



Breathing Space: Call for evidence

Response from the Money Advice Service
15th January 2018

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About us

- 1.1. The Money Advice Service (MAS) is a UK-wide, independent service set up by Government to improve people's ability to manage their financial affairs. Our free and impartial money advice is available online, and by phone or webchat.
- 1.2. We are responding to this consultation in light of our statutory role working with the debt advice sector, and our role in improving the financial capability of the UK.
- 1.3. Our statutory objectives are set out in the Financial Services Act 2010. In 2012¹, we were also given responsibilities under statute to improve the availability, quality and consistency of debt advice across the UK. We are funded by a statutory levy on the financial services industry, raised by the Financial Conduct Authority.
- 1.4. As the statutory body for financial capability, MAS has led work with financial services firms, the third sector, government and regulators to develop the Financial Capability Strategy for the UK. This 10-year strategy aims to improve financial capability, giving people the ability, motivation and opportunity to make the most of their money.
- 1.5. The Financial Guidance and Claims Bill 2017 to make provision establishing a new financial guidance body was introduced in the House of Lords on 22 June 2017.

¹ Financial Services Act 2012 <http://www.legislation.gov.uk/ukpga/2012/21/contents/enacted>

2 The Context of this Response

2.1 This response should be read considering the amendments² to the Financial Guidance and Claims Bill, with regards to ‘the debt respite scheme’. Together, these amendments have the effect that once the SFGB is established, the Secretary of State must seek advice from it on the design of a debt respite scheme.

2.2 The amendments go on to specify that this advice must be received within 12 months of the SFGB’s establishment, and on receipt of this advice, the Secretary of State may make regulations to establish a debt respite scheme, taking into account the advice of the SFGB.

2.3 In light of this, we believe the operational detail of the scheme is for the SFGB to specify, building on earlier policy development work conducted across Government. We have therefore not responded to every consultation question, and instead focused our response on the areas the Money Advice Service (MAS) is best placed to contribute and provide input on.

2.4 We do believe that many of the operational details of the scheme need to be evidence based and tested, and we hope that the eventual final scheme will be one which has addressed all evidence gaps

3. Response

3.1 The Role of the SFGB with regards to Breathing Space

3.1.1 It is positive to see ‘breathing space’ being given such a priority in the Financial Guidance and Claims Bill.³

3.1.2 The amendments made to the bill stipulate the tasks which the SFGB must undertake with regards to such a scheme, in that ‘the matters the advice will extend to might include – but are not limited to – which organisation is best-placed to operate the scheme, what debts the scheme must cover, the specific protections the scheme must provide and how a repayment plans should be set up and administered’.

²Debt respite scheme: advice to the Secretary of State.

[https://publications.parliament.uk/pa/bills/lbill/2017-2019/0070/18070\(d\).pdf](https://publications.parliament.uk/pa/bills/lbill/2017-2019/0070/18070(d).pdf)

Debt respite scheme: regulations

<https://publications.parliament.uk/pa/bills/lbill/2017-2019/0070/18070-DPMsupplementary3.pdf>

³ibid.

3.1.3 MAS has been a supporter of such a scheme for many years, most recently in our report debt solutions⁴ which was formulated by research and consultation⁵ with the sector.

3.1.4 We are happy to make available our research and evidence to date for the SFGB, should it wish to use it as it develops its advice to the Secretary of State.

3.2 The value of providing Breathing Space

3.2.1 From our knowledge of the Debt Arrangement Scheme⁶ and, most recently, our own research into debt solutions⁷, we recognise the value of 'breathing space'- a period whereby a debtor is not being subject to collections activity, or incurring interest whilst getting help with their debts.

3.2.2 We also know that currently, of the over-indebted population, there are not enough people actively seeking advice. Recent evidence⁸ suggests that there are currently 8.3m people in the UK who feel their debts are a heavy burden or have missed three or more payments on bills or credit commitments in the last six months. This is a slight increase from the total of 7.9m people in 2016, potentially reflecting accelerating levels of inflation and stagnant income growth. Of these, only 20.5% are seeking advice to resolve their debt problems.

