

Breathing Space and Statutory Debt Management Plans- What StepChange Debt Charity want to see in the Government's proposed scheme

Purpose of this document

StepChange Debt Charity, along with others, has been campaigning for the introduction of a 'Breathing Space' scheme to help people in problem debt for a number of years. This would give people protection from interest, charges, collections and enforcement action whilst they seek debt advice, and whilst repaying their debts.

We were therefore pleased to see the Conservative manifesto commit to introducing a 'debt respite scheme', with legislation for doing so now set out in the Financial Guidance and Claims Act 2018.

We understand that the 'debt respite scheme' being proposed by Government will include two elements: an initial *Breathing Space scheme* and a *Statutory Debt Management Plan (SDMP)*. We welcome this.

In October 2017, the Treasury released a Call for Evidence on the scheme, and in its response to this (in June 2018) committed to publishing a further, detailed consultation on the exact design of the scheme. We expect this consultation to be released before the end of October, and for a regulation making process to follow this.

In anticipation of the consultation being released, this short briefing sets out how we think the scheme needs to be designed to be effective (in effect what we wish to see, or not see, in the Government's proposed scheme design). This is based on our extensive research and our insight in supporting people in problem debt, including administering Debt Management Plans in England and Wales, and the Debt Arrangement Scheme in Scotland. We hope the document will be a helpful reference point by which to review the scheme proposal when released by the Government.

We will provide further analysis once the consultation is released, but hope this briefing will be useful in the meantime. If you have any questions, or would like further information, please contact Mark Haslam, Senior Parliamentary and Public Affairs Officer, mark.haslam@stepchange.org

What are the key features of help needed to protect people from worsening debt?



Built on effective, regulated debt advice. The independent debt advice provided by charities like StepChange helps hundreds of thousands of people every year. The Breathing Space scheme should build on well-established approaches we have with creditors that are already very effective.



All debts must be included, including debts to Government. There is clear consensus on this, the Treasury Committee has suggested people will only be helped to regain control of their finances if Breathing Space covers household bills like council tax and monies owed to central government.



Putting people on the road to recovery to resolve problem debts. Breathing space should be capable of being extended, or rolled-over if a debt solution or repayment plan needs a little more time to be finalised.



Ensure tailored plans for individual circumstances. Creditors often already accept 'token payments' when there's a good chance of financial recovery, Breathing Space should embed this principle, allowing short-term shocks to pass through before repayments begin.



Debt pressures intensify through continued charges or bailiff enforcement. To support financial recovery, it's crucial that Breathing Space is not just from interest and charges but a relief from ALL the main drivers of worsening debt problems.



Burdensome or unworkable for debt advisers: An independent body might be necessary as a backstop to monitor operation of the scheme and resolve any disputes. However, intrusive every-day interventions in the process would be overly burdensome and create unreasonable costs.



Barriers stop people from accessing the scheme. Entry to the scheme should be based on need, there should be no general exclusions. We oppose a public facing register, which has been shown to put people off getting help with debts, and Breathing Space must be free to access, there must be no application charge.

Appendix 1: Further information on what StepChange would like to see in the proposed scheme

| Aspect of scheme | StepChange expectations |
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| <i>Applicable to both Breathing Space and Statutory Debt Management Plan (SDMP) elements</i> | |
| Protection offered by scheme | The scheme must offer protection against both further interest and charges; and protection against enforcement action. One without the other will not be effective. |
| Interest and charges | We expect the schemes to protect people from default charges and new interest accruing to an account. |

