

# Financial Services Bill 2020

*Joint Centre for Responsible Credit & Debt Advice Workers Briefing*

## **Background**

This is a joint briefing in support of several of the amendments to the Financial Services Bill that have been tabled by Stella Creasy MP.

The briefing has been drawn up by the Centre for Responsible Credit Ltd ('CfRC'), which is an independent, not for profit, company with a remit to monitor the development of credit markets; conduct research into the extent of over-indebtedness, the effectiveness of regulation and the impacts of financial health programmes and financial services provision. CfRC are particularly focused on lower income, and lower wealth, households and seek to promote policy and service responses which both protect consumers and support sustainable economic growth.

The briefing is submitted with the support of over eighty-five debt advice workers from more than forty different agencies. The full list of signatories in support is provided at the end.

## **Debt Respite Scheme and Statutory Debt Repayment Plan**

We support the amendment to Clause 32 which would extend the Debt Respite Scheme (also known as 'breathing space') to a minimum of 120 days. The original intention behind the call for a breathing space for debtors was to provide a mechanism for people who had suffered a significant income or expenditure shock – and who were unable to meet their contractual obligations to their creditors - to regain control of their finances, without the need for them to enter into an insolvency solution.

As StepChange submitted in response to the initial Call for Evidence on this issue in January 2018:

*“The first period of protection is designed to give breathing space or ‘respite’ to help people recover control of their finances. People seeking debt advice will often be in a period of flux. They may have little or no*

*income at the time they seek advice but the circumstances may be likely to change (finding a new job or recovering from illness, for example). It may not be possible to recommend a long-term debt solution until their circumstances have settled down. Alternatively, debt advisers may be able to advise on a debt remedy (such as a DRO or bankruptcy) that the person cannot immediately access. The breathing space should freeze all interest, charges and enforcement action to provide clarity on the amount of debt to be repaid and a clear incentive for getting advice. It also ensures that all the money paid back goes towards paying the debt. Based on the evidence from our clients the period of time for such a breathing space should be up to 12 months. However, some clients will only need breathing space for the time it takes to set up their debt solution (usually between ten and 16 weeks)."*

The above makes it clear that, although, at the time of writing, "some clients" were only expected to need breathing space for between ten and sixteen weeks, a breathing space of "up to 12 months" was needed for others.

The above evidence was submitted prior to the outbreak of the Covid pandemic. The current OBR central forecast is for a rise in unemployment of 900,000 people between now and the second quarter of 2021<sup>1</sup>.

As well as a likely increase in the overall numbers of people who, for reasons of unemployment, will be unable to maintain their credit commitments, there is also likely to be a lengthening of time that people will need before they are able to find alternative employment. Although the majority of people who have been made unemployed are currently able to return to work within 12 months, just over one in five are not – a proportion which has been increasing since March of this year<sup>2</sup>.

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<sup>1</sup> Economic and Fiscal Outlook, Office for Budget Responsibility, 25<sup>th</sup> November 2020.

<sup>2</sup> Unemployment by age and duration, seasonally adjusted, Office for National Statistics. In the quarter March to May the percentage of all age unemployed taking more than 12 months to return to work was 18.7%; for the period July to September the percentage was 20.8%. The next release is due on 15<sup>th</sup> December 2020.

In view of the above, we consider that the current 60 days (8.5 weeks) breathing space proposed by the Government is inadequate to provide the respite from debt enforcement and interest charges that will be required.

### **Routing debtors to other solutions?**

As currently proposed in the Regulations, the Debt Respite Scheme is primarily intended not to provide people with the respite they need to recover their financial situation, but to provide only a short-term respite pending debt advice agencies routing debtors to other solutions. These potential solutions are: Bankruptcy; Debt Relief Orders, Individual Voluntary Arrangements, existing voluntary Debt Management Plans or the newly proposed Statutory Debt Repayment Plan.

In reality, a 60-day breathing space is barely adequate in most cases for debt advisers to properly assess the financial situation of the debtor and provide tailored advice as to the pros and cons of the available solutions. If, as is to be expected, there is a significant increase in the numbers of people seeking debt advice over the next 12 months, it is highly unlikely that people will be able to be routed, within a 60-day time-frame to an appropriate solution. There are a number of other reasons, aside from demand, which have an impact here. In particular:

1. There are barriers to insolvency solutions, which may otherwise have been suitable for the debtor. These include high fees for Bankruptcy, and the caps on the maximum of amount of debt, and on the 'monthly surplus income', that debtors can have in order to access a Debt Relief Order.
2. Debt Management Plans are not suitable for people who have no surplus income available after their essential expenditure is accounted for, or where there is a low level of surplus income. The latter leads to very lengthy repayment plans during which time it is highly likely that further income or expenditure shocks will be experienced, and which contribute to the high rates of failure of DMPs.

