



DEBATE PACK

Number CDP-2017-0106, 24 March 2017

Breathing Space scheme to help families in debt

Westminster Hall Debate 29 March 2017 at 4.30pm

There will be a Westminster Hall debate on the Breathing Space scheme to help families in debt, on Wednesday 29 March at 4.30pm. The Member in charge of this debate is Kelly Tolhurst MP.

As well as this debate pack, there is a separate Commons Library Briefing paper [Breathing space for individuals in debt](#), CBP-07934, 22 March 2017.

The House of Commons Library prepares a briefing in hard copy and/or online for most non-legislative debates in the Chamber and Westminster Hall other than half-hour debates. Debate Packs are produced quickly after the announcement of parliamentary business. They are intended to provide a summary or overview of the issue being debated and identify relevant briefings and useful documents, including press and parliamentary material. More detailed briefing can be prepared for Members on request to the Library.

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1. Background

1.1 Summary

A number of debt charities are calling on the Government to give all individual debtors a “breathing space” in which interest, charges and enforcement action are stopped for those seeking regulated debt advice. They argue that where people in financial difficulty “do the right thing” and engage with their creditors, make affordable offers of payment and maintain regular payments, they should be protected from further debt enforcement.

The current Scottish [Debt Arrangement Scheme](#) (see **Box 1** below), which does provide debtors with a short breathing space, is often held out as an example of the type of scheme that might be introduced in England and Wales.

Box 1 below provides a brief outline of the Scottish Debt Arrangement Scheme (DAS).

Box 1: The Scottish Debt Arrangement Scheme (DAS)

- In brief, Debt Payment Programmes (DPPs) approved under the Scottish [Debt Arrangement Scheme](#) (DAS) allow individuals, couples or sole traders to repay their debts in full over an extended period of time. This provides protection from enforcement by their creditors and the safeguarding of their home as long as mortgage payments are maintained.
- An ‘approved’ money adviser has to make the application for the client. If the application is successful and payments are maintained, all interest and charges will be stopped from the date of the application and written off once the programme is completed. Creditors will not be able to use diligence (enforcement action) to enforce payment of the debts.
- Importantly, the approved adviser can apply for an ‘intimation’ of an intention to apply for a DPP which is placed on the DAS register. This gives a breathing space of protection against any creditor action for 6 weeks whilst the full application is prepared.

1.2 Is there a need for a breathing space?

A Debt Management Plan (DMP) is an agreement between the debtor and his/her creditors to pay all outstanding debts. DMPs are usually used when either:

- the debtor can only afford to pay creditors a small amount each month; or
- the debtor has debt problems but will be able to make repayments in a few months

However, even where a formal DMP is in place, there is no guarantee that creditors will accept the offers made or freeze interest and charges. In fact, there is no protection against any creditor who forms part of the plan from undermining its effectiveness by taking further action, usually by issuing a claim in the county court.

Currently, this protection is only available if people enter into a formal debt or insolvency procedure, such as:

- an Individual Voluntary Arrangement (IVA)¹,
- administration order²,
- debt relief order³ or
- bankruptcy⁴

¹ An **IVA** is a legally binding agreement entered into by a debtor to repay his/her creditors at an amount they can afford. This can be a one-off payment (known as a lump sum IVA) or over a longer period to spread payments (usually 5 or 6 years). During an IVA, creditors cannot contact the debtor or increase the debt. When the final payment is made, any remaining debt is written off. Further information is available in a separate Library briefing paper on "[Individual Voluntary Arrangements \(IVAs\)](#)", CBP 5165, 6 April 2016, [online]. In Scotland, IVAs are not available but a **protected trust deed** offers a similar solution but with different benefits, risks and fees.

² An **administration order** is a repayment plan arranged by the county court; they are only available in England, Wales and Northern Ireland. To apply for an administration order the debtor must have less than £5,000 in total, and have received at least one court judgment. Once approved, an administration order binds all creditors included in the order; they cannot contact the debtor or add any more interest or charges. It is important to note that debt relief orders are often used in preference to administration orders.

