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Breathing Space consultation
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

29 January 2019

By email: breathingspace@hmtreasury.gov.uk

Dear Sir / Madam,

Breathing space scheme: consultation on a policy proposal

The Financial Services Consumer Panel is an independent statutory body. We represent the interests of individual and small business consumers in the development of policy and regulation of financial services in the UK. The Panel welcomes the proposals in the breathing space scheme as they will provide much-needed, tangible help to people in problem debt and will enable them to get back onto a sustainable financial footing. These proposals should also encourage people to seek help earlier.

The Panel welcomes HM Treasury's proposals that address points made in our response to its call for evidence. These include establishing a scheme that is open to everyone who goes to a regulated debt advice provider, the proposed timelines for the scheme including the extension of the breathing space period, the introduction of a statutory debt repayment programme and safeguards in place to help individuals struggling with their debts.

While the Panel welcomes the approach proposed in the consultation paper, it recommends that the following points should be considered and reflected in the final rules for the breathing space scheme:

- **Ongoing liabilities eligibility requirement:** Paying ongoing liabilities to remain eligible for breathing space would penalise individuals with deficit budgets who are most likely to require the protections of breathing space. These individuals may still be getting used to a new budget within 60 days so may not be in a position to pay all ongoing liabilities during that time.
- **30-day check:** This check has the potential to be administratively burdensome and problematic in terms of a debt advice agency being able to remove protection from its clients. We would welcome further clarification on how HM Treasury envisages this working in practice. An alternative approach that would prevent abuse of the process is to assume that the full 60 days will be required, but that advisers must stop the breathing space at the 30-day point if it is clear that the individual will not benefit from breathing space, or should not have been benefiting from it.
- **The register and notifying creditors:** The register should not be public if there are sufficient mechanisms for notifying creditors that a person is on the scheme. We accept that this may cause concerns for some smaller businesses. However,

there is a risk that a public register will add to the stigma of over-indebtedness and deter participation in the scheme. The policy priority in this regard should be to encourage earlier engagement with debt advice.

- **Mental health access mechanism:** The Panel supports the proposed alternative entry route for those undergoing a mental health crisis. The process should be straightforward and not cause unintended barriers such as having to pay for a referral.
- **10 years 'reasonable' timeframe:** This proposal is sensible but it is important that some discretion is retained so people can get onto a plan even where repayments may be over 10 years. This is particularly important where they expect their repayments to increase over the lifetime of a plan, reducing its overall length.
- **Annual reviews and temporary breaks:** Further clarification on the annual reviews is required. Consideration should be given to best practice in the debt management sector to understand the impact of lack of engagement from people with their repayment plans. Regarding temporary breaks, short flexible payment holidays with lower threshold of entry should be considered rather than a six-month payment holiday that requires a higher threshold of evidence.
- **Discretionary contributions:** The statutory debt repayment programme (SDRP) should include a short-term reduced payment option for individuals for whom a SDRP may be the most appropriate solution but cannot afford it at the moment.
- **Creditor compliance:** There should be a system of oversight with the onus being on the creditors to demonstrate they are complying with the scheme and that they don't retroactively charge fees and interest. There must be clear guidance to explain to individuals on the scheme about collection and recovery action. There is also an adverse risk of creditors taking action (such as court action) hastily to avoid being prevented from doing so by the rules of the scheme.

Yours faithfully,

Mark Chidley
Interim Chair, Financial Services Consumer Panel