3.2.3 Our research shows that additional protections offered as part of a debt solution does encourage the take up of those schemes. For instance, the solutions such as IVAs and Trust Deeds, gives them a way to take 'breathing space', by having an agency deal with creditors on their behalf.⁹ We would be concerned if decisions to undertake solutions were based solely on the protection offered by breathing space. This can leave consumers vulnerable to taking on the wrong solution and causing financial detriment in the long-run. Providing a consistent breathing space scheme irrespective of the final solution people enter would help them consider the solution which is most appropriate for their circumstances, rather than just that which can give them immediate relief.

⁴Debt Solutions in the UK, Recommendations for Change, MAS, Jan 2018
<https://www.moneyadvice.service.gov.uk/en/corporate/debt-solutions--recommendations-for-change/preview>

⁵ Draft Opportunities for Change Consultation, MAS:
<https://www.moneyadvice.service.gov.uk/en/corporate/draft-opportunities-for-change-debt-solutions>

⁶ Debt Arrangement Scheme, AiB <https://www.aib.gov.uk/debt-arrangement-scheme>

⁷ Debt Solutions in the UK, Recommendations for Change, MAS, Jan 2018
<https://www.moneyadvice.service.gov.uk/en/corporate/debt-solutions--recommendations-for-change/preview>

⁸ Over-indebtedness in the UK – 2017 Statistics available at
<https://www.moneyadvice.service.gov.uk/en/corporate/debt-publications>

⁹ The Effectiveness of Current Debt Solutions, Revealing Reality Powerpoint Presentation, pg 13, January 2017
<https://www.moneyadvice.service.gov.uk/en/corporate/debt-solutions--recommendations-for-change/preview>

3.2.4 The DAS in Scotland, which allows a “breathing space”, protects consumers by giving them extra time to pay by stabilising their debt while preventing creditors from taking further enforcement action. All interest, fees and charges are frozen from the date of application and written off on completion of the plan. Whilst the details of DAS have received some suggestions for improvement¹⁰ it has been widely deemed to be a success and serves as a broad proof of concept which could inform policy across the UK.

3.2.5 The root causes of problem debt are more complex than low household income, financial capability and life events¹¹. It also includes attitudes, preferences and behaviours towards financial products, credit and risk. Our research has repeatedly shown the significance of the emotional responses debt elicits¹², especially where the individual is in vulnerable circumstances such as experiencing domestic violence or deteriorating mental health. In such situations, the debt itself is rarely the main concern of the individual¹³, and a respite scheme could allow individuals to seek additional support with these broader issues, so that the debt can be managed in a more systematic way.

3.2.6 Other research has also supported this view, the Legal Services Research Centre¹⁴, has identified additional positive impacts of debt solutions and suggested that transferring the responsibility for dealing with creditors to a debt management company provides individuals with a period of time where they are not contacted by creditors, and have the space to deal with underlying problems which may have led them to debt- effectively a breathing space.

3.3 The principles of the scheme

3.3.1 The SFGB will set its own approach so the following principles, which we believe would provide a fair and robust framework to build this scheme on, solely reflect the view of MAS.

3.3.2 In this section we have outlined a number of broad principles we believe would help guide the design of the scheme. These include;

- A reasonable time period balancing creditor and client interests
- The role of creditors

¹⁰ CAP, Setting the Pace; Scotland’s Debt Arrangement Scheme, Oct 2017: <https://capuk.org/connect/policy-and-government/das>

¹¹ Indebted Lives, <https://www.moneyadvice.service.org.uk/en/corporate/indebted-lives-the-complexities-of-life-in-debt-press-office>

¹² MAS Debt Interventions, MAS and 2CV, 2016 Unpublished

¹³ Reaching Marginalised Groups, SLAB and MAS, June 2017
<https://www.moneyadvice.service.org.uk/en/corporate/reaching-marginalised-groups/preview>

¹⁴ Legal Services Research Centre, November 2008. Money Advice Outreach Evaluation: Qualitative Outcomes for Clients

- The requirement to access advice
- The inclusion of all debts and impact on credit files

Time Period

3.3.3. We have previously expressed the view that a six-week long scheme could lead to positive outcomes. We suggest that as HM Treasury develops the policy, a variety of possible time periods are tested so that an optimum time period, balancing client and creditor interests, is reached.

