

Breathing Space debt scheme

Briefing for frontline services

About

This briefing provides basic information about the Breathing Space debt respite scheme for people in England and Wales. Our thanks go to colleagues at StepChange debt charity for providing this information.

Overview of Breathing Space

On 4th May 2021, a new statutory scheme came into action to support people living in England and Wales with problem debt. There are two types of breathing space: a standard breathing space and a mental health crisis breathing space. [Guidance](#) from the Government's Insolvency Services states:

'A standard breathing space is available to any client with problem debt. It gives them legal protections from creditor action for up to 60 days. The protections include pausing most enforcement action and contact from creditors and freezing most interest and charges on their debts.'

A mental health crisis breathing space is only available to a client who is receiving mental health crisis treatment. If an Approved Mental Health Professional (AMHP) certifies a client is in mental health crisis treatment, the client or someone else might ask you for a mental health crisis breathing space on the client's behalf. The mental health crisis breathing space has some stronger protections than the standard breathing space. It lasts as long as the client's mental health crisis treatment, plus 30 days (no matter how long the crisis treatment lasts).'

People entering either scheme receive legal protections that prevent creditors from doing any of the following things during the breathing space period:

- Adding further interest onto a debt
- Adding further fees, charges or penalties to a debt
- Take new enforcement action to recover a debt, including contacting the person about recovery of the debt.

The standard breathing space scheme aims to give people time to work with a debt adviser to find a long-term debt solution. For a significant number of people this will be an important route to long term recovery; by agreeing with creditors to freeze any further interest, charges or action, people are able to stabilise their financial situation.

Eligibility for the scheme

To be eligible for a breathing space scheme, the person must have at least one qualifying debt, be unable to make payments when they are due, and be deemed to be likely to benefit from the scheme. They must also meet some basic eligibility requirements including being resident in England or Wales, not already being in receipt of a statutory debt solution, and not having had a standard breathing space in previous 12 months.

Qualifying debts include:

- ✓ credit agreements
- ✓ arrears on household bills
- ✓ rent arrears
- ✓ council tax arrears

Non-eligible debts include:

- × secured debts like mortgages and hire purchase agreements (although arrears are covered)
- × court fines (but penalty charge notices, like a parking ticket, can be a qualifying debt)
- × child maintenance
- × social fund loans
- × advance payments of Universal Credit (at present)

For a full list of qualifying and non-eligible debts visit:

<https://www.stepchange.org/how-we-help/applying-for-breathing-space.aspx>

Accessing the scheme

People apply for the standard breathing space through a debt advice provider, regulated by the Financial Conduct Authority, or a local authority providing debt advice. A debt advisor will then assess whether someone is suitable for the scheme.

There is no charge for applying for breathing space and the application process is designed to get people to the help quickly.

Protections from the scheme

During a breathing space the individual will be protected against enforcement action on eligible debts. This could include:

- court action
- issuing of warrants
- disconnecting gas or electricity
- serving a notice to take possession, or take possession, of a property on grounds of rent arrears
- bailiffs cannot take control of goods

Whilst on the scheme, benefit deductions for third party debts (except ongoing liabilities payments – see below) should pause, however deductions from Universal Credit are not yet included in the scheme. Pre-

existing deductions from wages ('attachment of earnings') that started before the breathing space period can continue.

Requirements during breathing space

The breathing space scheme rules include a requirement for people to keep up with payments to '**ongoing liabilities**' such as rent, mortgage, council tax and utility bills. Debt advisers have discretion to keep breathing space going where a person cannot pay ongoing liabilities if ending breathing space would be unfair or unreasonable. However creditors can take action to recover arrears on ongoing liabilities that build up when someone is in the standard breathing space period.

The end of a breathing space

A standard breathing space ends after 60 days. It could end sooner if a debt advisor or court cancels it or if the debtor dies. A mental health crisis breathing space ends 30 days after the debtor's crisis treatment ends or 30 days after a debt advisor has had no response from a nominated point of contact regarding the debtor's ongoing treatment.

When a breathing space ends, the person will receive written notification of the end date and/or reason for cancellation. From the date the breathing space ends, the scheme protections will end but creditors cannot backdate any fees, interest, penalties or charges (unless via a court). However where a person has entered another statutory debt solution (for instance, a Debt Relief Order, Bankruptcy or an IVA) those scheme protections will apply.

The Debt Respite Scheme

Breathing Space is the first part of a broader **Debt Respite Scheme** set out in the financial guidance and Claims Act 2018. A second 'follow on' scheme, the **Statutory Debt Repayment plan**, is due to be introduced in 2024, and will provide a potentially much longer period of statutory protection with the aim of giving people more time to recover and pay off their debts in an affordable way.

Further Information

Breathing Space regulations

<https://www.legislation.gov.uk/ukxi/2020/1311/contents/made>

Debt Advice Foundation

<https://www.debtadvicefoundation.org/debt-tools/debt-analyser/>

Government guidance on Breathing Space

<https://www.gov.uk/government/publications/debt-respite-scheme-breathing-space-guidance>

National Debtline

<https://tools.nationaldebtline.org/dat-reg>

StepChange debt charity

<https://www.stepchange.org/>



What we do

Homeless Link is the national membership charity for frontline homelessness services. We work to improve services through research, guidance and learning, and campaign for policy change that will ensure everyone has a place to call home and the support they need to keep it.

Let's end homelessness together

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