



**The Debt Respite Scheme (Breathing Space  
Moratorium and Mental Health Crisis Moratorium)  
(England and Wales) Regulations 2020 AKA  
“Breathing Space”**

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# Debt Respite Scheme

- Came into force WEF 4th May 2021
- [Guidance for Creditors](#)
- [Guidance for Money Advice Providers](#)

# What is Breathing Space and how does it work

- Legislation allowing people with problem debt the opportunity to take control of their finances and put them on a sustainable financial footing
- Breathing Space allows an applicant working with a Debt Advice provider a period (A Breathing Space Moratorium) to seek a solution to their debt problems e.g. A Debt Relief Order (“DRO”)
- During the period of the Breathing Space Creditors with “Eligible” debts captured by the Breathing Space are unable to undertake collection action e.g. Issuing Recovery letters / Undertaking Enforcement action

# Who Can Make the application for Breathing Space Moratorium

- A Debt Advice Provider authorised for the purposes of the Financial Services and Markets Act 2000
- A Local Authority

# Types of Breathing Space Moratorium

## Standard Breathing Space Moratorium

- Lasts 60 days
- Only 1 application allowed in a 12 month period

## Mental Health Crisis Moratorium

### Mental Health Crisis Treatment

- Sectioned under the Mental Health Act 1983 or
- Receiving any other crisis, emergency or acute care or treatment in hospital or in the community from a specialist mental health service in relation to a mental disorder of a serious nature. A ***“specialist mental health service” means a mental health service provided by a crisis home treatment team, a liaison mental health team, a community mental health team or any other specialist mental health crisis service that an Approved Mental Health Professional (AMPH) considers appropriate***
- Lasts period of mental health crisis plus an additional 30 days
- No limitation on the number of applications in a 12 month period
- AMHP certifies that a person is receiving mental health crisis treatment, the AMHP’s evidence can be used by a Debt Advice Provider to start a Mental Health Crisis Moratorium
- Debtor, Carer, Care co-Ordinator, Mental Health Nurse, Social Worker, Mental Health & Capacity Advocates appointed to debtor or a Representative can apply with the application certified by the AMPH
- Applications made by single point of access postal hosted by the [Money & Pensions Service](#)



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# Applicant eligibility for Breathing Space Moratorium

- Is domiciled or ordinarily resident in England or Wales
- Is not subject to a Debt Relief Order, Interim Order or Individual Voluntary Arrangement (“IVA”)
- Is not an undischarged bankrupt
- Is not subject to another Breathing Space Moratorium
- Any previous Standard Breathing Space Moratorium ended over 12 months before the date of the application
- Is not subject to a Mental Health Crisis Moratorium
- Is an individual who owes a qualifying “eligible” debt to a creditor / creditors



Applicant



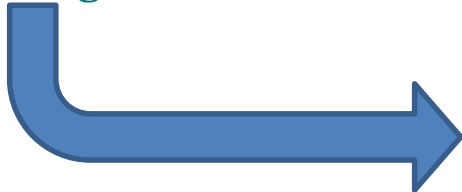
Seeks Debt Advice



If agreed that Breathing Space is appropriate the Debt Advice Provider using a portal hosted by the Insolvency Service enters the applicant into Breathing Space by completing details of applicant and eligible debts



Insolvency Service advises all creditors with eligible debts



Including Council



Council search for additional eligible debts which are notified to the Debt Advice Provider for inclusion



Recovery action placed on hold for period of Moratorium



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# Eligible / Non Eligible Debt

- All debts qualify and **where the applicant for Breathing Space has Joint and Several “Eligible debts”, the joint parties are afforded the protection of Breathing Space for those debts without having to enter Breathing Space themselves**
- Its easier to say what is “Non - Eligible debt” as defined in the act – examples would be
- Secured debts / Credit Agreement / Hire Purchase / Conditional Sale Agreement
- Fraud / Court Fines / Confiscation Orders / Family Proceedings
- Debts of VAT registered businesses/partnerships
- Social Fund / Crisis Loans
- Student Loans
- Liability to damages
- Universal Credit advance payments
- **Any liability in respect of Council Tax or National Non Domestic Rates for a financial year, except where**

