HM Treasury (2019) - Breathing space impact assessment.

Explanatory Memorandum to the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020

This Explanatory Memorandum has been prepared by HM Treasury and is laid before the Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

PART 1

Description

This instrument establishes the first part of a debt respite scheme for people in problem debt. This part gives eligible people in problem debt who receive professional debt advice access to a 60-day period in which interest, fees and charges are frozen and enforcement action is paused. This moratorium period is often referred to as ‘Breathing Space’. For people receiving mental health crisis treatment, this instrument establishes an alternate route by which the protections of a moratorium may be accessed and ensures that the protections are in place for the duration of their crisis treatment.

The second part of the scheme is the Statutory Debt Repayment Plan (SDRP), a statutory agreement that will enable a person in problem debt to repay their debts to a manageable timetable, with legal protections from creditor action for the duration of their plan. As set out in the June 2019 consultation response the Government intends to implement the SDRP over a longer timeframe and has not yet set a specific implementation date for this part of the scheme.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

This is the first use of the power provided by sections 6 and 7 of the Financial Guidance and Claims Act 2018.

This instrument will apply to qualifying debts and will prevent creditors from taking enforcement action and will prevent debtors being liable for certain interest, fees and charges in relation to their qualifying debts during the moratorium period.

Various parts of this instrument therefore have retrospective effect. The authority to make provisions with retrospective effect is contained in section 7(5)(d) of the Financial Guidance and Claims Act 2018.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

This entire instrument applies to England and Wales only because the instrument has effect in England and Wales only (see regulation 1(8)) and applies in respect of debtors ordinarily resident or domiciled in England and Wales (see regulation 1(9)). 2 3.5. The instrument has effects outside of England and Wales which the Department considers to be minor or consequential. This is because the instrument could apply in respect of debts incurred or creditors based outside this jurisdiction.

In the view of the Department, for the purposes of Standing Order No. 83P of the Standing Orders of the House of Commons relating to Public Business, the subject matter of this entire instrument would be within the devolved legislative competence of the Northern Ireland Assembly if equivalent provision in relation to Northern Ireland were included in an Act of the Northern Ireland Assembly as a transferred matter and the Scottish Parliament if equivalent provision in relation to Scotland were included in an Act of the Scottish Parliament.

The Department has reached this view because it considers that the purpose of the instrument is the establishment of a debt respite scheme, which is within the devolved legislative competence of the Northern Ireland Assembly and the Scottish Parliament. In relation to Northern Ireland, the instrument does not deal with an excepted matter in Schedule 2 to the Northern Ireland Act 1998 and is not otherwise outside the legislative competence of the Northern Ireland Assembly (see section 6 of that Act). In relation to Scotland, the instrument does not relate to a reserved matter in Schedule 5 to the Scotland Act 1998 and is not otherwise outside the legislative competence of the Scottish Parliament (see section 29 of that Act).

Extent and Territorial Application

The territorial extent of this instrument is England and Wales.

The territorial application of this instrument is England and Wales. 5.

European Convention on Human Rights

4.1 The UK Economic Secretary to the UK Treasury has made the following statement regarding Human Rights:

“In my view the provisions of The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 are compatible with the Convention rights.”

Legislative background

This is the first use of the power provided by section 7(2) of the Financial Guidance and Claims Act 2018 for the establishment of a debt respite scheme. This instrument is being made to establish the first part of that scheme: a Breathing Space moratorium on enforcement action and the charging of interest and fees for eligible individuals. This instrument also provides for a moratorium in respect of individuals receiving mental health crisis treatment.

In an Oral Statement on the scheme delivered in June 2019, the Economic Secretary to the Treasury committed to implementing the moratorium in early 2021.[1] These regulations confirm that the scheme will start on 4 May 2021.

Purpose and intended effect of the legislation

What is the problem under consideration?

Sections 6 and 7 of the Financial Guidance and Claims Act 2018 make provision for a debt respite scheme by secondary regulations. This instrument represents the first part of that scheme through the establishment of two types of moratorium on debt-related enforcement action and interest, fees, and charges.

People who need debt advice often do not seek to access it. Those who do receive advice often experience sub-optimal outcomes due to the circumstances in which they seek advice. Advice is often sought at a late stage, when debtors are at crisis point.[2] They are often driven to receive advice by creditor action, such as starting court proceedings or taking enforcement action. This creditor action compounds the stress and anxiety that problem debt causes.[3] Under this level of stress, debtors often take the quickest rather than the most appropriate solution, contributing to sub-optimal debt advice outcomes.

What is the policy objective and how will it be achieved?

The policy objective is to incentivise more people in problem debt to access professional debt advice, to do so sooner, and to enable them to enter the debt solution that is most appropriate in view of their individual circumstances.

These protections are accessible only via professional debt advice providers (i.e. an authorised person who has Part 4A permission to carry on any regulated activity of the kind specified in article 39E (debt-counselling) of the

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[1] Official Report, 19 June 2019, Vol. 662, c. 246. Available at: https://hansard.parliament.uk/Commons/2019-06-19/debates/252B8ABA-F40D-4848-8D59-DFB0734A78AC/BreathingSpaceScheme

[2] Christians Against Poverty (2019) *Client Report: Changing Perceptions*. Available at: https://capuk.org/fileserver/downloads/general/cap-clientreport-2019-dp.pdf

[3] Money Advice Service (2017) *Better debt advice: from a moment of crisis to a lifetime of resilience* Available at: https://www.fincap.org.uk/en/insights/better-debt-advice-from-a-moment-of-crisis-to-a-lifetime-of-resilience

Financial Services and Markets Act 2000 (Regulated Activities) Order 2001[4], or by exempt persons in relation to that activity (such as a local authority). Any debt adviser meeting this description could offer a moratorium, via an online, telephone or face-to-face service, provided the debtor meets the eligibility criteria for the scheme. This will encourage more people to seek debt advice and to do so at an appropriate time.

The debt adviser cannot charge a fee for this service or for any service in connection with a moratorium.

A moratorium under the scheme will freeze charges and certain interest as well as pause enforcement action. This will give debtors time to engage fully with professional advice by reducing the stress caused by spiralling debt and impending enforcement action. Enhancing the engagement between debtors and their advisers will promote more positive debt advice outcomes, including by increasing creditor recoveries.

All of a person's debts can be included in a breathing space, unless it is a non-eligible debt. Non-eligible debts are set out in regulation 5(4). Arrears owed to central and local government, including council tax arrears, personal tax debts and benefit overpayments are generally included in a moratorium. 2 Christians Against Poverty (2019) Client Report: Changing Perceptions. Available at: https://capuk.org/fileserver/downloads/general/cap-clientreport-2019-dp.pdf 3 Money Advice Service (2017) Better debt advice: from a moment of crisis to a lifetime of resilience Available at: https://www.fincap.org.uk/en/insights/better-debt-advice-from-a-moment-of-crisis-to-a-lifetime-of-resilience 4 S.I. 2001/544. 4

Some specific public sector debts are excluded by regulation 5(4), mirroring the position in bankruptcy (e.g. debts incurred as a result of fraudulent behaviour; fines imposed by a court, including criminal fines; confiscation orders; child maintenance payments and debts that arise after an order made in family proceedings; social fund loans; student loans and personal injury liabilities).

Universal Credit advances and Universal Credit third party deductions are currently excluded, but will be included in the protections on a phased basis as early as possible following the start of the policy in early 2021, to ensure that IT changes required align with other requirements of the wider Universal Credit programme.

A person's business debts are not eligible if the debtor's business is registered for VAT, or if they are in partnership with anyone else and the debt they have accrued relates solely to the business. There is no limit on the amount of any individual debt, or total debts that can be protected in a moratorium.

A moratorium is not a payment holiday. The person should keep paying their debts during a moratorium. In particular, a debtor is required to keep paying certain ongoing liabilities (defined in regulation 2, including mortgage, rent, insurance, taxes and utility bills) as they fall due. If they do not keep up paying on these specific ongoing liabilities, and the debtor has the means to do so, the debt adviser must cancel their moratorium at the midway review unless the

[4] S.I. 2001/544.

debtor's personal circumstances would make cancellation unfair or unreasonable.

Campaigners originally requested a six-week moratorium, which the Government proposed to extend to 60 days in its 2018 consultation. As set out in the 2019 consultation response, almost all consultation respondents welcomed the extension of the length of breathing space to 60 days, suggesting that this was a realistic length of time to enable an individual to seek debt advice and enter a sustainable debt solution.

Breathing space cannot be extended, as the fixed period provides certainty to creditors. The only exception to this is in the mental health crisis moratorium (see paragraph 7.14 below.)

Mental health crisis moratorium

People receiving mental health crisis treatment will receive the protections of the scheme but through different entry mechanism. This reflects the fact that while this group could benefit from the protections in the standard scheme, they may face challenges in meeting the requirement to engage with debt advice in order to meet the eligibility criteria. There is no difference in the types of debts that are eligible for a mental health crisis moratorium.

7.15 This group will be able to enter a mental health crisis moratorium without engaging with debt advice. Approved Mental Health Professionals (AMHPs) will be the professional group able to produce an assessment that an individual is receiving mental health crisis treatment. AMHPs may themselves provide this evidence to a debt adviser, or they may do so following a request by the debtor or someone else involved in the debtor's care. This assessment will be the evidence that debt advisers then use when determining an individual's eligibility for a mental health crisis moratorium and enter them into the protections of the scheme.

The policy protections will apply for the duration of their crisis treatment and then for a further 30 days. If eligible, debtors may then have access to the 60-day Breathing Space moratorium accessed via professional debt advice. As mental health problems 5 often recur, there will be no limit on the number of times that people receiving mental health crisis treatment may enter a moratorium via this mechanism, whereas debtors in the 60-day Breathing Space moratorium will have access once in each 12-month period.

This instrument also provides for the administration of the scheme by the Secretary of State. The Secretary of State's functions will be carried out by the Insolvency Service, which is an executive agency, sponsored by the Department for Business, Energy & Industrial Strategy. The Insolvency Service will operate an electronic system to administer the scheme, including a private register of persons in moratoria. Regulation 35(4) sets out entitlements to information held on the register, and regulation 35(5) limits the information a creditor may access about debtors

European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

This instrument does not relate to withdrawal from the European Union. 9.

Consolidation

This regulation will not consolidate other instruments.

Consultation

The UK Government has issued two consultations on the debt respite scheme. First, a call for evidence ran between October 2017 and January 2018. The UK Government's response was published in June 2018. Over 80 unique responses were received.[5] Most respondents were supportive. Many respondents suggested that individuals in problem debt should have to seek debt advice before entering a Breathing Space, although some noted that there were certain, unique cases where this could be inappropriate, with individuals experiencing mental health crises highlighted as an example.