³ A **debt relief order** (DRO) allows debts to be written off in circumstances where the debtor has a relatively low level of debt and few assets. Detailed information is available in a separate Library briefing paper on "[Debt Relief Orders](#)", (CBP 4982), 4 January 2016, [online]. In Scotland, DROs are not available, but a [Minimal Assets Process](#) (MAP) bankruptcy offers a similar solution, but with different benefits, risks and fees.

⁴ **Bankruptcy** (or personal insolvency) is a formal insolvency procedure. It can help a person 'write-off' debts that would otherwise take years to clear (if ever) but it has serious implications for their future credit rating. Further information is available in a separate Library briefing paper on "[Bankruptcy](#)", (CBP 7097) 4 April 2016, [online]. Scotland has a different personal insolvency procedure known as sequestration. This is similar to bankruptcy but has different benefits, risks and fees associated with it.

1.3 Review of the MAS

The [Money Advice Service](#) (MAS) is an independent organisation tasked with promoting public awareness and understanding of financial services and increasing consumers' ability to manage their financial affairs. In 2012, a new role supporting the provision of debt advice was added to its remit. In effect, the MAS gives people free, unbiased money advice across the UK paid for by a statutory levy on the financial services industry (raised through the [Financial Conduct Authority](#) (FCA)).⁵ Its statutory role is to work with partners to improve the availability, quality and consistency of debt advice.

The MAS is a Consumer Financial Education Body set up by the Government in 2010

In May 2014, the Government launched an independent review of the MAS, to be led by Christine Farnish.⁶ Its remit was to:

- make an assessment of the need for consumer education and advice, including how this may evolve (for example, individuals have greater freedom over their retirement options), and the role that MAS should play in the wider consumer education and advice landscape;
- assess how effectively and efficiently MAS is meeting this need through its current approach and delivery models; and
- recommend any changes to MAS's approach and delivery models that would enable it to better meet this need

The FCA is required to approve the MAS budget and business plan each year.

This [Review of the Money Advice Service](#), was published by the Treasury in March 2015.⁷ "Annex A" (page 67) sets out its recommendations, one of which was that:

"...the government reviews the legal framework for debt administration, 'in order to provide consumers who agree to specified debt repayment schemes with a "breathing space" by freezing interest and charges, and to ensure a fair and appropriate basis for debt repayments to different classes of creditor."

In its Response to this independent review,⁸ published in March 2015, the Government agreed that HM Treasury and the Insolvency Service would undertake an in-depth review by the end of 2015. Specifically, it said:

2.9 The government shares the view that it is essential to ensure the right options and incentives are available to consumers to help them deal with their debts, and is happy to accept this recommendation.

2.10 It will be important to consider in detail the impacts of additional statutory consumer protections, including balancing the rights of creditors and ensuring that any changes fit well with the formal and informal debt solutions currently available to consumers. As such, HM Treasury and the Insolvency Service will

⁵ The MAS currently receives £38 million of levy funding, approved and collected by the FCA from regulated firms, See page 6 of HM Treasury, "[Review of the Money Advice Service](#)", March 2015, [online] (accessed 21 April 2017)

⁶ HM Treasury, "[Money Advice Service: Independent Review](#)", 20 March 2015, [online] (accessed 9 February 2017)

⁷ HM Treasury, "[Review of the Money Advice Service](#)", March 2015, [online] (accessed 21 April 2017)

⁸ HM Treasury, "[The government's response to the independent review of the Money Advice Service](#)", March 2015, [online] (accessed 9 February 2016)

undertake an in-depth review, in close consultation with the FCA, MAS and other stakeholders, which will complete by the end of the year. The government will shortly publish details on the objectives of the review along with the Terms of Reference.⁹

However, this deadline was not met.

