis but receiving care and treatment on a voluntary basis.

This would provide parity with the eligibility criteria for Mental Health Crisis Breathing Space (MHCBS) in England and Wales, where anyone who is receiving crisis treatment - be that via a crisis house, crisis home treatment team, community mental health team or in hospital either compulsorily (under the Mental Health Act) or voluntarily.

If the Scottish Government does adopt the proposed eligibility criteria, at the very least, we would like to see them commit to reviewing these criteria after a reasonable period of time has lapsed following the introduction of the Mental Health Moratorium. And if the review suggests it is preventing those who would benefit from this protection from receiving it, use the flexibility of this process being drafted in secondary legislation to amend the eligibility criteria.

### **Debt level eligibility criteria**

#### **2. Do you agree that no minimum debt level should be set for the eligibility criteria?**

Agree

**3. Do you agree that there is no need to establish the individual's financial position at the application stage?**

Agree

**Please add any further comments on this proposal in the box below:**

As a member of the Mental Health Moratorium Working Group, we suggested that while no minimum debt level should be set for the eligibility criteria, adopting the approach taken for the Mental Health Crisis Breathing Space in England and Wales where an adviser confirmed 'the applicant is unable, or is unlikely to be able, to repay some or all of their debts as it falls due' seemed sensible.

However, upon reviewing the Scottish Government's suggestion, we support this approach given its potential to create an even more seamless application process for the individual applying.

**The proposed role of the Mental Health Professional at the application stage**

**4. Do you think the proposed role of the Mental Health Professional at the application stage is appropriate?**

Yes

**Please add any further comments on this proposal in the box below:**

The England and Wales MHCBS has the potential to assist tens of thousands of people each year, and prevent problem debt and consequent collections activity hindering their recovery. Yet the latest statistics show that just 1.6% (3,190) of all Breathing Space applications made between May 2021 and November 2023 have been for the MHCBS mechanism. The service as it is currently configured is falling significantly short of reaching HM Treasury's forecasts of 27,500 MHCBS applications in 2021-22, rising to 54,000 by 2030-31.

This shortfall is not a reflection of the level of need for the service, but is indicative of implementation challenges, including process difficulties whereby Approved Mental Health Practitioners are the only professionals who can sign off that a person is in crisis and therefore eligible for the scheme. This has also meant there is more generally a low awareness of the scheme among a wider range of professionals.

Money and Mental Health therefore supports the Scottish Government's decision to enable different Mental Health Professionals to sign off on a Mental Health Moratorium application. A range of different professionals can be involved in an individual's crisis care, and ensuring that they are all able to facilitate entry to this scheme, removes one of the barriers that individuals in England and Wales can face to accessing MHCBS.

We would also ask the Scottish Government to further broaden the definition of other professionals who could sign off on a mental health moratorium, to include those with

equivalent years experience in a mental health crisis role, as well as those of equivalent standing and professional qualification. Enabling a wider pool of professionals to sign off on a Mental Health Moratorium will also help build mental health professionals' awareness of it, in turn supporting take-up.

**4a. Do you think the proposed role of the Mental Health Professional at the application stage is practical?**

Yes

**Please add any further comments on this proposal in the box below:**

While the proposed role of the Mental Health Professional at the application stage is practical, introducing an additional measure - routinely offering the Mental Health Moratorium to people receiving eligible treatment - would support a greater number of people to receive this protection.

As it stands, for an individual to be referred for a Mental Health Moratorium there is still the expectation that they will either disclose experiencing financial difficulties, or that a mental health practitioner will take the initiative to make this inquiry. However, our research [Bond N and D'Arcy C. The state we're in: money and mental health in a time of crisis. Money and Mental Health Policy Institute. November 2021] has shown that only one in five people with mental health problems had disclosed details about their financial circumstances to a health or social care professional, and less than three in ten people had a health and social care professional proactively ask about their finances.

Given the high levels of problem debt among people who are experiencing a mental health crisis, automatically offering this protection to anyone receiving mental health crisis treatment would act as a preventative measure to shield people from the financial harm that is often caused by a crisis itself. And reduce the risk of financial difficulties not being disclosed by an individual, or identified by a mental health practitioner in the first place.