The UK Government consulted on a policy proposal informed by responses to this call for evidence between October 2018 and January 2019, publishing its response in June 2019. Over 130 responses were received. Respondents included creditors, trade bodies, local authorities, charities, debt advice providers, credit reference agencies, utility companies, telecoms providers, and others.[6]

The key points raised by these respondents are summarised in the UK Government's consultation response document.[7] A wide range of views were expressed on a very large number of issues such as: the duration of a moratorium, the initial eligibility criteria, ongoing eligibility criteria, which debts should be included in the policy, whether there should be a public register of people in breathing space, the treatment of business debts, and other questions. Most respondents were supportive, for example of the eligibility criteria and of the proposed protections for debtors.

Further engagement with specific expert stakeholders from the creditor and debt advice sectors was undertaken in support of the drafting of this instrument. This informal exercise generated many helpful comments on the draft regulations.

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[5] HM Treasury (2018) *Breathing space: call for evidence*. Available at: https://www.gov.uk/government/consultations/breathing-space-call-for-evidence

[6] HM Treasury (2019) *Breathing space scheme: consultation on a policy proposal*. Available at: https://www.gov.uk/government/consultations/breathing-space-scheme-consultation-on-a-policy-proposal

[7] *Ibid.*

Guidance

HM Treasury guidance will be prepared in due course to assist creditors, creditor agents, and debt advice providers as they apply the regulations.

Reporting on the original version of these Regulations, which were withdrawn on 9 September, the Secondary Legislation Scrutiny Committee recommended that the UK Government should consider establishing a register of authorised professional debt advisers[8]. The UK Government will work with the Money and Pensions Service, other Government departments, creditors and debt advice providers to raise awareness of the scheme, but does not intend to establish a register of debt advisers.

The Government will ensure that its activity includes clear signposting to debt advice providers who are able to enter people into a moratorium, including via the Money and Pensions Service's existing Debt Advice Locator and Money Navigator tools. Other forms of publicity will also be employed to raise awareness of the policy amongst potential users. This activity will take into account the advice provided to the government by the Money and Pensions Service, in accordance with section 6 of the Financial Guidance and Claims Act 2018, on raising awareness of the policy[9].

Impact

The impact on business, charities or voluntary bodies is forecast to be a total cost over the ten years from 2021-22 of £2.1bn, which includes foregone interest and charges, delayed repayments, and familiarisation, dissemination and administration costs. The economic benefits to businesses, charities and voluntary bodies (that is the business net present value) is forecast to be £6.1bn in 2016 prices, which includes higher recoveries for creditors, productivity benefits for employers and reduced negative mental and physical health outcomes amongst debtors.

The impact on the public sector is forecast to be £7m over the same period. The wider benefits on society (that is the net present social value) are forecast to be £9.2bn in 2016 prices.

A full impact assessment is included in this memorandum and published on GOV.UK.[10]

Regulating small business

The legislation applies to activities that are undertaken by small businesses.

No specific action is proposed to minimise regulatory burdens on small businesses.

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[8] House of Lords Secondary Legislation Scrutiny Committee (2020) 24th Report of Session 2019-2021. Available at: https://committees.parliament.uk/publications/2206/documents/20319/default/

[9] Money and Pensions Service (2019) Breathing space scheme – Money and Pensions Service advice. Available at: https://www.gov.uk/government/publications/breathing-space-scheme-money-and-pensions-service-advice

[10] HM Treasury (2019) *Breathing space impact assessment.* Available at: https://www.gov.uk/government/publications/breathing-space-impact-assessment

The basis for the final decision on what action to take to assist small businesses is outlined in full in the Small and Micro Business Assessment in the Impact Assessment. [11] Exemption or mitigation for small businesses would not achieve the policy intent, so no specific action is proposed to minimise the regulatory burdens on such businesses.

Full exemption from the protections of a moratorium for small businesses would mean that the respite afforded to debtors by a moratorium was incomplete, particularly where debtors' liabilities were owed mostly or entirely to creditors exempted by virtue of their size. It would also be impractical, imposing an excessive burden on debt advice providers (often themselves small businesses, charities or civil society organisations) to identify whether a creditor qualified as a small business.

As full exemption would undermine the policy intent and would be impractical, mitigations to minimise the regulatory burden of a moratorium on small businesses were considered. The government considered three options: allowing small businesses more time to prepare for the commencement of the debt respite scheme, in recognition of their high familiarisation costs relative to larger firms; applying the protections to small businesses only in respect of enforcement action rather than enforcement action and interest and fee-charging, and reducing the duration of a moratorium in respect of debts owed to small businesses.

All three of these mitigations were discounted. The first mitigatory option was found to be disproportionate: the familiarisation costs of small businesses are only forecast to be 8% higher than those of larger businesses.[12] The second and third were found to undermine the policy intent by providing only incomplete respite from creditor action for debtors. In addition, these options would impose an impractical and excessive administrative burden on debt advice providers in requiring them to determine whether creditors qualified as small businesses.

Monitoring & review

The approach to monitoring of this legislation is outlined in regulation 40 of this instrument. HM Treasury will publish a review by 4th May 2026, five years after the commencement of the instrument. In addition, subsequent evaluations will be published at five-year intervals. These evaluations will be carried out with due regard to the advice provided on this topic by the Money and Pensions Service.[13] Further information is set out in the impact assessment.

A statutory review clause is included in the Regulation.

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[11] *Ibid.*

[12] *Ibid.*

[13] Money and Pensions Service (2019)

HM Treasury (2019) - Breathing space impact assessment.

HM Treasury Impact Assessment below:

Title: Breathing Space **RPC Reference No:** RPC-4418(1)-HMT **Lead department or agency:** HM Treasury	**Impact Assessment (IA)** **Date:** 27/08/2019 **Stage:** Regulations **Source of intervention:** Domestic **Type of measure:** Secondary legislation **Contact for enquiries:** Alfie Shaw Alfie.Shaw@HMTreasury.gov.uk 020 7270 2492
Summary: Intervention and Options	RPC Opinion: RPC Opinion Status

Cost of Preferred (or more likely) Option (in 2016 prices)			
Total Net Present Social Value	**Business Net Present Value**	**Net cost to business per year**	**Business Impact Target Status**
£9151.4m	£6132.0m	£169.3m	Qualifying Provision

What is the problem under consideration? Why is government intervention necessary?

There are an estimated 9 million overindebted people in the UK, of which only around 1.1 million receive advice each year.[1] An additional 0.65 to 2.9 million people would benefit from debt advice but do not seek it.[2] Even those that do seek help often do so at a late stage[3] and sometimes take the quickest rather than most sustainable solution.[4] Evidence suggests that people's emotions, knowledge and attitudes to their debt create barriers to accessing advice.[5] These internal barriers include the stress and anxiety that comes with problem debt, which can be compounded when creditors start to take enforcement action such as chasing for repayment, starting court processes or using bailiffs.

What are the policy objectives and the intended effects?

The government wants to incentivise more people to access professional debt advice and to access it sooner, helping them to reach sustainable debt solutions. The government also wants to provide debtors who engage with this advice with the headspace to find a debt solution by pausing creditor enforcement action, interest, and charges. By offering these protections in Breathing space, and by making debt advice the gateway to these protections, the policy should deliver these objectives.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

To achieve these objectives, the government has considered three options:

a) **Do nothing**. No government intervention to address the barriers that prevent or delay the people most in need of professional debt advice from seeking it.

b) **A voluntary Breathing Space**. The government would encourage creditors to offer the protections of Breathing Space voluntarily.

c) **A regulatory Breathing Space**, as described in the government's consultation document. This option would deliver a higher net present social value than the other two options.

Will the policy be reviewed? Yes. **If applicable, set review date:** The policy will be reviewed within five years of commencement. When a commencement date is fixed, the RPC Secretariat will be made aware.

Does implementation go beyond minimum EU requirements?		N/A		
Is this measure likely to impact on trade and investment		No		
Are any of these organisations in scope?	**Micro** Yes	**Small** Yes	**Medium** Yes	**Large** Yes
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)		**Traded** **N/A**		**Non-traded** **N/A**

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister, the Economic Secretary to the Treasury:

John P. Glen

27th August 2019

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1 Wyman (2018) Independent Review of the Funding of Debt Advice in England, Wales, Scotland, and Northern Ireland. Available at: https://masassets.blob.core.windows.net/cms/files/000/000/900/original/Peter_Wyman_Review_of_Debt_Advice_Funding_2018.pdf

2 Ibid.

3 Christians Against Poverty (2019) *Client Report: Changing Perceptions*. Available at: https://capuk.org/fileserver/downloads/general/cap-client-report-2019-dp.pdf

4 Money Advice Service (2017), 'How to use behavioural science to increase the uptake of debt advice' Available online at https://masassets.blob.core.windows.net/cms/files/000/000/810/original/MAS0032-MAS-BehaviouralChange_W.PDF

5 Money and Pensions Service (2019), *Debt Respite Scheme: Response to Request for Advice* to HM Treasury

HM Treasury (2019) - Breathing space impact assessment.

Summary: Analysis & Evidence

Policy Option 1

Description: Do nothing

FULL ECONOMIC ASSESSMENT

Price Base Year 2021	**PV Base Year** 2021	**Time Period Years** 10	**Net Benefit (Present Value (PV)) (£m)**		
			Low:	**High:**	**Best Estimate: 0**

COSTS (£m)	**Total Transition** (Constant Price)	Years	**Average Annual** (excl. Transition) (Constant Price)	**Total Cost** (Present Value)
Best Estimate	**0**		**0**	**0**

Description and scale of key monetised costs by 'main affected groups'

In the absence of intervention, no change is expected relative to the counterfactual. Debt advice supply is forecast to increase from 1.3m in 2017-18 to 2.6m in 2030-31. The supply of this debt advice comes at a cost, but doing nothing will not change this cost. There is therefore no marginal cost to doing nothing.

Other key non-monetised costs by 'main affected groups'

Nil.

BENEFITS (£m)	**Total Transition** (Constant Price)	Years	**Average Annual** (excl. Transition) (Constant Price)	**Total Benefit** (Present Value)
Best Estimate	**0**		**0**	**0**

Description and scale of key monetised benefits by 'main affected groups'

As a result of the increase in debt advice supply, more people will benefit from debt advice. Doing nothing will not change the number of additional people who will benefit from debt advice in the counterfactual or the value of the debt advice that they receive, so there is no marginal benefit to doing nothing.