Many debt organisations have expressed their hope that the Government will renew its focus on this area, as part of its [Life Chances Agenda](#). For example, [Stepchange](#) (alongside the [Money Advice Trust](#), [Citizens Advice](#) and [AdviceUK](#)) has called on the Treasury to take a wider look at the debt options available and, in particular, whether an extended statutory breathing space could work (such as a modified version of the Scottish [Debt Arrangement Scheme](#) (DAS) (see **Box 1** below). It is argued that this would:

- Assist people who need a temporary freeze on enforcement action, interest and charges by creditors to stabilise their financial situations.
- It would also help those who need more long-term protection (similar to those under a [DAS](#) debt payment programme (DPP)) to pay back their debts by way of a statutory scheme.

⁹ Ibid

1.4 Scotland's DAS scheme

Overview of the scheme

Box 1 below provides a brief outline of the Scottish Debt Arrangement Scheme (DAS).

Box 2: The Scottish Debt Arrangement Scheme (DAS)

- In brief, Debt Payment Programmes (DPPs) approved under the Scottish [Debt Arrangement Scheme](#) (DAS) allow individuals, couples or sole traders to repay their debts in full over an extended period of time. This provides protection from enforcement by their creditors and the safeguarding of their home as long as mortgage payments are maintained.
- An 'approved' money adviser has to make the application for the client. If the application is successful and payments are maintained, all interest and charges will be stopped from the date of the application and written off once the programme is completed. Creditors will not be able to use diligence (enforcement action) to enforce payment of the debts.
- Importantly, the approved adviser can apply for an 'intimation' of an intention to apply for a DPP which is placed on the DAS register. This gives a breathing space of protection against any creditor action for 6 weeks whilst the full application is prepared.

Would it work in England and Wales?

A number of debt charities (including the [Money Advice Trust](#) and [Stepchange](#)) would like to copy think the Scottish example. In their view, allowing individual debtors a "breathing space" in which interest, charges and enforcement action are stopped for those seeking regulated debt advice) could work in England and Wales. Instead of 6 weeks (as in Scotland), protection could be extended to six months or even a year (subject to review):

"Ideally, entry into the breathing space forbearance scheme would be granted by registration via a free debt advice provider. Breathing space then becomes part of the advice process so that all options are holistically explored and people move into an appropriate debt option as soon as practicable.

Registration could take place through an online portal by the advice agency. We need to ensure that the 30 (plus 30) day breathing space to seek advice (under the Lending Code and CONC rules) is built into the system so that people can continue to be afforded protection from creditor action at an early stage".¹⁰

¹⁰ Money Advice Trust, "[Time for statutory breathing space](#)", 8 September 2016, [online] (accessed 9 February 2017)

However, there are a number of issues that would need to be resolved first, for example:

- Should clients be able to register themselves as needing breathing space?
- Should all creditors be bound by statutory requirements of the scheme including local government and HMRC?
- What should happen to ongoing bills (such as council tax, utilities and telecoms) and at what point would these types of debt be crystallised?
- How should creditors mark credit reference files once people are on the scheme?
- What happens if circumstances have not improved at the end of the breathing space forbearance period and no other suitable option has been identified?
- Should people be allowed to stay on the scheme if they can only make token payments? It would enable people to access a payment distribution mechanism that is currently not available to them.

Moreover, since the [Bankruptcy and Debt Advice \(Scotland\) Act 2014](#) (BADAS) came in to force in April 2015, all statutory solutions must be accessed via an approved adviser using the common financial tool (the CFS). It might be difficult to implement such a comprehensive scheme in England and Wales.

As highlighted by the [Money Advice Trust](#), a “breathing space” will not solve the issues faced by people on deficit budgets. Nor will it solve the particular issues for people with no prospect of any available income long-term but who have equity – the “asset rich but cash poor.”¹¹ That said, various debt charities think it would be a step forward and bridge some of the gaps in existing debt options.

¹¹ [“Time for statutory breathing space?”](#) Meg Rooyen for Money Advice Trust, 8 September 2016 [online] (accessed 21 April 2017)

1.5 Statistics on levels of doubt

According to the recent Farnish report on the Money Advice Service, at least 3 million consumers in the UK are struggling with problem debt.¹²

This can be caused by a range of factors including:

- rising household bills for essential services,
- more irregular and uncertain incomes, and
- external shocks such as illness, job loss or divorce
- The report concludes that a lack of budgeting skills and poor money management is usually not the main driver. Looking further ahead, it states that interest rate rises may push a further cohort of people into problem debt.