We therefore support not only the extension of the Breathing Space to at least 120 days – and preferably much longer – but also for Government to conduct a full review

of the Debt Solutions available and to remove the barriers to debtors obtaining at least a partial write off of debts where this is warranted by their circumstances.

### **The Living Standards of UK Debtors**

We are concerned that the current proposals with regard to the Statutory Debt Repayment Plan will lead to many debtors paying back unsustainable amounts to their creditors over very lengthy periods.

The current calculation of essential expenditure is underpinned by the use of the Standard Financial Statement 'trigger figures', which have been agreed by the Money and Pensions Service and the credit industry. These figures are derived from the actual expenditure of very low-income households (those in the bottom income quintile). Where the expenditure of the debtor is higher than these 'trigger figures' or 'spending guidelines' then creditors are apt to object and to demand higher repayments.

This effectively means that many debtors entering a statutory debt repayment plan will be forced to live for lengthy periods (as long as seven to 10 years) in poverty conditions (this is also true of debtors entering long term DMPs now). It also means that there will be little incentive for debtors to improve their incomes over the period of the repayment plan as any further surplus income will be taken as additional payments to their creditors.

This cannot be acceptable, and we urge Government to create a framework which instead focuses on (i) ensuring debtors and their families are able to maintain a reasonable living standard; (ii) are incentivised to improve their circumstances over the period of the plan, and (iii) are released from their debt repayment obligations within a reasonable period.

### **Abolishing the mid-point review**

We also support the amendment to remove any obligation on debt advisers to initiate a review of the debtor's eligibility for the Debt Respite Scheme. The reasons for this are two-fold.

Firstly, in a period of expected increases in the numbers of people seeking debt advice it is not practically possible for debt advisers in many settings to comply with this requirement. This will particularly be the case in respect of debt advisers who are

dealing with very vulnerable clients: for example, those who are digitally excluded, and for whom it is difficult to maintain contact with on a consistent basis (e.g. where the client has no credit left on their mobile phone and cannot respond for a period of time).

Secondly, the requirement impacts negatively on the debt adviser – client relationship: transforming the adviser from an impartial source of assistance to one of ‘enforcement agent’ seeking information from the debtor for the purpose of disclosing it to creditors. No other form of legal adviser – which is what debt advisers are – would be willing to compromise client confidentiality to this extent, and there has been inadequate consideration of the ramifications of the proposed mid-point review to deter people from seeking debt advice in the first instance.

## Signatories in Support

The following debt advice workers have expressed support for this briefing and for the amendments put down by Stella Creasy MP:

<i>First name</i>	<i>Last name</i>	<i>Occupation</i>	<i>Organisation (optional)</i>
Julie	Ball	Specialist debt advice	Bridgend Citizens Advice
Dean	Mahony	Money Advisor	Bristol City Council
Alan	O'Brien	Debt Adviser	Burnley and Pendle Citizens Advice
Kate	Lewis	Trainee Debt Adviser	Bury & Bolton Citizens Advice
Ryan	Davey	Lecturer	Cardiff University
Lynn	Crawford	Housing Officer	Changing Lives
Andy	Battersby	Debt Adviser	Cheshire West & Chester Council
David	Powell	Debt Adviser	Citizens Advice Chelmsford
Neil	Storer	Chief Officer	Citizens Advice Chesterfield
Trish	Kehoe	Specialist Money Adviser	Citizens Advice Chiltern
Sophie	Wye	Money Advice Supervisor	Citizens Advice Chiltern
Brendan	Coulton	Debt Adviser	Citizens Advice Cornwall
Alice	Healy	Money Advice Caseworker	Citizens Advice Cornwall
Eleanor	Newell	Volunteer Debt Adviser	Citizens Advice Cornwall
David	Ogden	Debt Adviser	Citizens Advice Cornwall
Helen	Clarke	Debt Adviser	Citizens Advice Cornwall
Neill	Casson	Money Advice Service Manager	Citizens Advice County Durham
Julie	Balfour	Money Advice Team Leader	Citizens Advice Leeds
Marilyn	Banister	Service Delivery Manager	Citizens Advice Leeds
Charlotte	Bjorndal	Client Support Assistant	Citizens Advice Leeds
James	Booth	Money Advisor	Citizens Advice Leeds