Other key non-monetised benefits by 'main affected groups'

Nil.

Key assumptions/sensitivities/risks | **Discount rate (%)** | 3.5%

Nil, as doing nothing is not expected to change the counterfactual.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			**Score for Business Impact Target (qualifying provisions only) £m:**
Costs: 0	**Benefits:** 0	**Net:** 0	0

HM Treasury (2019) - Breathing space impact assessment.

Summary: Analysis & Evidence

Policy Option 2

Description: Voluntary Breathing Space

FULL ECONOMIC ASSESSMENT

Price Base Year 2021	PV Base Year 2021	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: 8029.4

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Best Estimate	13.7		91.4	**788.5**

Description and scale of key monetised costs by 'main affected groups' (costs in present value)

The costs of a voluntary Breathing Space would be the same as in a mandatory Breathing Space, but their scale would be reduced as a result of non-compliance. 20% of firms already deliver similar protections to those of Breathing Space for clients in problem debt. Non-regulatory intervention is expected to double this proportion. In the absence of regulation, firms will be expected to familiarise themselves with only updated guidance rather than new regulations. Only firms who voluntarily comply would be expected to make systems changes (£11.2m). Costs to creditors would therefore be lower than under a regulatory Breathing Space: foregone interest (£575.3m) and fees (£78.4m), delayed revenue (£0.5m), administrative costs (£114m), familiarisation costs (£0.2m), and dissemination costs (£1.9m). Public sector creditors would comply voluntarily, incurring similar costs (£6.9m).

Other key non-monetised costs by 'main affected groups'

Creditors may face opportunity costs as a result of the key monetised costs set out above.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Best Estimate	0.0		1336.7	**8817.9**

Description and scale of key monetised benefits by 'main affected groups' (benefits in present value)

The benefits of a voluntary Breathing Space would be the same as in a mandatory Breathing Space. As only some creditors are expected to comply with the protections of Breathing Space, the scale of the benefits will be lower than under a regulatory version of the scheme. The benefits of this option compared to do nothing would be: higher creditor recoveries (£5158.0m), higher employee productivity (£1796.4m), and benefits to debtors themselves (£1205.8m). In addition, debtors will benefit from economic transfers equivalent to the inverse of the costs to creditors of frozen interest and charges and delayed revenue (£657.8m).

Other key non-monetised benefits by 'main affected groups'

The same set of non-monetised benefits as identified in option 3 (regulatory Breathing Space) would apply.

Key assumptions/sensitivities/risks — **Discount rate (%)** 3.5%

There is a high degree of uncertainty around the relationship between the incentive to seek debt advice and the strength of the consumer protections that debt advice can provide. Debt advisers estimated that Breathing Space will increase the number of debtors who seek advice by 10% per annum. Creditor non-compliance would reduce the strength of the consumer protections accessible via Breathing Space, which would decrease the incentive to seek advice. This would reduce the forecast 10% uplift in debt advice take-up. In the absence of evidence on which to base an assumption for the extent to which the 10% assumption would fall, it has been assumed to fall to 5% per annum. Debt advice agencies suggested that Breathing Space will increase the benefit of debt advice by 14%. Debtors will not derive this full marginal benefit if not all of their creditors offer the protections of Breathing Space voluntarily. This relationship will not be direct – the benefit of Breathing Space when only 40% of creditors comply will not be 40% of 14%. Exactly how much lower the marginal benefit of debt advice will be given incomplete coverage is unclear, but it is assumed to be half that of a regulatory version of the scheme, at 7%.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 0	**Benefits:** 0	**Net:** 0	0

HM Treasury (2019) - Breathing space impact assessment.

Summary: Analysis & Evidence

Policy Option 3

Description: Regulatory Breathing Space

FULL ECONOMIC ASSESSMENT

Price Base Year 2021	PV Base Year 2021	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: 11577.5

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Best Estimate	31.7		240.2	**2066.8**

Description and scale of key monetised costs by 'main affected groups' (costs in present value)

Creditors will forego interest (£1460.9m) and charges (£207.7m). Some of the debtors who would have made repayments in the counterfactual may delay their repayments under Breathing Space and some revenue derived from enforcement action will be delayed, generating costs to creditors (£1.4m). Creditors and debt advisors will face administrative costs (£358.2m), minimised through systems changes where economical (£29.1m). Creditors and debt advisers will face familiarisation (£0.4m) and dissemination costs (£1.9m). Government creditors will face similar costs (£7.1m).

Other key non-monetised costs by 'main affected groups'

Creditors may face opportunity costs as a result of the key monetised costs set out above.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Best Estimate	0.0		1614.5	**13644.4**

Description and scale of key monetised benefits by 'main affected groups' (benefits in present value)

Breathing Space will magnify the benefits of debt advice for those who already seek it and encourage more of those in problem debt to seek debt advice. Debt advice agencies estimated that the value of debt advice will be 14% higher under Breathing Space and it is forecast that an additional 1.3m debtors will seek advice over the assessment period as a result of Breathing Space. This will promote higher recoveries for creditors (£6109.0m), deliver productivity benefits for employers (£3708.3m), and reduce negative mental and physical health outcomes amongst debtors (£2153.4m). In addition, debtors will benefit from economic transfers equivalent to the inverse of the costs to creditors of frozen interest and charges and delayed revenue (£1673.7m).

Other key non-monetised benefits by 'main affected groups'

Non-monetised benefits to debtors include: lower dependence on state-subsidised housing; more positive education and employment outcomes, partly as a result of higher levels of parental engagement; lower risk of children being taken into care; lower rates of desperation crime; lower risk of eviction or repossession; lower risk of job loss; lower rates of relationship breakdown; increased social security take-up; higher rates of small business continuity, and more positive future credit access. Creditors will benefit from reduced risk of credit cycling, whereby debtors borrow from one creditor to pay another.

Key assumptions/sensitivities/risks — **Discount rate (%)** 3.5%

The costs and benefits of Breathing Space are sensitive to changes in take-up. If take-up was to be lower than forecast, the benefits and ongoing costs of the scheme would be lower. As government programmes that rely on consumer demand are often over forecast, this has been accounted for with an optimism bias adjustment to the forecast caseload of 20%. The inverse risk of take-up rising above forecast levels is low. Demand for debt advice can be volatile, but supply constraints within the debt advice sector would limit the scope for significant caseload increases.

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 214.2	**Benefits:** 0	**Net:** 214.2	846.5

1. Problem under consideration

1.1. There are substantial benefits from the provision of professional debt advice. These benefits fall across society, including to creditors who receive higher repayments, to employers who benefit from higher employee productivity, and to individuals in problem debt.

1.2. The Money Advice Service (now the Money and Pensions Service), a financial advice and guidance body established by government, estimates the benefits of debt advice to be between £475-£1bn per annum in 2021 prices.[1]

1.3. There are estimated to be up to 9 million people in the UK struggling with their debts.[2] In 2018, Peter Wyman conducted an independent review of debt advice funding in the United Kingdom. He found that between 0.65m and 2.9m people in the UK would benefit from advice but do not seek it.

1.4. Those who seek debt advice often seek it too late. Christians Against Poverty report that most of their clients wait over a year before seeking advice, far later than when advice would be most beneficial.[3] The debt advice charity StepChange estimates that people who wait six months to seek advice see their debts grow 14% larger than those who seek advice at an earlier stage.[4]

2. Rationale for intervention

2.1 There are clear demand side barriers to accessing advice from the point that it would be most beneficial. The government is seizing the opportunity to address these.

2.2 Advice to the government from the Money and Pensions Service (MAPS) states that individuals in problem debt often have internal barriers where their attitudes, emotions and knowledge impact their willingness to seek advice.[5] MAPS suggest that people in problem debt often deny the severity of their circumstances, partly as a result of the stigma attached to being in problem debt. For others, fear, shame, embarrassment, and the hope that they will be able to resolve their problem debt without professional help cause them to delay seeking advice.[6]

2.3. By the time that debtors seek advice, many creditors will have progressed to taking enforcement action, such as writing to the debtor to request

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[1] Europe Economics (2018) *The Economic Impact of Debt Advice.* Available at: https://www.moneyadviceservice.org.uk/en/corporate/economicimpactdebtadvice

[2] Wyman (2018) Independent Review of the Funding of Debt Advice in England, Wales, Scotland and Northern Ireland. Available at: https://masassets.blob.core.windows.net/cms/files/000/000/900/original/Peter_Wyman_Review_of_Debt_Advice_Funding_2018.pdf

[3] Christians Against Poverty (2019) *Client Report: Changing Perceptions*. Available at: https://capuk.org/fileserver/downloads/general/cap-clientreport-2019-dp.pdf

[4] StepChange (2015) *Safe Harbours* Available at: https://www.stepchange.org/Portals/0/documents/Reports/safe-harbours-report.pdf

[5] Money and Pensions Service (2019) *Debt Respite Scheme: Response to Request for Advice.* Available at: https://www.gov.uk/government/publications/breathing-space-scheme-money-and-pensions-service-advice

[6] Christians Against Poverty (2019)

repayment, taking court action, or using bailiffs, all of which can add to the stress and anxiety that debtors experience.

2.4. Debtors who are at crisis point when they seek advice are less likely to achieve an optimum outcome from debt advice. Research by the Money Advice Service suggests that the stress and anxiety of problem debt results in people being more likely to ignore essential communication, to report feeling overwhelmed by information about debt solutions, and to choose poorer debt solutions, often opting for quick fixes over more sustainable debt solutions.[7]

2.5. Some creditors already offer protections similar to those of Breathing Space. Chapter 7 of the Financial Conduct Authority's (FCA) Consumer Credit Sourcebook suggests that firms consider "suspending, reducing, waiving or cancelling any further interest or charges… allowing deferment of payment of arrears… accepting token payments for a reasonable period of time in order to allow a customer to recover from an unexpected income shock… [and] refer[ing] the customer to a not-for-profit debt advice body."[8] These protections are referred to collectively as 'forbearance'.

2.6 Not all debtors who need it are shown this forbearance. The FCA does not mandate that the firms it regulates undertake these steps and, in any case, debtors can owe money to firms in a host of different sectors which are not FCA regulated, such as utility companies, landlords, and the public sector. The enforcement and forbearance practices that debtors experience can therefore be very varied.

3. Policy objective

3.1. The government wants to encourage and incentivise more people to access debt advice and to access it sooner. This will help them to achieve better, more sustainable outcomes from debt advice. This will benefit not just to debtors but creditors and employers, too.