The same report found that awareness of the availability of free debt advice amongst consumers is relatively low: “many people don’t understand the difference between free and commercial advice. In addition many consumers wait 12 months or more before seeking help.”¹³ It suggests that a strong case can be made for the provision of free debt advice to those who need it:

“[...] it helps customers of major creditor firms get back in control of their finances and creditors benefit from lower levels of bad debt overall. Wider societal benefits include lower incidence of stress related illness and less likelihood of family breakdown.”¹⁴

According to MAS estimates, in 2012/13, £158,000 people were helped with MAS funds of £27 million.¹⁵ To date, some 220,000 people are helped with funds of £34 million.¹⁶ To put this in context, the MAS estimates that approximately 1.5 million consumers currently seek debt advice.¹⁷

¹² HM Treasury, “[Review of the Money Advice Service](#)”, March 2015, [online] (accessed 21 April 2017)

¹³ Ibid

¹⁴ Ibid

¹⁵ Ibid

¹⁶ Ibid

¹⁷ Ibid

2. Media

2.1 Articles and blogs

Scottish Daily Record

[Debt Arrangement Scheme: how thousands of Scots in financial crisis could get vital help](#)

Katrina Tweedie 21 March 2017

Chronicle Live

[Calls for 'Breathing Space' scheme to help thousands of North East families in debt](#)

Michael Muncaster 14 March 2017

Slough Express

[Commons Sense: 'Time for a debt breathing space scheme'](#)

Fiona Mactaggart 27 February 2017

Guardian

[Melissa and millions like her are just one unpaid bill away from the abyss](#)

Frances Ryan 23 February 2017

Conservative Home

[Families with problem debts need a breathing space to get back on their feet](#)

Kelly Tolhurst 16 February 2017

Wharfedale Observer

[Otley's MP backs calls for scheme to help people in debt](#)

Annette McIntyre 16 February 2017

Guardian

[Four million more Britons earning less than an adequate income, study finds](#)

Jessica Elgot 15 February 2017

Wigan Today

[MP's fresh call for debt 'breathing space'](#)

Andrew Nowell 13 February 2017

Huffington Post

[Debt is damaging children's mental health](#)

Matthew Reed (CEO, The Children's Society) 6 February 2017

Blackpool Gazette

[MP's fears as Blackpool family debt rises](#)

5 February 2017

BBC Online

[Household debt rises to post-credit crunch high](#)

Hannah Richardson 4 January 2017

Guardian

[People in debt must be given room to breathe](#)

17 November 2016

Letter from CEOs of 17 charities and professional bodies

Huffington Post

[Give families breathing space to escape debt trap](#)

Matthew Reed 22 September 2016

Independent

[Family debt seriously harms children's mental health, research finds](#)

George Charalambou 22 September 2016

Money Advice Trust

[Time for statutory Breathing Space](#)

Meg van Rooyen 8 September 2016

2.2 Press releases

The Children's Society

[Four million children affected by poverty](#)

16 March 2017

More Children's Society press releases may be found [here](#)

StepChange Debt Charity

[StepChange Debt Charity receives FCA authorisation](#)

11 November 2016

StepChange Debt Charity

[Debt problems hit record high in 2016](#)

7 September 2016

StepChange Debt Charity

[StepChange Debt Charity and Martin Lewis call for Government to ensure those in debt crisis get 'breathing space' to buy food](#)

3 February 2016

More StepChange press releases may be found [here](#)

3. Parliamentary Questions

[Debts](#)

Asked by: Helen Hayes

To ask Mr Chancellor of the Exchequer, when the Government plans to complete its review of a proposed breathing space scheme for families in debt.

Answered by: Simon Kirby | HM Treasury

The government has committed to exploring whether some form of “breathing space” would be a useful and viable addition to the current range of debt solutions available to consumers and creditors. Work is continuing on this review, and the government plans to provide an update in due course.

