

Consultation response

**Shelter submission
to HM Treasury**

Breathing Space

FINAL

January 2018

Shelter helps millions of people every year struggling with bad housing or homelessness. We provide specialist advice and support on the phone, face to face and online, and our legal teams can attend court to defend people at risk of losing their home.

However at Shelter we understand that helping people with their immediate problems is not a long-term solution to the housing crisis. That's why we campaign to tackle the root causes, so that one day, no one will have to turn to us for help.

We're here so no one has to fight bad housing or homelessness on their own.

INTRODUCTION

Shelter regularly witnesses the detrimental impact debt can have on people's lives. In 2016-17, Shelter supported over 14,000 people, via its telephone helpline and face to face services, who had a financial issue¹ and Shelter's British Gas Energy Trust debt advice service and Housing Debt Casework Team worked with almost 3,000 clients in 2017.

As a housing advice provider, with a number of specific debt advice services, we welcome the introduction of a breathing space scheme and statutory debt repayment plan. A well-designed scheme could provide many individuals and families experiencing housing debt with the time to seek proper advice and find a suitable solution. This would offer significant benefits for those in debt as well as creditors.

Rather than responding to each individual question, we have set out below the features we believe would be important in any successful breathing space scheme and statutory repayment plan.

In particular, Shelter feels any breathing space scheme and statutory debt repayment plan should:

- Be open to anyone in problem debt, if identified as appropriate for their circumstances by a regulated debt adviser.
- Operate consistently across all types of debt, including debts owed to public bodies and Government departments.
- Be sufficiently flexible to maximise people's chances of repaying their debts.

The final section urges the Government to ensure its own policies help to prevent rather than worsen debt. Otherwise, the introduction of any initiatives to support people in debt, will be of limited value.

The key features of a breathing space scheme

Eligibility for breathing space:

Shelter sees the introduction of a 6-week breathing space scheme as a positive step. For many individuals or families in debt, such a scheme would provide them with time to seek advice and arrange a suitable solution, without the fear of enforcement or their debt worsening due to interest, fees and charges.

Anyone in problem debt should be eligible for a breathing space and the main criteria should be whether a breathing space is judged to be in their best

¹ Shelter, [Our Impact: The year at a glance](#), 2016-17

interests, and appropriate for their circumstances, by a regulated debt advisor. Shelter would not support breathing space being restricted only to those in 'serious' problem debt; providing people with a breathing space when they initially get into problem debt should be a way to help prevent them slipping into 'serious' problem debt. Furthermore, what would be considered 'serious' problem debt is likely to vary significantly between households and restricting breathing space only to those who fit a specific definition, would risk many who may benefit missing out.

The only requirement for someone to remain eligible for the breathing space scheme, should be that they continue to remain in active contact and engage with their debt advisor. We would discourage the introduction of any other additional requirements, and particularly sanctions, in order for people to be eligible or remain eligible for a breathing space. For example, there should be no requirement for people to already be trying to manage their debts or for an individual to necessarily make payments during the breathing space period. However, where repayments are affordable, an individual should still make repayments if they are advised to do so by a debt advisor.

Any other additional requirements or sanctions will potentially disadvantage the most vulnerable clients and prevent them from benefiting from the scheme. An evaluation of Shelter's British Gas Energy Trust debt advice service showed that disengagement with debt advice was highest amongst groups including single parent females and people who are homeless (including those in temporary accommodation, sofa surfing or people at risk of homelessness within 28 days).² Any additional requirements are likely to have a disproportionate impact on these groups, making them even more likely to disengage.

Access:

A regulated debt advisor should advise on whether a breathing space, and subsequently a statutory repayment plan, is the right option for someone. This should be the trigger point for someone entering a breathing space and the debt advisor should be responsible for notifying the relevant creditors and flagging any vulnerability. If someone subsequently disengages with debt advice, the advisor should notify the relevant creditors.