3.2. If creditors more consistently provide forbearance and pause enforcement action for those who are in the process of engaging with debt advice, those individuals will have the headspace to engage more effectively to achieve more sustainable solutions. Making debt advice the gateway to such protections would also make debt advice more attractive to those who need it, incentivising them to seek advice and to seek it sooner.

4. Description of options considered

4.1. This impact assessment considers a regulatory Breathing Space against a voluntary approach and doing nothing.

4.2. First, this assessment considers doing nothing. This would see no change in counterfactual debt advice take-up or outcomes and so no additional costs or benefits. Take-up of debt advice would rise, but more slowly than under a mandatory Breathing Space. The benefits of debt advice would accrue

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[7] Money Advice Service (2017) *Better debt advice: from a moment of crisis to a lifetime of resilience* Available at: https://www.fincap.org.uk/en/insights/better-debt-advice-from-a-moment-of-crisis-to-a-lifetime-of-resilience Money Advice Service (2017) *How to use behavioural science to increase the uptake of debt advice* Available at: https://asauk.org.uk/wp-content/uploads/2018/03/MAS0032-MASBehaviouralChange_W.pdf

[8] FCA (2014)

accordingly, but debt advice would be less beneficial than under Breathing Space.

4.3. Next, a voluntary approach to delivering Breathing Space is assessed. This would see the government work with creditors, trade bodies, and regulators to encourage more creditors to freeze interest, fees, and charges, to refrain from contacting debtors, and to pause enforcement action where debtors are in financial hardship. More creditors would offer these protections than do in the counterfactual, but fewer than would do so under a regulatory Breathing Space. As a result of incomplete coverage, the rate of increase in take-up of debt advice and the marginal benefit of debt advice would be lower than under a regulatory version of Breathing Space.

4.4. Finally, this assessment considers a regulatory Breathing Space. This will pause enforcement action; freeze interest, fees, and charges, and pause creditor contact with debtors where it relates to debt repayment. These protections would last for a 60-day period and be accessible via professional debt advice. This is expected to increase take-up of debt advice and the benefit of debt advice.

4.5. To support an evidence-based assessment of the costs and benefits of Breathing Space, information was requested from a range of stakeholders including: debt advice agencies; industry bodies representing the financial services sector, debt collection agencies, and enforcement agents; utility companies, and the public sector. This stakeholder engagement was in addition to a formal consultation that received over 130 responses.[9]

5. Breathing Space policy outline

5.1. Breathing Space is a 2017 manifesto commitment.[10] It will pause enforcement action; freeze interest, fees, and charges, and pause creditor contact with debtors where it relates to debt repayment for a 60-day period. These protections will be accessible via professional debt advice.

5.2. The strong protections of Breathing Space will incentivise debtors to seek advice sooner by providing a tangible way out of debt problems that might otherwise seem insurmountable. By pausing enforcement action and freezing interest, fees, and charges, Breathing Space will provide debtors with the headspace to engage fully with debt advice, away from the pressures of spiralling debts and ongoing enforcement action.

5.3. Breathing Space will also include a Mental Health Crisis Moratorium for those receiving mental health crisis treatment. For this group, the protections of Breathing Space will last for the duration of their crisis treatment, followed by a further 30 days. The Money and Mental Health Policy Institute estimate that the median duration of in-patient psychiatric treatment is 34 days.

This suggests that the median duration within the Mental Health Crisis Moratorium before entering the main protections of Breathing Space is 64 days.

5.4. Not all debtors will remain within the protections of Breathing Space for its full 60-day duration. Breathing Space will impose a number of obligations on

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[9] HM Treasury (2019) *Breathing Space scheme: response to policy proposal*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810058/17June_CLEAN_response.pdf

[10] Conservative Party (2017) *Manifesto.* Available at: https://www.conservatives.com/manifesto

debtors, including: not taking out further credit of £500 or more without the approval of their debt advisor, continuing to meet their ongoing liabilities where they are able to do so, and continuing to engage with debt advice with a view to finding a debt solution. Where they are notified of a failure to meet the ongoing eligibility criteria, debt advisers will administer an ongoing eligibility check at the 30-day point, removing debtors who have not met the ongoing eligibility criteria.[11]

Do Nothing – option 1

6.1. In the absence of a policy intervention, debt advice take-up will continue to rise and there will be no change in debt advice outcomes. By contrast, a regulatory Breathing Space would improve both outcomes and take-up.

6.2. The Money and Pensions Service (MAPS) is the body that commissions the delivery of free to access debt advice. MAPS collects nationwide data on debt advice supply, which is represented in Table 1 below.

6.3. MAPS's best estimate, based on debt advice provider data, is that 16.7% of the debt advice sessions that are recorded annually are likely to be duplicates. That is, they are likely to record the same debtor receiving separate advice more than once in a 12-month period. Breathing Space will only be accessible once per year, so duplicates are removed from the counterfactual.

6.4. MAPS estimate that 7.5% of debt advice is supplied in Scotland and Northern Ireland.[12] The territorial extent of Breathing Space will be England and Wales, so debt advice supplied in Scotland and Northern Ireland will not lead to Breathing Space. Advice supplied in Scotland and Northern Ireland is therefore removed from the counterfactual.

Debt advice supply	2015-16	2016-17	2017-18
Total, UK	953,764	1,134,607	1,390,776
Total, England and Wales	882,232	1,049,511	1,286,468
Duplication adjustment	734,899	874,243	1,071,628

Table 1: *Baseline debt advice supply*

6.5. From this starting point, debt advice supply may be forecast across the assessment period. As Peter Wyman pointed out in his Independent Review of Debt Advice Funding, forecasting future take-up of debt advice is challenging given the complexity of the relationship between levels of over indebtedness and wider macroeconomic factors. Partly for this reason, there is no official forecast of debt advice supply across the period that this impact assessment examines.

6.6. In the absence of an official forecast, the three-year trend is extrapolated across the assessment period. Debt advice is supplied via three primary channels: telephone, face-to-face, and online. As Table 2, below, shows, there has been significant volatility in the supply of advice via each channel. This volatility has been most pronounced in the online advice channel. This reflects

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[11] The 30-day check may be undertaken at any point between days 25 and 35 of Breathing Space.

[12] Money Advice Service (2018) Mapping the unmet demand for debt advice in the UK Available at: https://masassets.blob.core.windows.net/cms/files/000/001/064/original/Mapping_the_unmet_demand_for_debt_advice_in_the_UK.pdf

a sector-wide strategy of increasing debt advice supply by reducing the unit costs of debt advice. As online advice is cheapest to supply, the debt advice sector has sought to increase supply of advice via this channel.

England and Wales debt advice supply by channel	2015-16	Change	2016-17	Change	2017-18
Total change	882,232	19%	1,049,511	23%	1,286,468
Face to face	313,115	-5%	297,954	7%	318,730
Phone	410,562	24%	510,597	-5%	485,798
Online	158,554	52%	240,961	100%	481,940
Average change excluding online		10%		1%	
Average of annual changes	5%				

***Table 2:** Debt advice supply in England and Wales by channel*

6.7. As online-channel debt advice reaches an optimum point, the annual increase in online debt advice is expected to revert to a similar level as that of telephone and face-to-face advice. There is uncertainty as to when this optimum point will be reached. This forecast assumes that it is reached in 2018-19. Therefore, in this forecast of counterfactual debt advice supply across the assessment period, the baseline annual increase in debt advice supply is taken to be the mean of the annual change in debt advice supply delivered by the telephone and face-to-face channels.

6.8. As Table 2 illustrates, this suggests that debt advice supply will increase by 5% per annum from 2018-19 to 2030-31. This suggests that debt advice supply will rise from 1.6m to 2.5m over the assessment period, or 1.3m to 2.1m when duplicates are removed.

6.9. Doing nothing will not change the amount of debt advice that is supplied across the assessment period and will not increase the value of that debt advice to either creditors, employers, or debtors. It will impose no new costs. Doing nothing will therefore have no impact on society, meaning that this option's Net Present Social Value, Business Net Present Value, and

Equivalent Annual Net Direct Cost to Business are all nil.

7. Voluntary Breathing Space – option 2

7.1. In the absence of regulation, there is strong evidence that coverage of Breathing Space would be incomplete as a result of creditor non-compliance, limiting both the costs and benefits of this option.

7.2. Some respondents to the government's consultation on a policy proposal for Breathing Space suggested that debts owed to their sector should not be included in the scheme, arguing that the existing forbearance that they provide is adequate.[13]

7.3. A non-regulatory intervention might see the government work with regulators to encourage more creditors to deliver forbearance in a guise that is similar the protections of Breathing Space. This could be achieved by working with regulators directly to update guidance, or by collaborating with trade bodies to develop sector-wide codes of practice with recognition for firms who adhere. Such a non-regulatory intervention would increase the proportion of creditors who offer this level of forbearance, but by exactly how much is uncertain.

7.4. Recent efforts to change creditor behaviour through voluntary approaches have been only partially successful. In his independent review of debt advice funding, Peter Wyman recommended that a wider range of creditors should contribute to debt advice funding.[14] Wyman proposed that this objective should be achieved through the development of a code of conduct by creditor trade bodies. Over a year after the publication of Wyman's recommendation, compliance with this recommendation has been limited. This suggests that compliance with a voluntary Breathing Space would be incomplete.

7.5 Creditors responding to requests for information submitted as part of this impact assessment estimated that creditors offer forbearance similar to the protections of Breathing Space in 20% of cases in the status quo.

7.6. In the absence of outturn data, this assessment assumes that a non-regulatory intervention would double the proportion of creditors offering these protections. As fewer creditors would comply with Breathing Space than under the regulatory option, costs to creditors would be lower.

7.7. Some costs would fall below this level. For example, there would be no regulations and so firms would have to familiarise themselves with guidance alone rather than both regulations and guidance. Likewise, only the firms complying with the voluntary Breathing Space would be expected to make systems changes.

7.8. The protections offered by Breathing Space will encourage debtors to seek professional debt advice sooner. Debt advice agencies were consulted on how much this would improve debt advice outcomes. They suggested that encouraging debtors to seek advice sooner would produce financial and social benefits, which are discussed in more detail in section 9 below.

7.9. People in problem debt who delay seeking debt advice typically present to debt advisers with more significant debts. StepChange estimate that debtors who wait six months after first worrying about their debts before seeking professional advice can see their debts grow by 14% on average.[15]15

7.10. The financial benefits alone of seeking debt advice sooner could be 14% over 6 months. The social benefits are expected be higher still, though by how much is uncertain. Breathing Space is therefore assumed to increase by 14%

[13] HM Treasury (2019)

[14] Wyman (2018)

[15] StepChange (2015) *Safe Harbours: Why we need a new extended breathing space guarantee to help people in temporary financial difficulties recover from debt.* Available at: https://www.stepchange.org/policy-and-research/breathing-space.aspx

the benefit to debtors of seeking advice. This is a low estimate looking only at financial benefits, so the realistic benefit is likely to be higher.