**All the instalments for that year have fallen due and any of those instalments have not been paid;**

**or**

**A reminder notice has been served**



# Enforcement Action during a Breathing Space Moratorium

A Creditor cannot take a step to collect or enforce an “Eligible” moratorium debt – examples would be

- Make an application for an Attachment of Earnings (AOE) or Deductions for Benefits (DED's)

**AOE applications made prior to the start date of the Breathing Space Moratorium can continue**

**DED's from Universal Credit made prior to the start date of the Breathing Space Moratorium can continue  
DED's from other benefits (Jobseekers Allowance /Income Support /Employment Support Allowance/Pension Credit) must be stopped and a request sent to the Department of Work & Pensions**

- Take steps to enforce a judgment or order issued by a court or tribunal, before or during the moratorium period, unless the court orders otherwise
- Sell or take control of the debtor's property or goods, unless the enforcement agent had already taken possession of the goods prior to the start of the moratorium
- Start any action or legal proceedings (including bankruptcy petitions) against the debtor relating to a moratorium debt



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# Payments During a Breathing Space Moratorium and Ongoing Liabilities

Breathing Space is not a payment holiday, an applicant is still legally required to pay their debts and liabilities. An applicant should continue to pay any debts and liabilities. If the applicant were to stop paying in respect of an “Eligible debt” then a creditor could not take enforcement action until after the Breathing Space Moratorium had ended

**Ongoing Liabilities** - Certain debts are considered ‘Ongoing Liabilities’ during a **Standard Breathing Space**. The applicant needs to keep paying these if they can. If they don’t, the Debt Advice Provider could cancel the **Standard Breathing Space**.

Examples of Ongoing liabilities:

- A Mortgage / Rent (but not arrears accrued up to the start of the moratorium)
- An insurance agreement
- Any taxes, duties and national insurance contributions
- Any local taxes for local authority expenditure and rates
- The supply of water, sewerage, electricity, gas, heating oil or solid fuel



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# Midway Review

## Standard Breathing Space

Is the applicant is complying with the requirements of the moratorium and should it continue or be cancelled

Grounds for cancelation would include

- The applicant has failed to comply with any of their obligations e.g. Payment of ongoing liabilities
- A debt solution such as a Debt Relief Order has been put in place
- The applicant isn't engaging with the Debt Advice Provider

**\* The Debt Advice Provider is not required to cancel a Breathing Space Moratorium if they consider that the debtor's personal circumstances would make the cancellation unfair or unreasonable e.g. The debtor has experienced a financial shock such as a loss of employment**

## Mental Health Crisis

- Between 21 and 30 days after moratorium start date to check

Is the applicant still receiving treatment; or  
if treatment has ended on what date  
This must be repeated every 21-30 days

If the Debt Advice Provider does not receive an update then they can cancel the Moratorium



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# Outcomes of Breathing Space

- **Phase 1** - A debt solution such as a [Debt Relief Order](#)
- **Phase 2** - The Statutory Debt Repayment Plan (SDRP)

The SDRP is part of the [Financial Services Act](#) currently is the House of Lords. The SDRP involves the Debt Advice Provider using the [Standard Financial Statement](#) to seek to agree a repayment arrangement to clear applicants debts (Current and ongoing debts) by Creditor approval over a period of up to 10 Years.

Consultation due soon, 18 month lead in time and introduction in 2024.

**The initial consultation for Breathing Space from 2018 indicated possible prioritisation of the following debts**

Housing debts (e.g. rent and mortgage arrears)

Certain tax and benefit debts (owed to both central and local government)

Arrears on gas and electricity

Hire purchase debt

All other debts would be treated as non-priority debt within the plan.

# End of the Breathing Space Moratorium

## Standard Breathing Space ends:

- 60 days from the date it started
- The day after a Debt Advice Provider cancels it

## Mental Health Crisis Breathing Space ends:

- 30 days after the applicants mental health crisis treatment ended, or
- 30 days after the date a debt adviser had no response after asking for confirmation about an applicants ongoing mental health crisis treatment.

## In either case

- If the applicant dies during the Breathing Space Moratorium then the Moratorium ends on the day after the applicant died

# Final questions & comments



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# Thank you



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