All interest, fees and charges should be frozen and any enforcement activities stopped from the date when a breathing space is identified as the appropriate solution. The breathing space should start from this initial advice session, to avoid people being disadvantaged if there is delay in being able to access a further follow-up advice session. This could be a particular risk in areas where there is a shortage of advice provision.

It is important to ensure that people can access advice in a way that is most appropriate for them (e.g. telephone or face-to-face) and that seeking advice does not risk increasing indebtedness (e.g. forcing people to take-up paid for advice).

Although a regulated debt advisor should be responsible for triggering the start of a breathing space, responsibility for recognising problem debt and ensuring a

² Rocket Science, [Evaluation of BGET Service Year 2](#), 2016

client is referred to suitable, independent, regulated, free advice should be shared by the advice, statutory and credit sectors. Shelter research into the experiences of people in housing debt, highlighted an overwhelming preference for people to try to solve issues on their own and people will often seek to negotiate directly with their creditors, only seeking advice at much later stages.³ This illustrates the important role the credit sector can play in encouraging people to seek advice, when they recognise someone is in problem debt.

Finally, to maximise the impact of the scheme, the Government should ensure the scheme is well-publicised to encourage people in debt to seek advice at the earliest possible opportunity and the Government may wish to consider a marketing campaign aimed at minimising any stigma around seeking debt advice. The Government should also ensure features of the scheme do not deter people from seeking advice; for example, Shelter would strongly recommend there is not an open-access public register, as in Scotland, as this may deter people from seeking advice. Breathing space could be noted on a person's credit file whilst they are under the protection of the scheme and once a debt solution has been identified, the normal procedures for noting it on someone's credit file should be applied.

Length of the breathing space period:

Although a six-week breathing space is a welcome step, in Shelter's experience, the time taken to understand someone's debts and develop a suitable repayment plan can vary significantly. For some clients, 6-week's may be sufficient time to develop a repayment plan but for others more time may be needed to fully understand all their debts and what a manageable repayment plan would look like. Therefore, Shelter would recommend there is flexibility for breathing space protections to be extended where a repayment plan has been identified as the appropriate solution but is yet to be finalised. Any gap in protection would risk worsening a person's debt situation and reduce the likelihood that they will be able to repay their debts, with negative consequences for the person in debt and their creditors.

The below example from Shelter's Housing Debt Casework Team highlights how an individual may benefit from a 6-week breathing space but this may not be sufficient time to finalise a debt solution.

Case study:

Shelter has been supporting a single male living in a mortgaged property. The man has health issues which limit the type of work he can do and in the middle of last year he claimed Universal Credit (UC), before finding seasonal part time employment in a shop. His contract ended on 27 November and he made a claim for UC that day, before being paid his final payment by the shop the following day.

He has been told his first UC payment will be the 2 February, which is over 9 weeks since his last payment from work. In the meantime, he has no funds left to pay his mortgage and credit debts. John would benefit from a 6-week breathing space but it will be difficult to finalise a debt solution until his UC payment comes through.

³ Shelter, [Experiences of people in housing debt](#), March 2016

Evidence from the Scottish Debt Arrangement Scheme also supports the suggestion there needs to be flexibility for breathing space to be longer. According to Step Change, the DAS scheme shows that on average it takes 120 days to seek advice and apply for the right debt solution.

Types of debts:

Breathing space should apply to all existing debts, but not new debts actively taken out during the breathing space period. This includes debts owed to Government departments, local authorities and public bodies. Many clients supported by Shelter's debt advice services are in debt to public bodies, who can be some of the most forceful in their approach to debt collection. Any exemptions would potentially undermine the purpose of the breathing space scheme and adversely affect the chances of developing a repayment plan.

The breathing space should cover any existing debts, even if they do not come to light until after the breathing space has started. Shelter has found that some utility companies, local authorities and HMRC do not always identify all debts held by a client when initially approached regarding a debt relief order but only come to light after the DRO has been approved.

The only exception, with regard to taking out new debt, should be in relation to advance payments of universal credit. During a breathing space period, it may be appropriate for someone to apply for an advance payment of universal credit, which would involve taking out a new debt. There should be no penalty for doing this and the repayment of the advance payment would need to be factored into the statutory repayment plan.