7.11. Debtors who would not have received advice in the absence of Breathing Space but who receive it under Breathing Space will derive this full benefit. Those who would have received debt advice in the counterfactual will derive only the marginal benefit.

7.12. The benefits of a voluntary Breathing Space are superior to doing nothing as some creditors would voluntarily deliver the protections of Breathing Space. However, the majority would not. The marginal benefits of Breathing Space apply per person, not per debt. Debt advice agencies estimate that debtors hold an average of 4 to 6 debts at the point of seeking advice. As a result of non-compliance in a significant minority of cases, it is unlikely that debtors will gain the headspace to engage fully with debt advice.

7.13. It is uncertain how much this would reduce the 14% marginal benefit of debt advice under Breathing Space. It is clear, though, that the relationship is not direct. Being pursued for interest, undergoing enforcement action, and being contacted by creditors seeking repayment is likely to reduce disproportionately the marginal benefits of debt advice under a mandatory Breathing Space.

7.14. Non-compliance will reduce the extent to which debtors find the best debt solutions for them and the higher creditor recoveries that this yields; it would reduce the extent to which Breathing Space counters absenteeism and presenteeism amongst employed debtors, lowering with it the benefits to employers, and most obviously, it would limit the improvement in debtor quality of life that a regulatory Breathing Space could deliver by countering debtors' sense of impending enforcement action and spiralling debts. For these reasons, it is assumed that noncompliance would reduce the marginal benefits of debt advice under Breathing Space from 14% to 7%.

7.15. In addition to reducing the marginal benefits of debt advice, creditor non-compliance is likely to reduce the incentive for debtors to seek professional advice where they would not have done in the counterfactual. The rate of increase in debt advice take-up would therefore be lower than under a regulatory version of Breathing Space, where it is assumed that the protections of Breathing Space increase by 10% the number of people who receive debt advice in each year of the assessment period.

7.16 There is significant uncertainty around the relationship between the strength of the protections of Breathing Space and marginal demand for debt advice. Given this uncertainty, it is assumed that the rate of increase in debt advice take-up under a voluntary Breathing Space would be half that of a regulatory Breathing Space. This equates to 5% per annum and 2.5% in year one to account for lag time.

7.17. The present value of this option is inherently lower than that of a regulatory Breathing Space as a result of non-compliance. Non-compliance reduces the incentive for more people in problem debt to take up debt advice and the marginal benefit of doing so relative to a regulatory option.

7.18. All of the business impacts of this option are considered indirect, as an impact arises only where businesses choose to comply with the non-regulatory Breathing Space scheme.

Regulatory Breathing Space – take-up – option 3

8.1. The key determinant of the costs and benefits of a regulatory Breathing Space is take-up. Counter factual debt advice take-up has been discussed in section 6, where it was projected that it would rise from 1.3m to 2.1m between 2021-22 and 2030-31. The Breathing Space caseload will be a subset of this counterfactual debt advice supply, as the scheme is accessible only via professional debt advice.

8.2. The initial eligibility criteria set out that the scheme is accessible only to people in problem debt who are likely to be able to access a debt solution and for whom such a solution would be in their best interests.[16] Engagement with debt advice agencies suggested that, on average, 60% of those who receive debt advice are advised to enter a debt solution. This group would meet the initial eligibility criteria in full. The Breathing Space caseload is therefore forecast to be 60% of the maximum caseload as set out in paragraph 8.1, which is 800,000 in 2021-22, rising to 1.3m in 2030-31.

8.3. Breathing Space will provide strong protections for people in problem debt. These protections will increase the incentive to take-up debt advice. It is uncertain by exactly how much this will increase demand for debt advice. Engagement with debt advice agencies suggested that a 10% annual increase in demand for debt advice was a central assumption. To account for a lag time in this demand increase while debtors become aware and convinced of the benefits of Breathing Space, it is forecast that marginal demand will be 5% of existing demand in 2021-22, rising to 10% per annum thereafter. This suggests that the marginal caseload – the number of people who will take-up debt advice under Breathing Space where they would not have done in the counterfactual – will be 66,000 in 2021-22 and 213,000 in 2030-31.

8.4. Not all of the people who are incentivised to take-up debt advice under Breathing Space will be eligible to enter the scheme. In the low scenario, they will be as likely to be eligible for Breathing Space as people who seek debt advice in the counterfactual. In this scenario, 60% of the marginal caseload would be eligible for Breathing Space. In reality, it is likely that they will have a higher eligibility rate than this counterfactual population, by virtue of having self-selected into debt advice as a direct result of the existence of Breathing Space. In the absence of outturn data to inform an alternative assumption, it is assumed that the eligibility rate of this population will be 80%: the midpoint of the minimum (60%) and maximum (100%) eligibility rates. This reduces the size of the marginal caseload who enter Breathing Space to 53,000 in 2021-22, rising to 170,000 in 2030-31.

8.5. The sum of the eligible static and marginal caseloads is the Breathing Space caseload, which is forecast to be 851,000 in 2021-22, rising to 1.45m in 2030-31. However, there is significant uncertainty in this forecast. Specifically, the 5% baseline annual increase in counterfactual debt advice demand (paragraph 6.7); the 60% eligibility rate (paragraph 8.2); the 10% increase in marginal debt advice demand (paragraph 8.3), and the 80% eligibility rate (paragraph 8.4), are uncertain. Recent experience with other demand-side policy interventions suggests that uncertainties in take-up forecasts often

[16] HM Treasury (2019)

manifest on the side of optimism rather than conservatism. To account for this, a 20% optimism bias adjustment is applied. This reduces the Breathing Space caseload to 681,000 in 2021-22 and 1.2m in 2030-31.

8.6 In addition to this core caseload, another cohort of people in problem debt will enter Breathing Space via the Mental Health Alternative Access mechanism. This mechanism will be accessible to people receiving mental health crisis treatment. NHS England data suggests that there are 92,300 people receiving mental health crisis treatment. NHS England estimate that this figure will rise by 150,000 between 2019-20 and 2030-31. This increase is assumed to be linear.

8.7. Within this cohort, only people in problem debt are expected to enter Breathing Space via the Alternative Access Mechanism. The Money and Mental Health Policy Institute estimates that 22% of people with severe symptoms of common mental disorders are also in problem debt.[17]

This suggests that the number of people entering Breathing Space via the Alternative Access Mechanism will be 27,500 in 2021-22, rising to 54,000 by 2030-31.

8.8. It is assumed that the debt compositions of each cohort are the same. This is an uncertainty and data were unavailable to inform an evidence-based position. The data that informs the costs forecast in this impact assessment is derived from the general population who seek advice in the counterfactual. Debtors who do not seek advice in the counterfactual but take-up debt advice under Breathing Space might have different types of debts or different debt levels. The same could be true of people in problem debt who are receiving mental health crisis treatment. Data is intrinsically unavailable on the former group, as they do not currently take-up debt advice. Data comparable with that of the general population was not available on the latter group.

8.9. Not all debtors will remain within the protections of Breathing Space throughout its 60-day duration. Some will be removed at the 30-day point for contravening the ongoing eligibility criteria set out in section 5 – taking out further credit worth over £500 without their debt adviser's consent, not pay ongoing bills that they have the means to pay, or failing to engage with debt advice.

8.10. In the counterfactual, debt advice agencies suggested that around 3% of those who seek debt advice take out new credit and fall behind on their ongoing liabilities two months after seeking advice. In some of these cases, that new credit will be worth over £500 and the failure to meet ongoing liabilities could be considered a choice rather than purely a product of the debtor's financial position. In the absence of evidence to inform an assumption, it is assumed that this proportion would be 50%, so that 1.5% of counterfactual debt advice recipients deliberately stop paying their ongoing liabilities and take out further credit having sought debt advice. Debt advisers suggested that, additionally, 15% to 20% of debt advice recipients fail to continue to engage with debt advice.

[17] Money and Mental Health Policy Institute (2019) *Debt and mental health: a statistical update* Available at: https://www.moneyandmentalhealth.org/wp-content/uploads/2019/03/debt-and-mental-health-policy-note.pdf

8.11. This data is based on the counterfactual, where there is little explicit penalty to debtors who take out further credit, fail to engage with debt advice, or who stop meeting their ongoing liabilities. Under Breathing Space, where failing to meet the ongoing eligibility criteria would lead to removal from the scheme's protections, it is reasonable to assume that debtors will alter their behaviour and so the proportion of debtors engaging in these behaviours will fall under Breathing Space relative to the counterfactual.

8.12. The extent of this fall is unknown. In the central scenario, it is assumed that the rate of removal will be 50% lower under Breathing Space than it would be in the counterfactual, suggesting that 10% of debtors will be removed from Breathing Space after 30 days.

8.13. For this group, it is assumed that one monthly debt repayment, one late payment charge, and one compounding interval falls within each 30-day period. For the remaining 90% of debtors, it is assumed that two debt repayments, two late payment charges, and two compounding intervals fall within the 60 days of Breathing Space.

8.14 This forecast assumes that debt advice supply increases with demand. This assumption is consistent with the government's intent. The government has increased funding for free professional debt advice to almost £56m this year, delivering 560,000 sessions in England. In addition, as Peter Wyman recommended in his review of debt advice funding, debt advice supply will rise as providers shift from high unit-cost advice channels to less expensive ones, increasing the number of advice sessions that may be delivered with the available funding.[18]

8.15 A macroeconomic deterioration could increase demand for debt advice and so take-up of Breathing Space. Likewise, a period of sustained economic growth could reduce demand for debt advice. Given the inherent uncertainty and in the interests of proportionality, this take-up forecast makes no assumption about macroeconomic change.

9. Regulatory Breathing Space – counterfactual benefits of debt advice

9.1. Breathing Space will incentivise more people to seek debt advice and to do so earlier, promoting more positive debt advice outcomes. We start by looking at the benefits associated with debt advice.

9.2. In the interests of proportionality, the best available secondary evidence on the economic value of debt advice is taken as the starting point of this analysis of the benefits of Breathing Space. This research includes The Money Advice Service's *The Economic Impact of Debt Advice*[19] and StepChange's *The Social Cost of Problem Debt.*[20].