Mark	Byrne	Debt Adviser	Citizens Advice Leeds
Paul	Eccles	Debt Adviser	Citizens Advice Leeds
Gail	Mountain	Debt Adviser	Citizens Advice Leeds
Samuel	Shipstone	Money Advice Worker	Citizens Advice Leeds
Luke	Addison	Trainee Debt Adviser	Citizens Advice Liverpool
Caroline	Blake	Debt Adviser	Citizens Advice Manchester
Sharon	Kinsella	Money Advice Caseworker	Citizens Advice Manchester
Zaineb	Sardar	Debt Adviser	Citizens Advice Manchester
Steve	Taylor	Money Advice Caseworker	Citizens Advice Manchester
Caroline	Barker	Trainee Debt Adviser	Citizens Advice North East Derbyshire
Paul	Ozimek	Debt Adviser and Supervisor	Citizens Advice North East Derbyshire
Amy	Wallace	Money advice worker	Citizens Advice North East Derbyshire
Brendan	Kissane	Debt Adviser	Citizens Advice Oxford
Lynnette	Kennedy	Money Advice Caseworker	Citizens Advice Rotherham & District
Lucille	Horsnell	Debt Adviser and Supervisor	Citizens Advice Test Valley
Julie	Cunningham	Money Advice Supervisor	Citizens Advice Trafford
Lyn	Silvester	Debt Adviser	Citizens Advice Wealden
Elaine	Stone	Debt Team Leader	Citizens Advice Wigan Borough
Christa	Brown	Debt Adviser	Citizens Advice York
Sara	Williams	Debt Adviser & blogger	Debt Camel
Simon	Bolton	Debt Adviser	Greater Manchester Money Advice Group
Richard	Holland	Debt Adviser	Greater Manchester Money Advice Group
Rosemary	Priaulx	Debt Adviser	Lifeline Debt Advice, Sandbach
Jess	Allen	Trainee Debt Adviser	Money Advice Hub
Tracy	Cobbin	Debt Administrator	Money Advice Hub
Wendy	Curtis	Debt Adviser & Director	Money Advice Hub
Clare	Duncan	Debt Advice Supervisor & Director	Money Advice Hub
Joel	Griffith	Debt Adviser & Director	Money Advice Hub
Sam	Nurse	Debt Adviser & CEO	Money Advice Hub
Lauren	Smith	Trainee Debt Adviser	Money Advice Hub
Patrick	Staunton	Debt Adviser	Money Advice Hub
Karen	Young	Head of Money Advice	Money Advice Hub
Mary-anne	Rapson	Centre Manager	Money Matters (Saltbox)
Swetha	Krishnan	Debt Adviser	Motiv8 / Jigsaw Support
Luke	Albarran	Advice Team Manager	North Bristol Advice Centre
Charli	Auberson	Money Matters Adviser	Not disclosed
Bruce	Bebington	Retired Debt Adviser	Not disclosed
Mertella	Buchanan	Debt Adviser	Not disclosed
Sarah	Chittenden	Money Adviser	Not disclosed
Nicky	Cleverly	Money Adviser	Not disclosed

Lucy	Dolman	Debt Adviser	Not disclosed
Beth	Dowson	Debt Adviser	Not disclosed
John	Evans	Trainee Money Advice Caseworker	Not disclosed
Sean	Finnegan	Debt Adviser	Not disclosed
Keith	Greening	Debt Adviser	Not disclosed
Mohammad	Khan	CEO	Not disclosed
Sophie	Martin	Senior Debt Adviser	Not disclosed
Sarah	Pennock	Debt Adviser	Not disclosed
John	Wain	Debt Adviser	Not disclosed
Kim	Watts	Debt Adviser	Not disclosed
Elaine	Wilkinson	Debt & Benefits adviser	One Manchester Housing, Manchester
Hannah	Booth	Trainee Debt Adviser	Pennysmart CIC
Caprice	Hughes	Debt Adviser	Pennysmart CIC
Jayne	Bellis	MD	Pennysmart CIC
Karen	Grant	Debt Adviser	Perennial (Advice UK)
Elaine	Martindale	Money Adviser	Portsmouth City Council
David	Burdis	Tenancy Relations Officer	Salford City Council
George	Oldbury	Debt Adviser	Salford City Council
Yasmin	Mohammed	Debt Adviser	Salford City Council Debt Advice Service
Evelina	Ambroziak	Debt & Housing Advisor	Shelter
Dianne	Graham	Debt Adviser	Southway Housing Trust
Amy	Taylor	Debt Adviser	Stockport Council Debt Advice Team
Tim	Nelson	Debt Adviser	Stockport MBC
Mary	Dunn	Positive Solutions Officer	Trafford Housing Trust
Lauren	Roberts	Debt Adviser & Chair/Western rep	Western Money Advice Group
Michael	Agboh-Davison	Money Advice Specialist	Yorkshire & North Lincolnshire Money Advice Group
Brian	Reed	Money Advice Officer	Your Housing Group