

DEBT RESPITE SCHEME (BREATHING SPACE)

The Debt Respite Scheme (Breathing Space) is a scheme which allows struggling debtors time to 'breathe' and time to sort out their financial struggles. A full explanation of can be found at [Debt Respite Scheme \(Breathing Space\) guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/debt-respites-scheme-breathing-space)

What does this mean?

There are two types of breathing space: a standard breathing space and a mental health breathing space.

A standard breathing space is available to any individual with problem debt. It gives you legal protection from creditor action for up to 60 days. The protection includes pausing most enforcement action and contact from creditors and freezing most interest and charges on their debts.

A mental health crisis breathing space is only available to someone who is receiving mental health crisis treatment. If an Approved Mental health Professional (AMHP) verified that you are in mental health crisis treatment, you or a third party might request mental health breathing space on your behalf. The mental health crisis breathing space has some stronger protections than the standard breathing space. It lasts as long as your mental health crisis treatment, plus 30 days (no matter how long the crisis treatment lasts). If you require mental health breathing space, we will be able to direct you to a further organisation who would be more suited to do this on your behalf.

Can anyone apply for a Breathing Space?

In order to be eligible, you must be:

- An individual living in England or Wales
- Owe a qualifying debt to a creditor
- Not have a Debt Relief Order or an Individual Voluntary Arrangement, or be an undischarged Bankrupt at the time of application
- Not already had a Breathing Space in the previous 12 months at the time of application (there are no such limits on a mental health Breathing Space)

It is likely that all personal debts will be qualifying debts, and includes sole traders only where you are not registered for VAT.

The Breathing Space is designed to give you the time to work out how you will deal with debts, what sort of a payment plan you can come to each month, and whether a Debt Management Plan would be an appropriate step to take. It is worth noting that if you have assets then you may not be granted Breathing Space.

What does it prevent creditors from doing?

During the breathing space creditors will not be able to:

- Collect or enforce a breathing space debt
- Proceed with legal proceedings against the you (including bankruptcy petitions)
- Apply for a default judgment for a claim against you
- Serve a notice to take possession of a property let to you on the grounds of rent arrears due up to the start of the Breathing Space
- Contact you about the enforcement of a debt subject to a Breathing Space
- Try to enforce a judgment or order issued by a court or tribunal, before or during the breathing space, without the court's permission
- Obtain a warrant or writ
- Take control of your property or goods

Once you have confirmed that your creditor information is correct, your details will be uploaded to the Insolvency Service Portal to start the Breathing Space process. Day one of the process will be the day following which the data has been uploaded. You will not receive protection from your creditors until this has been implemented.

An interim review of your situation must be undertaken between day 25 and day 35 and providing that you have fully co-operated with our requests for documentation and engaged with our assessment process we are permitted to extend breathing space to day 60 to allow us to establish the best solution to your financial situation. At day 60 breathing space must cease.

Conclusion

A Breathing Space allows you the time and space required to get financial affairs in order and is designed to relieve the pressure on you if you are in financial difficulty. You should continue to make payments during your breathing space

If you have any queries or concerns about this new scheme, please do not hesitate to get in touch with us.