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[18] Footnote was missing from original document

[19] Europe Economics (2018) *The Economic Impact of Debt Advice A Report for the Money Advice Service* Available at:
https://masassets.blob.core.windows.net/cms/files/000/000/898/original/Economic_Impact_of_Debt_Advice_-_main_report.pdf

[20] Clifford, Ward, Coram, & Ross (2014) StepChange Debt Charity: Social Impact Evaluation of certain projects using Social Return on
Investment Available at: https://www.stepchange.org/Portals/0/documents/media/reports/Transforming_lives.pdf

9.3. *Transforming Lives* is an impact evaluation conducted for StepChange by Baker Tilly. A review of the social impact of debt advice for UK individuals and families, the report uses a social return on investment methodology to identify the economic value of debt advice delivered between 2012 and 2013 to 109,397 debt advice clients. The report identifies a wide variety of areas where debt advice has delivered a societal benefit. These benefits include: increased employment, improved mental health, higher creditor recovery, reduced desperation crime, reduced debt recycling, reduced risk of children being taken into care, reduced rates of eviction, improved interpersonal relationships, increased small business survival, and higher parental engagement, amongst others.

9.4. Building on this research, Europe Economics explored *The Economic Value of Debt Advice* for the Money Advice Service. This research used a regression model to identify whether a treatment group who undertook debt advice experienced different outcomes to a control group who did not. The specific outcomes that this research examined were those where Baker Tilly identified an impact amongst StepChange clients. To mitigate the risk of sample-selection bias, Propensity Score Matching was employed.

9.5. This impact assessment only monetises benefits where Europe Economics identified a clear link between debt advice and improved outcomes. This means that many of the benefits identified in the StepChange report are not monetised here. The benefits monetised in this impact assessment are:

9.5.1. Higher employee productivity – where debt advice reduces rates of absenteeism and

presenteeism amongst employees who are in problem debt.

9.5.2. Improved debtor wellbeing, when debt advice helps people in problem debt to return to a stable financial footing, improving their wellbeing and reducing the morbidity of mental health problems such as anxiety and depression, and

9.5.3. Higher debt repayments when debt advice supports people in problem debt to enter debt solutions in which they repay more of their debts.

10. Regulatory Breathing Space – overview of benefits calculation methodology

10.1. Both sources express the benefits of debt advice at population level. Unit costs and benefits per advised debtor have been identified by dividing the population-level benefit by the relevant underlying population. These benefits have been uprated by CPI from the year in which they were identified to the impact assessment base year, 2021-22.

10.2 These benefits then need to be applied to the Breathing Space caseload. There are three cohorts within the Breathing Space caseload forecast. These are: debtors who receive advice in the counterfactual, who will engage more effectively with advice under Breathing Space; debtors who take-up advice under Breathing Space that they would not have taken up in the counterfactual, and people who enter Breathing Space via the Mental Health Alternative Access Mechanism, who would not have received advice in the counterfactual.

These caseloads are summarised in table 3 below. Year 1 is 2021-22 and year 10 is 2030-31.

	1	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**
Receive debt advice in the counterfactual	639	673	710	748	788	831	876	923	973	1026
New debt advice	42	89	94	99	105	110	116	122	129	136
Mental Health Access Mechanism	27	30	33	36	39	42	45	48	51	54
Total	708	792	837	883	932	983	1037	1093	1153	1216

Table 3: *Breathing Space caseload in thousands by year between 2021-22 and 2030-31*

10.3. The cohort who already receive debt advice in the counterfactual will only benefit from the marginal value of debt advice under Breathing Space. Those who take-up debt advice for the first time under Breathing Space will derive the full value of debt advice under Breathing Space.

10.4. People who join Breathing Space via the Mental Health Access Mechanism are assumed not to have received debt advice in the counterfactual. This is a reasonable assumption as they are individuals receiving mental health crisis treatment. The Mental Health Access Mechanism has been designed to deal with the fact that they are unlikely to be able to have the conversations with a debt adviser which are a requirement to meet the eligibility criteria of the main scheme.

10.5. The benefits of Breathing Space to debtors, employers, and creditors are therefore calculated by multiplying the relevant populations by either the full or marginal benefit of debt advice under Breathing Space.

11. Regulatory Breathing Space – benefits to employers

11.1. Europe Economics estimated that the benefit of debt advice to employers was £3,384 per debtor in 2018. This productivity benefit to employers has been adjusted to reflect the fact that not all people in problem debt are in employment. A survey conducted by YouGov for Europe Economics suggested that the employment rate of people in problem debt was between 50% and 55%. In 2021 prices, this equated to a benefit of £1,969 at a 55% employment rate, or £1,790 at a 50% employment rate. The average of the two – £1,880 – is applied across the Breathing Space caseload.

11.2. As discussed in paragraph 7.10, debt advice agencies suggested that the value of debt advice under Breathing Space would be 14% higher than in the counterfactual. Applying this uplift to the baseline benefit per debtor, regardless of employment status, elevates the £1,879 benefit to £2,142 per debtor, a marginal benefit of £263.

11.3. Debtors who received advice in the counterfactual will benefit only from the marginal benefit of debt advice under Breathing Space. As they will receive this benefit without altering their behaviour, the benefit in respect of this cohort is considered to be direct.

11.4. Those who take up debt advice under Breathing Space where they would not have done in the counterfactual will benefit from the full value of debt advice. The benefit in respect of this cohort is indirect, as the beneficiary debtors must alter their behaviour in order to access debt advice under Breathing Space.

11.5. The cohort who enter Breathing Space via the Mental Health Alternative Access Mechanism are excluded as they are not expected to receive debt advice during their mental health crisis treatment. This calculation is reflected in table 4, below.

	1	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**
Caseload Marginal benefit (‘000s)	639	673	710	748	788	831	876	923	973	1026
Benefit/£m	168	177	187	197	207	219	230	243	256	270
Caseload – full benefit (‘000s)	42	89	94	99	105	110	116	122	129	136
Benefit/£m	91	191	202	212	224	236	249	262	277	291
Total Benefit/£m	259	368	388	409	431	455	479	505	533	561

Table 4: *Benefits of Breathing Space to employers by year between 2021-22 and 2030-31.*

12. Regulatory Breathing Space – benefits to debtors

12.1. Europe Economics monetise a range of benefits to debtors, both to their personal wellbeing and in terms of reducing their demand for treatment by lowering the morbidity of certain mental health problems that may be caused or exacerbated by problem debt. The sum of these benefits in the central scenario is £910, as illustrated in table 5.

Benefit	**Upper value**	**Lower value**	**Average value**
Lower rates of depression	£134	£71	£102.50
Lower rates of anxiety	£36	£21	£28.50
Lower rates of panic attacks	£52	£25	£38.50
Higher debtor wellbeing	£846	£635	£740.50
		Sum	£910

Table 5: *Values of debt advice to debtors*

12.2. As explained in paragraph 7.10, debt advice agencies agreed that the value of this benefit will increase by 14% under Breathing Space, to £1,037, a marginal benefit of £127.

12.3. All three cohorts will benefit. The cohort who already receive debt advice in the counterfactual will benefit by the marginal benefit of debt advice under Breathing Space. TheMental Health Access Mechanism and new debt advice cohorts will benefit from the full value of debt advice. This benefit has no impact on business. The size of this impact is quantified in table 6 below.

12.4. It is possible that people in the Mental Health Access Mechanism cohort will see greater improvements to their wellbeing and reductions in mental health problems than the other cohorts, given they are a cohort explicitly suffering from the intersection of both problem debt and mental health crisis. However, primary research was not available to support or quantify this possibility.

	1	2	3	4	5	6	7	8	9	10
Caseload Marginal benefit (‘000s)	639	673	710	748	788	831	876	923	973	1026
Benefit/£m	81	86	90	95	100	106	112	118	124	131
Caseload – full benefit (‘000s)	69	119	127	135	144	152	161	170	180	190
Benefit/£m	72	124	132	141	149	158	168	177	187	198
Total Benefit/£m	154	210	223	236	250	264	279	295	311	328

Table 6: *Benefits of Breathing Space to debtors by year between 2021-22 and 2030-31.*

Regulatory Breathing Space – benefits to creditors

13.1. People in problem debt who seek debt advice repay more to their creditors. Under Breathing Space, this benefit will be more pronounced. The creditor behaviour that causes people in problem debt either to enter inappropriate debt solutions or to disengage with debt advice will be prohibited under Breathing Space. As a result, fewer debtors will enter the most readily accessible debt solution rather than the most appropriate, and fewer debtors will disengage with debt advice under the strain of impending enforcement action and spiralling debts before they manage to find a debt solution.

13.2. Not all debtors who receive debt advice will enter debt solutions. Longitudinal research conducted for the Money and Pensions Service suggests that 84% of people in problem debt who agree to undertake an action following debt advice subsequently undertake that action. As only people in problem debt who have a realistic chance of entering a debt solution are eligible for Breathing Space, it is reasonable to assume that all debtors who enter Breathing Space will be advised to enter some form of debt solution. MAPS’ finding suggests that 84% will subsequently enter that solution, while 16% will not.

13.3. Europe Economics estimate that debtors who are advised to enter Debt Management Plans (DMPs) or Individual Voluntary Arrangements (IVAs) repay their creditors an additional £3,522. StepChange estimate that debtors who seek advice repay an additional £858. The difference is driven by the fact that Europe Economics look only at two types of formal debt solution, whereas StepChange look at debt solutions ranging from a formal debt solution to budgeting advice. As described in paragraph 7.10, both figures are uplifted by 14% to reflect the enhanced value of debt advice under Breathing Space. This yields a benefit to creditors of £4,015 in respect of debtors who enter debt solutions and £979 in respect of those who do not. The marginal benefit is therefore £493 or £121, respectively.

13.4. The cohorts who receive debt advice under Breathing Space but not in the counterfactual and who receive debt advice in both Breathing Space and the counterfactual are each divided into further cohorts. These further cohorts reflect the fact that 84% of the people in each cohort will enter debt solutions while 16% will not. This division is reflected in table 7 below.

	Code	1	2	3	4	5	6	7	8	9	10
Receive debt advice in the counterfactual		639	673	710	748	788	831	876	923	973	1026
o/w enter a solution	A	536	565	596	628	662	698	736	776	818	862
o/w do not enter a solution	B	102	108	114	120	126	133	140	148	156	164
Do not receive debt advice in the counterfactual		42	89	94	99	105	110	116	122	129	136
o/w enter a solution	C	36	75	79	83	88	93	98	103	108	114
o/w do not enter a solution	D	7	14	15	16	17	18	19	20	21	22

Table 7: *Sub-cohort debt advice outcomes in thousands between 2021-22 and 2030-31.*

13.5. As in the calculations for the other benefits of Breathing Space, the full and marginal benefits of Breathing Space are applied in respect of the relevant caseloads. In this instance, the benefit to debtors who do not take up debt advice in the counterfactual is £4,015 for debtors who enter solutions (C) and £979 for those who do not (D). In respect of debtors who do receive debt advice in the counterfactual, the relevant marginal figures – £493 (A) and £121 (B) – are applied. Applying these unit benefits to the relevant caseloads yields the benefits summarised in table 8 below.