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| | <p>The scheme would not stop people being liable for contractual interest (e.g. that agreed on a consumer credit loan or the interest on a mortgage payment) but it would stop any additional interest or charges being added as a result of defaults or missed payments.</p> |
| <p>Protection from collections and enforcement activity</p> | <p>Both schemes should stop collections <i>and</i> enforcement activity.</p> <p>This means creditors stopping collections activities such as calls, letters, visits and other communication aimed at recovering money.</p> <p>Protection from enforcement action should cover a range of areas including, but not limited to:</p> <ul style="list-style-type: none"> • No new court action can be started in respect of a debt in the scheme, and any court action that has started must be ‘stayed’ (halted). • Bailiffs and other statutory enforcement powers cannot be used in relation to a debt in the scheme. • Any deductions from benefits or other income to recover outstanding debt must be stopped. |
| <p>All debts, including those to government, must be included</p> | <p>All debts a person owed should be included in the scheme – including public sector debts.</p> <p>There is a clear consensus on the importance of this, with the Treasury Select Committee recently stating they ‘can only offer its support for the scheme if its scope is expanded accordingly [to include all Government debts]’.ⁱ</p> <p>However, we do acknowledge that the scheme may make provision for a debt not to be included, in a limited range of circumstances – for example where it is in the applicant’s interest for a debt to be excluded (e.g. rent arrears – more information on this in section on priority debts below).</p> |
| <p>Entry to scheme</p> | <p>There must be no application charge to enter the scheme, and no other unnecessary barriers to entry. We would also not support a public facing register / record of Breathing Space or Statutory Debt Management Plans, as our experience of the Debt Arrangement Scheme in Scotland suggests this would put people off from seeking this solution as a way of repaying their debts.</p> |
| <p>Eligibility</p> | <p>We would not be able to support a scheme that imposed too strict eligibility criteria. For both Breathing Space and Statutory Debt Management Plans, we want eligibility to be based on need (e.g. inability to deal with debts reasonably without hardship) rather than eligibility being set based on any arbitrary factors (such as the level of debt someone has, or the amount of money available in their monthly budget to repay debt with).</p> |
| <p>Creditor objections</p> | <p>The conditions for creditors being able to object to someone entering Breathing Space or a Statutory Debt Management Plan should be reasonably</p> |

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| | tightly drawn and dealing with objections should not create unreasonable costs for providers. |
| <i>Applicable to Breathing Space Scheme only</i> | |
| Continuity of protection | <p>In our view, an effective breathing space scheme should provide: time to get advice on the best way to resolve problem debts; time to recover from temporary financial difficulties and enter into a statutory debt solution, if appropriate; and time to pay debts at a manageable rate. Our evidence shows that to be effective the breathing space protection should be continuous across all three stages. Therefore, whilst a 6 weeks breathing space scheme (as proposed in the Conservative manifesto) is a welcome step, we believe there needs to be flexibility for a debt adviser to recommend a 'roll-over' into a subsequent breathing space period, or an extension period to ensure continuous protection is provided.</p> <p>When the consultation is released, we will be looking to see that there is a continuity of protection, where that is needed through any of the stages of seeking and acting on advice outlined above.</p> |
| <i>Applicable to Statutory Debt Management Plan (SDMP) element</i> | |
| Inclusion of debts | <p>We want SDMPs to include all priority debts (e.g. rent or mortgage arrears, utility arrears, council tax arrears), so people repaying debts to public authorities and other priority creditors can benefit from statutory protection too.</p> <p>However, we would be comfortable with SDMPs containing some sort of priority / non-priority distinction (for example, so priority debts can be repaid first / receive a higher proportion of someone's monthly repayment across all their debts).</p> |
| Administration | <p>We see the new SDMP as 'putting a statutory protection wrap' around what StepChange (and others) already deliver when it comes to the current system of Debt Management Plans. With this in mind, we have urged the Government not to establish a new administration system to deliver SDMPs that would be overly-burdensome or add significant cost to delivery.</p> |
| Flexibility | <p>Even when someone is on a repayment plan, they can still experience changes in their income or budget. An effective SDMP will have some flexibility built in to allow for this – for example, allowing a regulated debt adviser to vary repayments where someone has a temporary income loss.</p> |

ⁱ Treasury Select Committee (2018) *19th Report - Household finances: income, saving and debt*, p.22