The key features of a statutory repayment plan

Shelter welcomes the introduction of a statutory repayment plan. Existing debt management plans used in some parts of the industry work well and the statutory repayment plan should build on this approach.

As above, a regulated debt advisor should advise on whether a statutory repayment plan is the most appropriate option. Payment plans may not be a suitable option for everyone. Shelter's research into the experiences of people in housing debt highlighted how payment plans were a good option for people in relatively stable financial situations, who had suffered a temporary shock which had caused them to miss rent or mortgage payments. However, for those who were continually struggling and had suffered a financial shock, payment plans were not seen as a sustainable option as people could not always keep up with payments, putting them at an even greater risk of losing their home. Some families with children found it particularly difficult to maintain a payment plan, due to the difficulty of budgeting for irregular payments such as school uniforms or school trips.⁴ For these people, who simply do not have enough money to keep

⁴ Shelter, [Experiences of people in housing debt](#), March 2016

up with their outgoings, it will still be important to access advice and to be able to explore alternative debt solutions.

Prioritising payments:

The statutory repayment plan should apply to all debts. However, within the plan, priority should be given to repaying debts where there is a risk of losing a home, imprisonment or disconnection from utilities. Therefore, priority should be given to repaying debts including rent arrears, mortgage arrears, council tax and utilities.

Flexibility:

It is important to ensure that statutory repayment plans are flexible so there is the opportunity to suspend payments or make token payments if necessary. This may be needed at the beginning of the plan whilst someone is waiting for income (such as waiting for a benefit or salary payment). Payments may also need to be adjusted partway through the plan in response to income fluctuations. There should be no charges associated with adjusting the plan, otherwise this would undermine the point of the scheme.

Agreeing the plan:

Shelter anticipates that creditors should be willing to agree to the majority of plans, as a manageable repayment plan would maximise the likelihood that the creditor will be repaid. The Single Financial Statement provides a model for developing a plan to which creditors should generally be willing to agree.

However, Shelter recognises that in some circumstances a creditor may not agree and would urge the Government to consider how to ensure a single creditor cannot undermine a person's chances of repaying their debts by refusing to agree to the plan. Shelter's debt advisors highlight that a significant amount of work can go into developing a manageable repayment plan for someone, only for the plan to fall apart because one creditor, such as a local authority, fails to agree.

Shelter would also encourage the Government to ensure creditors cannot consistently ask for plans to be reviewed. Whilst in some cases a review may be necessary, the debt advice sector does not have the capacity to regularly review every statutory repayment plan. Therefore, Shelter would suggest creditors have the option to request an annual review of the plan where they feel this is necessary.

The benefits

For people in problem debt:

A breathing space scheme would provide people with an opportunity to seek advice and develop a plan for their debts, without fear of enforcement or their debt increasing due to interest, fees and charges. For those in debt due to a temporary shock (such as bereavement, illness or loss of employment) a breathing space scheme would provide them with the time and space needed to process and manage their debts. This case is made clearly in the Life Events Report, published by the Children's Society in partnership with other charities,

which demonstrates how a breathing space scheme could support families suffering from a range of different negative life events.⁵

Shelter's research into the experiences of people in housing debt highlights the physical and emotional impact of being in debt. The research emphasised how people did not feel at ease until they felt 'safe' from eviction. Therefore, a breathing space could benefit those in housing debt by providing them with time to develop a plan for the debts, in the knowledge that they are safe from the risk of losing their home.⁶

A breathing space scheme could also increase the uptake of debt advice. As set out earlier, in Shelter's experience many people are often reluctant to seek advice when they first go into debt and the Money Advice Service Commissioning Strategy highlights how only 21% of the over-indebted population actively seeks advice in any given year.⁷ A well-publicised breathing space scheme could encourage people to seek advice sooner, as knowing there is the possibility of having interest, fees and charges on their debt frozen whilst they develop a repayment plan, may provide people with a greater incentive to seek advice.