	1	2	3	4	5	6	7	8	9	10
Receive debt advice in the counterfactual	277	292	308	324	342	360	380	400	422	445
Do not receive debt advice in the counterfactual	149	315	332	350	369	389	410	432	455	480

Table 8: *Benefits of Breathing Space to creditors between 2021-22 and 2030-31.*

13.6. Some debtors will take up debt advice under Breathing Space that they would not have taken up in the counterfactual. All of this group are forecast to repay more to their creditors than they would have done in the counterfactual. It is assumed that the proportion of this cohort who will enter debt solutions is the same as that of people who seek advice in the counterfactual. As this benefit depends upon a behavioural change, it is not inevitable and is therefore considered indirect. This benefit is expressed in the first row of table 8.

13.7. Creditors are also expected to benefit from higher repayments from debtors who were already engaging with debt advice. Within this cohort, the behaviour of some creditors in the counterfactual provoked some debtors either to disengage with debt advice or to enter a suboptimal debt solution. This creditor behaviour – applying the pressure of impending or actual enforcement action while allowing debts to spiral through the addition of interest and charges – will be prohibited under Breathing Space. As a result, debtors will continue along their existing pathways: having sought advice, they will enter debt solutions and so repay their creditors more than they would have done otherwise. This benefit will not be an immediate and inevitable consequence of the policy; it will depend on behavioural change on the part of creditors. It is therefore considered to be indirect.

13.8. This represents a conservative assessment of the likely benefits of Breathing Space. In addition to the benefits of debt advice that are monetised in the secondary sources, there are a wider set of benefits that are identified in the secondary source material but that are not monetised. These include lower dependence on state-subsidised housing; more positive education and employment outcomes, partly as a result of higher levels of parental engagement; lower risk of children being taken into care; lower rates of desperation crime; lower risk of eviction or repossession; lower risk of job loss; lower rates of relationship breakdown; increased social security take-up; higher rates of small business continuity, and more positive future credit access.

14. Regulatory Breathing Space – costs – summary – option 3

14.1. The costs of Breathing Space are summarised below.

> 14.1.1. Enforcement action will be paused during Breathing Space. Some debtors will change their repayment behaviour as a result, choosing not to make debt repayments that they would have made in the counterfactual. In addition, revenue that might have been generated by enforcement action will be delayed until the end of Breathing Space, when enforcement action may continue. This will generate indirect costs to creditors who have borrowed to lend.
>
> 14.1.2. Contractual and default interest will be frozen during Breathing Space. Creditors will forego revenue as a result.
>
> 14.1.3. Late payment fees and charges that would have been added during Breathing Space will be frozen. Creditors will forego revenue as a result.
>
> 14.1.4. Creditors will be required to take administrative steps to comply with Breathing Space. These will take up administrator time at a cost to creditors.
>
> 14.1.5. Debt advisers will be required to undertake additional administrative activities to deliver Breathing Space, at a cost to debt advice agencies.
>
> 14.1.6. To reduce the cost of these administrative activities, some creditors and debt advice agencies will find it economical to make systems changes.
>
> 14.1.7. Approved Mental Health Professionals will need to complete forms to provide evidence that people are receiving mental health crisis treatment.

14.1.8. Creditors and debt advisers will need to familiarise themselves with the Breathing Space regulations and guidance in order to deliver the scheme.

14.1.9. Debt advisers will require a deep understanding of Breathing Space. This will require debt advisers to undergo training to disseminate the contents of the Breathing Space regulations and guidance, at a cost to debt advice agencies.

14.2. The costs of a regulatory Breathing Space, like the benefits, are divided between those that directly impact business and those that indirectly impact business. This division is made on the basis of whether the impact is immediate and inevitable or not. Where a behavioural change is required for the impact to materialise, the impact is considered indirect.

14.3. Costs arising from the cohorts of debtors in Breathing Space who already receive debt advice in the counterfactual and who enter Breathing Space via the Mental Health Alternative Access Mechanism do not require behavioural change. They are therefore considered to be direct.

14.4. By contrast, costs arising from the cohort of debtors in Breathing Space who do not receive debt advice in the counterfactual are considered to be indirect as they are neither immediate nor inevitable, materialising only where debtors choose to take up debt advice that they would not have received in the counterfactual.

14.5. This segmentation of the Breathing Space caseload into sub-cohorts is illustrated in table 8 below. As explained in paragraph 8.12, not all debtors are expected to remain in Breathing Space for its full 60-day duration.

	Impact	1	2	3	4	5	6	7	8	9	10
Mental Health Caseload	Direct	27	30	33	36	39	42	45	48	51	54
Debt advice in the counterfactual 60 days in Breathing Space	Direct	573	604	637	671	708	746	786	829	874	921
Debt advice in the counterfactual 30 days in Breathing Space	Direct	65	69	73	77	81	85	90	95	100	105
No debt advice in the counterfactual 60 days in Breathing Space	Indirect	38	80	84	89	94	99	104	110	116	122
No debt advice in the counterfactual 30 days in	Indirect	4	9	10	10	11	11	12	13	13	14

Breathing Space											
Total		708	793	837	884	932	984	1040	1094	1154	1217

Table 9: Segmentation of Breathing Space cohort between 2021-22 and 2030-31 in thousands.

Regulatory Breathing Space – costs – delayed revenue – option 3

15.1. Breathing Space will pause enforcement action. Some debtors may respond by delaying repayments that they would have made in the counterfactual. In addition, revenue that creditors would have derived from enforcement action will be delayed by Breathing Space.

15.2. The value of the capital lent to debtors will vary according to its source. For all creditors, delayed repayments will drive opportunity costs. Leveraged creditors will also face the cost of borrowing. The cost to creditors of delayed revenue will be offset by a corresponding benefit to debtors of retaining money that they would otherwise have repaid, so this cost is considered to be an economic transfer.

15.3. The protections of Breathing Space do not extend to debtors' payment of ongoing bills – should they not pay these, creditors will not be prevented from taking enforcement action. Additionally, debtors in Breathing Space will be required to meet their ongoing liabilities where they are able to do so to remain in the scheme's protections. Their ongoing liabilities repayment behaviour should not, therefore, change. However, debtors will have the discretion to alter their repayment behaviour for their accrued debt or arrears, where enforcement action is prohibited for non-repayment.

15.4. To quantify the cost to creditors of delayed revenue, the counterfactual revenue is identified. This is a product of the proportion of debtors within Breathing Space who might have made debt repayments and the average value of those repayments.

15.5. Debt advisers consulted as part of this impact assessment suggested that only 40% of their clients have a surplus budget after meeting their ongoing liabilities. They estimated that the average monthly surplus amongst such clients is £294.

15.6. It is assumed that only debtors who have a surplus after paying their ongoing bills make repayments of their debts and arrears, that they repay their whole surplus to their creditors, and that all debtors who could afford to make repayments on their debts or arrears do so. These assumptions are likely to overstate the costs to creditors.

15.7. Not all of this revenue will be delayed under Breathing Space. Debt advisers suggested that they would advise debtors to delay making debt repayments only where doing so would allow them to save the money required to enter an insolvency solution.

15.8. Debt advisers suggested that they would recommend such an insolvency solution to 9.5% of the debtors that they advise. In 6.5% of those cases, debtors could save the money required to access that solution either immediately or by the end of the 60 days of their Breathing Space.

15.9. This circumstance would account for c.0.6% of the Breathing Space caseload. In addition to this proportion of the caseload, a further proportion might change their debt repayment behaviour against the advice of their adviser. Data to inform an assumption on the size of this caseload was not available, so it is assumed that the same proportion would change their behaviour against the advice of their debt adviser as would change it on their debt adviser’s advice. 1.2% of the Breathing Space caseload is therefore assumed to change their debt repayment behaviour to stop repaying these debts.

15.10. In addition to revenue delayed by changes in debtor repayment behaviour, creditors could see revenue delayed as a result of the pausing of enforcement action during Breathing Space (for instance, reductions to benefits or enforcement agent action to recover debts). Debt advisers estimated that 17.5% of their clients were subject to enforcement action at the point of seeking debt advice.

15.11. Data on the creditor revenue derived from this enforcement action was unavailable, so it is assumed that this action generated the same amount of revenue as deliberate repayments – £294 per month, with Breathing Space covering two months. We assume the repayment of these debts would stop. Not all enforcement action would have yielded revenue in the counterfactual during the 60 days of Breathing Space, so this is likely to overstate the cost to creditors.

15.12. This suggests that £29m will be delayed in 2021-22, rising to £51m in 2030-31 as the Breathing Space caseload grows. The cost to creditors of this delay will be only a fraction of the delayed revenue. The money that creditors lend could derive from a variety of sources. In the interest of proportionality, it is assumed that all creditors borrow the capital that they lend. The cost of delayed revenue will therefore be equivalent to the cost to creditors of maintaining a leveraged position. In addition, there will be an opportunity cost for creditors, but this is not monetised.

15.13. Creditors could borrow from a variety of sources. Large creditors might have access to interbank rates, whereas smaller creditors are more likely to borrow at high-street rates. To account for the uncertainty discussed in section 23 around the proportion of businesses affected by Breathing Space of each size, a sensitivity analysis across these two rates is taken.

15.14. Amongst the cheapest borrowing rate that large creditors might have access to is the 12- month GBP London Interbank Overnight Rate (LIBOR). As at Thursday 1st August, the GBP LIBOR 12-month rate stands at 0.847%. Over two months, this rate is equivalent to a 0.14% interest rate. According to the Federation of Small Business, in Q2 2019, just over half of small businesses accessing credit did so at a rate lower than 5%, or 0.83% over a two-month period.[21]21 The average of these two rates is 0.49%.

15.15. The cost to creditors of delayed revenue is therefore equivalent to 0.49% of the stock of delayed revenue, which is forecast to be £140,000 in 2021-22,

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[21] FSB (2019) *Voice of Small Business Index: Quarter 2, 2019*. Available at: https://www.fsb.org.uk/docs/default-source/fsb-org-uk/fsb-sbi-q2-2019-final.pdf?sfvrsn=3d13ed21_0

rising to £250,000 in 2030-31. No assumption is made as to changes in the assumed interest rate over the course of the assessment period.

