

# DEBT RESPITE SCHEME

## All the facts and how to apply



**The Debt Respite Scheme (Breathing Space) is available for people dealing with unmanageable debt in England and Wales. Breathing space will stop most creditors from taking further action while you get advice on long term debt solutions.**

If you are living in Scotland or Northern Ireland where the new scheme does not apply, please contact our Money Advice and Guidance Service for further information on options for dealing with your debts.

### WHAT IS BREATHING SPACE?

Breathing space is an intervention introduced by the Insolvency Service which allows debt clients to apply for a legal moratorium from creditors while they seek advice on long-term solutions for debt issues. There are two types of breathing space:

#### Standard breathing space

This will apply to individuals living in England and Wales who owe at least one qualifying debt and are unable, or likely to be unable, to repay some or all of their debts as they fall due. The scheme will provide protection from most enforcement action and contact from creditors along with a freeze on interest, fees and charges. This will last for a period of 60 days for all debts included whilst a debt client is engaging with a debt advice provider to find a debt solution.

#### Mental health crisis breathing space

This will apply to individuals who are in mental health crisis treatment, living in England and Wales who owe at least one qualifying debt and are unable, or likely to be unable, to repay some or all of their debts as they fall due. The protection is the same as for the standard breathing space and will last for as long as a client is in mental health crisis treatment, plus an additional 30 days after treatment has ended.

#### To be eligible for a standard breathing space you must:

- **Be an individual**
- **Owe a qualifying debt to a creditor**
- **Live or usually reside in England or Wales**
- **Not have a Debt Relief Order (DRO), an Individual Voluntary Arrangement (IVA), an Interim Order or be an undischarged bankrupt at the time of application**
- **Not already have a breathing space**
- **Not have had a standard breathing space in the last 12 months at the time of application**

Eligibility for the mental health crisis breathing space is the same as for the standard except, there is no limit to the amount of times a client can be in a mental health crisis breathing space.

## HOW TO APPLY

Applying for **breathing space** is free and must be made through a debt advice provider. Any debt advice provider offering this service must be authorised by the Financial Conduct Authority to offer debt counselling, or be a Local Authority providing debt advice to residents.

A debt client, or person with power of attorney, can contact a debt advice provider to start breathing space. Then, the adviser will act as the contact between the client, creditor (and their appointed agents) and the Insolvency Service who maintain the electronic register for breathing space. The debt adviser will need to consider not only whether the debt client is eligible, but also whether breathing space is an appropriate measure for them.

A client can refer themselves for a mental health crisis breathing space but only an Approved Mental Health Professional (AMHP) can provide the evidence that a client is receiving mental health crisis treatment. They do this by completing the Breathing Space Evidence of Mental Health Crisis Treatment form which is submitted to a single point of entry for the scheme provided by the [Money and Pensions Service](#) (MaPS).

The Approved Mental Health Professional will act as the nominated point of contact for the debt adviser. However, they do not need to provide information about debts, so the debt adviser must verify that the client has at least one qualifying debt before applying for a mental health crisis breathing space.

## WHICH DEBTS ARE INCLUDED?

### Qualifying Debts

Most debts are likely to be qualifying debts and they are the same for both types of breathing space. These include:

- Credit cards
- Store cards
- Personal loans
- Pay Day loans
- Overdrafts
- Council tax, including if a 'reminder notice' has been served for the current year
- Arrears on utilities
- Arrears on secured loans (mortgages, hire purchase/conditional sale agreements)
- Tax and benefit debts unless they are excluded
- Joint debts – even if only one of the parties goes into the scheme
- Guarantor loans – although the guarantor will not be protected unless they enter into their own breathing space

### Excluded Debts

These debts will not be included in the scheme:

- Secured loans
- Debts incurred through fraud
- Liabilities to pay fines imposed by a court for an offence (this does not include PCNs/parking tickets)
- Obligations from a confiscation order
- Child maintenance or obligations under an order made in family court proceedings
- Crisis or budgeting loans from the Social Fund
- Student loans
- Damages due for death or personal injury
- Advance payments of Universal Credit
- Council tax liabilities that have not yet fallen due

## WHAT INFORMATION WILL I NEED TO PROVIDE FOR BREATHING SPACE

Your debt advice provider has an obligation not only to consider whether you are eligible for breathing space but also whether it is an appropriate measure to take. This means that you will go through the money advice process before your debt adviser can recommend a course of action. So, you will need to provide full information on your income, expenditure and debts before entering into a standard breathing space.

