



HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

Shelter
88 Old Street
London
EC1V 9HU

09 August 2023

Dear Shelter and co-signatories,

Thank you for your detailed letter of 12 July setting out your concerns regarding the implications of recent High Court judgments regarding the Mental Health Crisis Breathing Space scheme, including *Kaye v Lees* [2023] EWHC 152 (KB).

I recognise the vital work that debt advisers perform to support vulnerable individuals in financial difficulty, both in the standard and mental health crisis breathing space schemes.

In the case of *Kaye v Lees*, the judgments have clarified the interpretation of the breathing space regulations,¹ specifically in relation to what constitutes eligible mental health crisis treatment and the role of debt advisers and Approved Mental Health Professionals (AMHPs) when assessing debtor eligibility.

To provide much needed certainty for the scheme, and to ensure that eligible individuals with problem debts could still access the protections that mental health crisis moratoria provide, the Government updated its scheme guidance to reflect this judicial interpretation. Treasury officials worked closely with the Department for Health and Social Care, the Money and Pensions Service, and Rethink Mental Illness throughout the process of developing these amendments.

I appreciate that debt advisers may need to alter their processes in line with the updated guidance. For clarity, the Government does not expect debt advisers to “second guess” any medical evidence that is provided by an Approved Mental Health Professional (AMHP) through the course of the MHCBS application process. Ordinarily, an AMHP’s certification of crisis treatment provided via the HM Treasury evidence form is likely to be sufficient for debt advisers to commence a MHCBS with no further checks.

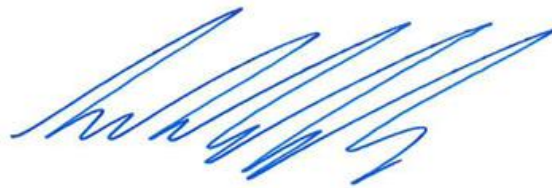
¹ The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020.

However, if debt advisers have cause to doubt an individual's eligibility for their mental health crisis breathing space (such as receiving information from a creditor or another source), they should consider seeking further clarification, information or confirmation regarding the individual's crisis treatment from either the AMHP or the nominated point of contact. In these scenarios, debt advisers should ensure that the declaration of the AMHP or nominated point of contact regarding an individual's crisis treatment has been given on a sound basis, and that they have properly engaged with the specific issue that caused them to doubt their client's eligibility, before continuing the moratorium.

I also understand that the uncertainty caused by the recent judgments will have been a source of concern for many organisations in your sector. Thank you for your suggestions for how the regulations could be amended in light of these judgments. The Government continues to explore whether any changes might need to be made to the regulations as a result of this caselaw.

Thank you again for taking the time to write to me on this issue.

Kind regards.

A handwritten signature in blue ink, appearing to read 'Andrew Griffith', written in a cursive style.

ANDREW GRIFFITH MP