10 March 2017 | Written questions | 66342

[Money Advice Service](#)

Asked by: Johnny Mercer

To ask Mr Chancellor of the Exchequer, with reference to paragraph 2.10 of the Government's response to the independent review of the Money Advice Service, published in March 2015, when his Department plans to publish the terms of reference for an in-depth review of the impacts of additional statutory consumer protections.

Answered by: Simon Kirby | HM Treasury

The government response to the Independent Review of the Money Advice Service was published by the coalition government. This government shares the view that it is essential to ensure the right options and incentives are available to consumers to help them deal with their debts.

The government is considering in detail the impacts of additional statutory consumer protections, ensuring that any potential changes would fit well with the formal and informal debt solutions currently available to consumers. For example, the government has committed to exploring whether some form of ‘breathing space’, a statutory period of protection from repayment and enforcement action, would be a useful and viable addition to the current range debt solutions available to consumers and creditors.

Work is continuing on this review, and the government plans to report back shortly.

20 February 2017 | Written questions | 63759

[Debts](#)

Asked by: Helen Goodman

To ask Mr Chancellor of the Exchequer, what assessment he has made of the implication for his Department's policies of the Children's Society's recent report, Damage of Debt; and if his Department will introduce a statutory breathing space scheme for families in debt.

Answered by: Simon Kirby | HM Treasury

The Government noted the report with interest and is grateful for the important work that The Children's Society does. The Government is committed to supporting individuals in problem debt.

The Government is exploring whether some form of "breathing space" would be a useful and viable addition to the range of formal and informal debt solutions available to consumers and creditors. Officials in HM Treasury and the Insolvency Service have been asked to discuss this issue with stakeholders and the Government will report back this autumn.

14 October 2016 | Written questions | 47829

4. Organisations and further reading

Library briefings

[Breathing space for individuals in debt](#) , Commons Library Briefing paper CBP-07934, 22 March 2017

[Bankruptcy](#) , Commons Library Briefing paper CBP-07097, 4 April 2016

[Debt Relief Orders](#) , Commons Library Briefing papers CBP-04982, 4 January 2016

Government

Scottish Government, [Debt Arrangement Scheme](#) , Webpage

HM Treasury, [The government's response to the independent review of the Money Advice Service](#) , March 2015

HM Treasury, [Review of the Money Advice Service](#) , March 2015

Parliament

[All Party Parliamentary Group on Debt and Personal Finance](#)

Organisations and advice

[Money Advice Service](#)

Advice UK, [Money and debt advice](#)

Provides a list of organisations

Citizens Advice, [Debt and money](#)

The Children's Society, [Debt advice](#) , Webpage

StepChange Debt Charity, [Free online debt advice](#) , Webpage

Campaigns

The Children's Society, [Breathing space: the impact of money worries on children's mental health](#)

This is the latest stage in The Children's Society [Debt trap campaign](#) . The other campaigns are listed on this last page.

Reports

Ilona Pinter, David Ayre and Emily Emmott, [The damage of debt: the impact of money worries on children's mental health and well-being](#) , The Children's Society, September 2016

Lucy Capron and David Ayre, [The wolf at the door: how council tax debt collection is harming children](#) , The Children's Society, March 2015

Natalie Williams, Sarah Royston, David Ayre and Sam Royston, [Show some warmth: exposing the damaging impact of energy debt on children](#) , The Children's Society, January 2015

Jake Mcleod, [Playday not payday: protecting children from irresponsible payday loan advertising](#) , The Children's Society, September 2014

Sam Royston and Joseph Surtees, [The debt trap: exposing the impact of problem debt on children](#) , StepChange Debt Charity and The Children's Society, May 2014

Statistics

Matt Padley, Donald Hirsch and Laura Valadez, [Households below a Minimum Income Standard: 2008/09–2014/15](#) , Joseph Rowntree Foundation, February 2017

StepChange Debt Charity, [Statistics mid-yearbook: personal debt: first half 2016](#) , Statistics Yearbook Series, 7 September 2016

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