The Role of Creditors

3.3.4 Breathing Space, as a scheme, must also receive general agreement amongst creditors, and a particular benefit could be that those with less supportive forbearance policies will become part of a new statutory requirement. Creditors must also acknowledge that whilst people seeking help from the breathing space scheme may be expected to make debt repayments that the debt advice process shows to be affordable – this could mean no payments for a period of time. To assist with assessing the affordability element, creditors should use the Standard Financial Statement¹⁵(SFS). The SFS is a landmark development for debt advice in the UK which delivers, for the first time, a universal income and expenditure statement, together with a single set of spending guidelines. The tool is used to summarise a person's income and outgoings, along with any debts they owe.

3.3.5 Recently, we launched a new toolkit¹⁶ to bring consistency to the way creditors work with debt advice agencies when collecting repayments from people who are in debt. This toolkit, which was supported by many creditors, advocated as good practice the application of breathing space principles in line with the FCA forbearance rules¹⁷.

3.3.6 Whilst we understand that there may be concern amongst some creditors that debtors may repeatedly access the scheme, we would emphasise that the scheme itself is not a solution. Indeed, there may be occasions when the need to repeatedly access the scheme is due to deficiencies in the advice process. MAS quality initiatives¹⁸ has found that that whilst there are examples of high quality advice in face

¹⁵ Standard Financial Statement: <https://sfs.moneyadviceservice.org.uk/en/what-is-the-standard-financial-statement>

¹⁶ Working Collaboratively with the Debt Advice Agencies; A strategic toolkit for creditors, MAS, July 2017; https://masassets.blob.core.windows.net/cms/files/000/000/780/original/MAS0003_Collaborative_working_Final_W.pdf

¹⁷ CONC 7.3.3, FCA Handbook <https://www.handbook.fca.org.uk/handbook/CONC/7/3.html?date=2016-03-21>

¹⁸ See MAS Business Plan 2017/18 for our quality initiatives, pg 33 https://masassets.blob.core.windows.net/cms/files/000/000/659/original/Money_Advice_Service_2017_2018_Business_Plan_FINAL_PUBLIC_EDITION.PDF

to face provision¹⁹, there are examples where quality of advice provided requires significant improvement.

The Requirement to Access Advice

3.3.7. A crucial policy goal of the breathing space scheme should be to encourage people to access and stay engaged in advice. We know that debt advice works: debt advice offers a range of positive outcomes²⁰ to those struggling with debt or wider financial difficulties. These include negotiating affordable and effective mechanisms of repayment with creditors, clearing or at least reducing debts even within a short period and improving financial capability for clients' long-term benefits. Outcomes extend to reductions in stress and sleeping difficulties, improved family relationships and emotional and mental wellbeing.

3.3.8 We believe the implementation of breathing space should build on what debt advice already does by placing statutory protections around the current non-statutory solutions such as debt management plans, temporary 'token payment' plans and 'moratorium requests' that debt advisers in England, Wales and NI currently use.

3.3.9 Fundamentally, any breathing space scheme should be available to anyone who is 'over-indebted' and seeking debt advice help. For information, we define over-indebtedness as being likely to find meeting monthly bills a "heavy burden" and/or missing more than two bill payments within a six-month period.²¹ We suggest this definition should be included within the eligibility criteria for breathing space. It is essential that once the criteria are finalised, they are tested with the broader sector to ensure it is not exclusionary.

3.3.10 We believe that breathing space should be able to be offered by all FCA authorised debt advice providers or those who are exempt from the need to be regulated.