**The proposed role of the debt adviser at the application stage**

**5. Do you think the proposed role of the debt adviser at the application stage is appropriate?**

Yes

**5a. Do you think the proposed role of the debt adviser at the application stage is practical?**

Yes

**Connecting the Mental Health Professional to the debt adviser**

**7. Do you believe that specialist debt advice and support is required for frontline debt advisers for their involvement with the Mental Health Moratorium process?**

Yes

**Please explain the reason for your answer in the box below:**

Our previous research [Bond N and Holkar M. Help Along the Way: Making debt advice accessible to people with mental health problems. The Money and Mental Health Policy Institute. July 2020] has shown the challenges people with mental health problems can face when engaging with debt advice. Research Community members often feel as though advisers fail to understand how their condition could affect their financial circumstances. If advisers don't accurately assess how symptoms can affect a person's ability to complete tasks, for instance struggling to maintain concentration during lengthy advice sessions, it can lead to clients being overwhelmed. And long and technical confirmation of advice letters can be difficult to process if you are having trouble concentrating, with increased impulsivity or a lack of motivation – both common symptoms of mental health problems – making it harder to stick to a debt resolution plan.

We therefore believe that a dedicated unit experienced in supporting those with mental health problems in debt, would provide a more effective service for recipients of the Mental Health Moratorium. This, in turn, would help ensure a more sustainable financial outcome for them.

It's important that adequate funding and resources are provided to make this a reality, however. As it stands, capacity within the sector is already stretched, and expecting this more specialist support to be delivered without the financial backing to facilitate this is unrealistic.

### **Consenting to a Mental Health Moratorium**

**8. Do you agree that a Mental Health Moratorium application should only be consented to by the individual, a power of attorney or guardianship?**

Agree

### **Period of protection**

**10. Do you agree with the proposed period of protection?**

Agree

**Please add any further comments on this proposal in the box below:**

With wide variation in how long mental health crises last, putting a time limit on the scheme's protections would be arbitrary and counterproductive. Cutting support during a mental health crisis risks exacerbating that person's difficulties with their mental and financial health. This is why we support the Scottish government's decision to align the length of protection with the length of someone's treatment.

As a member of the Mental Health Moratorium working group we recommended that the recovery period should be aligned with that of the standard moratorium, to ensure there was parity between the protections in place. However, we also recognise, as the Scottish government does, that people coming out of a Mental Health Moratorium might need longer to resolve their debts than those coming out of a standard one, and when the standard recovery period is therefore reduced, this might not be an adequate length for those with such conditions.

We therefore support the proposal to set this at six months, and maintain this when the standard period is reduced. This is another area, though, that we would like the Scottish government to review and use the flexibility of secondary legislation to amend if, upon implementation, an alternative would appear to be more appropriate.

### **Obligations on the creditor**

#### **11. Do you agree with the proposed approach to the qualifying debts?**

Agree

### **Interest and charges**

#### **12. Do you agree that interest and charges should not be added to the individual's debt during the full period of their Mental Health Moratorium, i.e. frozen?**

Agree

#### **Please add any further comments on this proposal in the box below:**

When a mental health crisis emerges suddenly, people can be left without a chance to put alternative arrangements in place. This can quickly lead to them experiencing severe financial difficulties. During a crisis, people are often completely unable to engage in financial management. The result can be people leaving hospital and being confronted with mounting debts, putting their mental health under additional pressure at a time when they are most in need of support.

We, therefore, support the Scottish government's proposals for the Mental Health Moratorium to include a pause on fees, charges and interest which may accrue while a person with mental health problems is too unwell to manage their own finances. This would reduce the likelihood of these debts escalating out of control, minimising defaults, homelessness and other related issues, while allowing both service users and healthcare staff to focus on treatment, in turn promoting recovery.

### **Creditor consequences**

#### **15. Do you agree with the proposed position on creditor consequences for not adhering to a Mental Health Moratorium?**

Agree

### **Creditors rights to challenge a Mental Health Moratorium**

**16. Do you agree with the proposed position on the creditor's right to challenge the granting of a Mental Health Moratorium?**

Agree

### **Interaction with a standard moratorium**

**22. Do you agree with the proposed position on how the Mental Health Moratorium will interact with a standard moratorium?**

Agree

**Please add any further comments on this proposal in the box below:**

The proposals to not limit the number of applications an individual can make for a Mental Health Moratorium is especially welcome for people who have severe and enduring mental health problems, such as schizophrenia, bipolar or a personality disorder, and for who episodic crises may be a recurring feature of their illness

### **Additional questions**

**23. We would be grateful for your views on how best to promote the Mental Health Moratorium**

**Please provide your views in the box below:**

As discussed in our response to Q4a, a key way to increase awareness of the scheme and its take up, is to embed a routine offer of such a mechanism to those receiving eligible mental health treatment.

**24a. Would you be happy for officials to contact you to discuss your response if we want to explore your comments in more detail?**

Yes