For a mental health crisis breathing space, your nominated point of contact (AMHP) may be able to provide this information. However, the debt adviser only needs to verify that you have one qualifying debt so you are not put at a disadvantage if you cannot provide full

information at the point of entering into a breathing space.

Before starting a mental health crisis breathing space a credit report must be obtained. Some organisations will be able to provide this for you with your consent.

Other information may include:

- Former names
- Previous addresses
- Creditor reference numbers
- Vehicle registration details
- National Insurance number

## IS MY DATA SECURE?

The Insolvency Service will hold your details on an electronic system. This is not a public register and only your debt adviser and the Insolvency Service will have access to all details. Creditors (and their agents) will have access to debt information that relates to their agreements but will be unable to see other creditor information. As the legislation requires only one standard breathing space can be entered into in any 12-month period, the information will be deleted from the register after 15 months.

If you have any other data concerns you should raise them with your debt advice provider who will be able to provide you with their organisational data protection policies.

### Persons at risk of violence

If you are at risk of violence, you should ask your debt adviser for your address to be withheld. However, this is not automatic and your debt adviser can refuse to do so.

If it is agreed that your address should be withheld, you will still need to share this with your debt adviser who will enter it onto the Insolvency Service electronic system. All other parties (including creditors) will be prevented from seeing those details.

## CAN DEBT ADVICE PROVIDERS BE CHANGED ONCE IN BREATHING SPACE?

It may be necessary for your debt adviser to refer you to another agency before starting breathing space. Reasons for this include not being able to offer the longer term solution that's appropriate for you, or lack of capacity to deal with the application. You can also be referred to another debt advice provider once the breathing space has started. However, the breathing space time limits will not be suspended and the breathing space will continue to run.

## WHAT ARE MY RESPONSIBILITIES WITH A BREATHING SPACE?

Breathing space is not a debt solution in itself but rather an intervention that legally allows you the time to engage with a debt advice provider to find a long term debt solution, if it's possible.

You will need to:

- Provide accurate information and not deliberately withhold information
- Tell your debt adviser if you discover any further creditors/debts after the breathing space has started
- Tell your debt adviser if there is any change in circumstances. This could be a new job, source of income, a problem paying ongoing liabilities or engaging with the debt adviser.
- Make any payment due in relation to ongoing liabilities
- Not to get any additional credit individually or jointly with another person (including overdrafts) that exceeds £500 at any point
- Engage with your debt adviser during the process, including the midway review

## WHAT HAPPENS WHEN BREATHING SPACE ENDS?

Breathing space can end for a number of reasons, which include where:

- You are unwilling/unable to engage with the money advice process
- You do not respond to the 'midway review' of your circumstances carried out by your debt adviser between 25-35 days into breathing space
- You have found and entered into an appropriate debt solution
- You have come to the end of the breathing space moratorium

Your debt adviser should tell you that the debts in breathing space are still owing and where they have not been written off or reduced, they must still be dealt with. Once your creditors have been notified that breathing space has ended they can resume interest payments, fees, penalties and charges from the date of the end of breathing space. They can also resume enforcement action (including contacting you) and commence or resume any legal action against you.

If you have entered into a debt solution like an IVA, DRO or bankruptcy you will benefit from the protections of those solutions.

**If you would like further information, or would like to consider entering into a breathing space, you can [apply now](#) or call our helpline on 0800 056 2424**