3.3.11 We recommend that policy development explores how firms can best help over indebted clients access breathing space, whether those clients have reached out to them via debt advice, or self-help tools, to deal with their debts.

¹⁹ Better Debt Advice, MAS and Revealing Reality, Dec 2017

https://masassets.blob.core.windows.net/cms/files/000/000/879/original/T1499-RR-MAS-GOOD_PRACTICE_LONGREPORT-PAGES-4C-AW-PAGES.PDF

²⁰ 2016 Outcome Evaluation of Debt Advice funded by Money Advice Service, Oct 2017

https://masassets.blob.core.windows.net/cms/files/000/000/823/original/Debt_Advice_Outcomes_2017.pdf

²¹ For further information on how we have used this definition, and how it has helped us to develop a model of what overindebtedness in the UK looks like, please see 'Over indebtedness in the UK' 2017 statistics, MAS:

https://masassets.blob.core.windows.net/cms/files/000/000/811/original/Over_indebtedness_2017_Stats_PD_F.pdf

The inclusion of all debts and impact on credit files

3.3.12 In line with the operation of DAS, we do not believe that a level of indebtedness should be set to qualify for breathing space. If people must wait until they have built up a particular amount of debt before being eligible for breathing space protections, this would be counter to the aim of getting people into advice as early as possible.

3.3.13 Like the DAS, a scheme for England, Wales and NI should continue to freeze interest, charges, collection and enforcement action where people can repay debts within a reasonable period. This statutory protection should include all debts, including those owed to government and other priority creditors. Such a scheme would effectively create a statutory debt management plan and would give people repaying their debts similar protection to that the law currently gives to people who need debt write-off via an insolvency remedy.

3.4 Changes in the broader sector/Further considerations for HM Treasury

3.4.1 We would take this opportunity to note that the way the broader stakeholders of debt advice, namely debt advice agencies, creditors and credit reference agencies will need to adapt their operations to effectively implement such a scheme.

3.4.2 The debt advice sector should look to identify opportunities to 'lock in' support at specific stages of clients' debt advice journeys so the likelihood of them requiring further advice in the future is reduced. This could include exploring the possibility of clients having guidance geared towards improving their financial capability as a clear part of entering particular arrangements with creditors, building on the existing provision of the Debt Arrangement Scheme in Scotland²².

3.4.3 Another relevant tension is with fair-share funding. Currently financial services firms contribute over £50m a year through FairShare while receiving over £450m in repayments through debt management plans. In part due to the debt arrangement scheme, there is proportionately less fair-share funded advice in Scotland and, depending on the design of the scheme, this could be a possible outcome across the rest of the UK. To that end, we would encourage an impact analysis of this as part of the policy development process.

3.4.4 We believe that the design of the scheme is an opportunity to make a positive change to people's long term management of, and attitudes towards, money. We would encourage that as part of the policy development work, how people respond to rewards and incentives in their behaviours towards money is explored. To that end, we have insight into how to persuade people to get help with their debts, and would

²² Mandatory financial education for individuals undergoing insolvency proceedings in Scotland is provided via the Financial Capability Programme created by Money Advice Scotland, in conjunction with AiB and MAS : <http://www.moneyadvicescotland.org.uk/content/financial-capability-programme>

encourage the scheme to be cognisant of some of the lessons of behaviourally informed communications set out in our research²³. For example, we know that experiencing a positive outcome is likely to lead to a repeat of behaviour²⁴, so to keep people engaged in the debt advice process, it is valuable an individual experiences immediate and positive outcomes and feedback, such as a freeze on all interests and a recognition of their good faith to resolve the debt problem.

²³ How to use behavioural science to increase uptake of debt advice, MAS and Ogilvy Change, Sept 2017
https://masassets.blob.core.windows.net/cms/files/000/000/810/original/MAS0032-MAS-BehaviouralChange_W.PDF

²⁴ Ibid.

Published: January 2018

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