Additionally, as set out above, creditors can play a vital role in actively encouraging those in problem debt to seek debt advice. This may have particular advantages for vulnerable households as creditors may be aware of vulnerable customers, who would particularly benefit from debt advice and support. Shelter has recently participated in a 12-month pilot with a lender, aimed at providing additional support to vulnerable customers at risk of losing their home. The lender referred customers to Shelter for housing and debt advice, so that Shelter could support them either to remain in their home or, where necessary, find a new home. The pilot supported over 200 customers, who may otherwise not have come into contact with Shelter's services.

Finally, the creation of a statutory repayment plan should result in an affordable repayment plan, that allows people to prioritise the debts which have the greatest consequences if not repaid. Creating such a plan will help people to maximise their chances of repaying their debt and potentially improve their ability manage their finances in the future. An evaluation of Shelter's British Gas Energy Trust service, highlighted how repayment plans helped people to feel more in control and to reconsider their relationship with money, giving them increased confidence to manage their money in stressful situations in the future.⁸

For creditors:

For creditors, a breathing space period and subsequent statutory repayment plan should result in a greater proportion of arrears being repaid. With the support of a debt advisor, during a breathing space period an individual in debt can create a repayment plan which fairly reflects what they can afford and help them to prioritise the most important payments. This should result in debt solutions to which there is a higher degree of compliance and ultimately a greater proportion of debts being repaid.

⁵ The Children's Society, [Life events: How any family can fall into debt](#), December 2017

⁶ Shelter, [Experiences of people in housing debt](#), March 2016

⁷ Money Advice Service, [A strategic approach to debt commissioning](#), 2018 - 2023

⁸ Rocket Science, [Evaluation of BGET Service Year 2](#), 2016

Other areas to be addressed

Although Shelter welcomes the introduction of a breathing space scheme, the scheme will always be of limited value whilst other Government policies continue to increase the risk of people getting into problem debt. Shelter urges the Government to recognise the impact of these policies and address them as a matter of urgency.

For example, as universal credit is paid in arrears, many people are forced into debt as soon as they start claiming due to the need to request an advanced payment. Whilst Shelter welcomes the fact that advance payments can now be repaid over a year, the need to repay advance payments puts an additional, and in some cases unsustainable strain, on many families' finances. Anecdotally, Shelter has heard some charities discourage their clients from claiming advance payments, as repaying the loan tends to cause further financial difficulty.

Case study:

Shelter assisted a woman in Sheffield, vulnerable because of mental health problems, who was struggling to negotiate the Universal Credit (UC) system. A catalogue of errors by Department for Work and Pensions meant that she had to make four separate claims for UC and wait over 10 weeks for her first payment. This caused her significant hardship. She had to borrow money from friends and, at times, went without meals, was unable to heat her home or use electricity (resorting to the use of candles). Having no income meant that rent arrears quickly built up and her landlord was in the process of trying to evict her.

Following intervention from Shelter, the warrant was suspended and hearing adjourned pending her claim. She received an advance payment of UC in November, 5 weeks after her she first claimed, but this had to be paid back at £52.40 per month once UC was in payment, which caused further hardship. The delay in processing her UC claim also meant that she was unable to apply for a Discretionary Housing Payment from the local housing authority, since her last one was suspended when her Job Seekers Allowance ended. This has added to her rent arrears and put her at further risk of eviction.

Another risk with universal credit is that, for those in rent arrears, up to 20% of their core allowance can be diverted to pay-off rent arrears. Shelter supports there being a mechanism to prevent rent arrears leading to a risk of eviction. However, Shelter's advisors have highlighted how a deduction of up to 20% is unaffordable for many clients and risks forcing them further into debt, putting them at even greater risk of losing their home.

These are just two examples of how the welfare system can exacerbate people's debt issues. Whilst these policies exist, there will always be a limit to how much a breathing space scheme can support the most vulnerable to be able to manage their debts and become financially sustainable. Shelter would urge the Government to review the issues above, whilst also considering the design of a breathing space scheme, in order to maximise its effectiveness.

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