15.16. The benefit to debtors of retaining money that they otherwise would have paid to their creditors is taken to be the inverse of the cost to creditors. On a net basis, the impact of delayed revenue to society is therefore nil and delayed revenue is therefore considered to be an economic transfer.

15.17. No distributional weighting is applied, though the benefit to debtors is likely to be higher than the cost to creditors. Applying a formal distributional weight to delayed revenue would therefore increase the marginal benefit to debtors and decrease the marginal cost to creditors. Not applying this weighting therefore understates the benefit to debtors of delayed revenue.

15.18. The entirety of this cost is considered to be indirect, as the cost materialises only where debtors choose to alter their repayment behaviour, not as an automatic consequence of the policy.

16. Regulatory Breathing Space – costs – interest foregone – option 3

16.1. Breathing Space will freeze interest for 60 days. This will drive a cost to some creditors who charge interest, and an equal benefit to debtors and so this impact is considered to be an economic transfer.

16.2. The first step in quantifying the amount of interest that creditors will forego during Breathing Space is to quantify the principal that will fall within the protections of Breathing Space. The principal of debt falling within Breathing Space's protections is taken to be the forecast caseload in each year multiplied by the proportion of debtors with each type of debt. These proportions are based on evidence shared by debt advice agencies on the existing debt composition of the debtors who seek advice in the counterfactual.

16.3. The product is then multiplied by debt advice agencies' evidence on the average level of each type of debt, yielding the principal that falls within the protections of Breathing Space. This process is repeated for both cohorts who remain within the protections of Breathing Space for 60 days, 30 days, and, amongst those who enter via the mental Health Crisis Moratorium, 64 days.

16.4. The next step is to identify the average Annual Percentage Rate for each type of debt. In the case of credit card debt, the best available source is the Bank of England, which publishes monthly data.[22] As at 30 June, this was 18.45%. Where such product-wide data is not available, and in the interests of proportionality, an indicative APR for each type of debt has been identified via open source credit comparison websites.

16.5. The amount of interest that will be foregone as a result of Breathing Space is sensitive to the frequency of the relevant compounding intervals. This will vary by debt, but, in the interests of proportionality, debts are assumed to compound monthly, with two compounding intervals falling within the 60 days of

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[22] Bank of England (2019) *Monthly Average of UK Resident Banks' Sterling Weighted Average Interest Rate, Credit Card Loans to Individuals and Individual Trusts* Available at: https://www.bankofengland.co.uk/boeapps/database/fromshowcolumns.asp?Travel=NIxAZxSUx&FromSeries=1&ToSeries=50&DAT=RNG&FD=1&FM=Jan&FY=2010&TD=11&TM=May&TY=2025&FNY=Y&CSVF=TT&html.x=66&html.y=26&SeriesCodes=CFMZ6IR&UsingCodes=Y&Filter=N&title=CFMZ6IR&VPD=Y#notes

Breathing Space, two in the 64 days of the Mental Health Crisis Moratorium, and one in the 30 days of Breathing Space for the 10% of debtors who are removed at the 30-day checkpoint.

16.6. In the counterfactual, not all of the interest that would have been added to debt stocks during Breathing Space would have been repaid. Likewise, interest may not be added in all

16.7. Information on the specific repayment rates expected by creditors is market sensitive. In the absence of outturn data on repayment rates, an assumed repayment rate was derived from the proportion of debtors with a personal budget surplus after meeting their essential costs. Debt advisers estimated that 40% of their clients retained a budget surplus after meeting all of their ongoing liabilities. It is assumed that only debtors with a positive budget can meet their interest payments as they come due, such that the average repayment rate for interest payments across most debts is 40%.

16.8. Debt advisers suggested that the repayment rate of high cost credit products is likely to be lower than those of other forms of credit. Data shared by debt advice providers suggested that debt advice clients with high cost credit products were 33% less likely to be able to handle their debts on their own without a debt solution, or after maximising their incomes, compared to other debt advice clients. It is therefore assumed that the repayment rate of high cost credit products is 33% lower than that of other credit products, at 27%.

16.9. The amount of interest foregone is therefore expressed as the principal multiplied by the monthly interest rate, expressed to the power of the number of compounding intervals that fall within Breathing Space. This amount is then multiplied by the counterfactual repayment rate.

16.10. This process is repeated for each of the sub-cohorts of the Breathing Space caseload in order to facilitate segmentation of the overall cost into direct and indirect costs. As discussed in section 14, costs that are automatic – arising from debtors who do not change their behaviour in order to enter Breathing Space – are considered direct. Other costs are considered indirect. The breakdown of these costs is given in table 10 below.

	1	2	3	4	5	6	7	8	9	10
Interest foregone – direct/£	119	126	133	140	147	155	164	172	182	192
Interest foregone – indirect/£	8	17	18	19	20	21	22	23	24	25
Total/£m	127	142	150	158	167	176	185	195	206	217

Table 10: *Direct and indirect costs of interest foregone between 2021-22 and 2030-31.*

16.11. As discussed in paragraph 15.1, the cost of lending will vary by creditor. All creditors will face opportunity costs where counterfactual revenue is delayed and leveraged creditors will face additional costs of borrowing to lend. This also applies to foregone interest, where debtors' contractual interest liabilities will cover the risk taken by creditors, their profit margins, and the cost of servicing their own debts. For that reason, as in paragraph 15.14, the stock of interest foregone is multiplied by the assumed two-month cost of borrowing to lend, which is taken to be 0.49%. This increases the cost to creditors of interest foregone by £683,000 in 2021-22, rising to £1.2m by 2030-31. This cost is included in table 10.

16.12. This process is repeated for each of the debt types identified by debt advice agencies to identify the total cost to creditors of foregone interest in each year of the assessment period. The inverse of this cost is considered to be a benefit to debtors, so foregone interest is treated as an economic transfer. As set out in paragraph 15.16, distributional weighting is not applied, so the benefit to debtors of freezing interest is likely to be understated.

17. Regulatory Breathing Space – costs – charges foregone – option 3

17.1. Breathing Space will prevent the addition of new late-payment fees and charges. Creditors will therefore forego charge revenue. This will drive a cost to creditors and an equal benefit to debtors and so this impact is considered to be an economic transfer.

17.2. As with interest foregone as set out in section 16, the key drivers of the cost to creditors of freezing the addition of new late payment fees and charges are the number of charges that would have been added during Breathing Space, their average value, and the expected counterfactual repayment rate.

17.3. Debt advisers consulted as part of this Impact Assessment shared data on the number of debts held by debtors, disaggregated by debt type, and on the proportion of debtors with each type of debt. Where data on the number of debts held by each debtor was unavailable, it is [23] assumed that debtors hold only one of each debt. It is assumed that late payment charges are added monthly, with one charge added each 30 days during the 60 days of Breathing Space.

17.4. Not all debts will be overdue at the point of entry into Breathing Space. Arrears will, by their nature, be overdue at the point of entry into Breathing Space. However, many other debts, such as those owed to financial services creditors (e.g. personal loans) may not be. In the absence of evidence to support an alternative assumption, it is assumed that 50% of debts are overdue at the point of entry into Breathing Space.

17.5. The number of charges due during Breathing Space is calculated as the Breathing Space caseload multiplied by the proportion of debtors with each type of debt, multiplied by the average number of debts held by debtors with each debt type.

17.6. The number of late payment charges due during Breathing Space is then multiplied by their average value. In the absence of sector-scale data on the average value of late payment charges, indicative values derived from open sources have been used.

17.7. The product is then adjusted for the expected counterfactual repayment rate, yielding the amount of charge revenue that will be foregone. For

[23] Bank of England (2019) *Monthly Average of UK Resident Banks' Sterling Weighted Average Interest Rate, Credit Card Loans to Individuals and Individual Trusts* Available at: https://www.bankofengland.co.uk/boeapps/database/fromshowcolumns.asp?Travel=NIxAZxSUx&FromSeries=1&ToSeries=50&DAT=RNG&FD=1&FM=Jan&FY=2010&TD=11&TM=May&TY=2025&FNY=Y&CSVF=TT&html.x=66&html.y=26&SeriesCodes=CFMZ6IR&UsingCodes=Y&Filter=N&title=CFMZ6IR&VPD=Y#notes

consistency, it is assumed that the repayment rate of late-payment fees and charges is the same as that of interest.

17.8. This process is repeated for each of the sub-cohorts of the Breathing Space caseload in order to facilitate segmentation of the overall cost into direct and indirect costs. As discussed in section 14, costs that are automatic – arising from debtors who do not change their behaviour in order to enter Breathing Space – are considered direct. Other costs are considered indirect. The breakdown of these costs is given in table 11 below.

	1	2	3	4	5	6	7	8	9	10
Charges foregone – direct/£	16	18	19	20	21	22	24	25	26	28
Charges foregone – indirect/£	1	2	2	2	3	3	3	3	3	3
Total/£m	17	20	21	23	24	25	26	28	29	

Table 11: *Direct and indirect costs of charges foregone between 2021-22 and 2030-31.*

17.9. As in the case of interest foregone, the stock of charges foregone is multiplied by the assumed two-month cost of borrowing to lend, which is taken to be 0.49%, in order to establish the cost to leveraged creditors of foregone late-payment charge revenue. This increases the cost to creditors of charges foregone by £90,000 in 2021-22, rising to £159,000 by 2030-31. This cost is included in table 11.

17.10. This process is repeated for each of the debt types identified by debt advice agencies to derive the total cost to creditors of foregone late payment fees and charges. The inverse of this cost is considered to be a benefit to debtors. Not applying a distributional weighting is likely to understate the benefit to debtors of this economic transfer.

18. Regulatory Breathing Space – costs – creditor administration – option 3

18.1. Breathing Space will impose an additional administrative burden on some creditors, who will have to freeze interest, fees, and charges and pause enforcement action throughout Breathing Space.

18.2. Many of the creditors who responded to the government's consultation on the Breathing Space scheme pointed out that their sectors already provide similar protections to Breathing Space as part of their wider forbearance practices for some individuals, as discussed in paragraph 2.5. Trade bodies estimated that, for this reason, Breathing Space could impose no material additional administrative cost in 20% of cases.

18.3. In response to requests for information made as part of this Impact Assessment, creditors provided estimates for the number of minutes required to perform various administrative tasks, along with the average wage costs of the administrators who will perform them. In total, these actions are expected to take between 36.5 and 44 minutes. These administrative activities include:

18.3.1. Processing the notification of an entry into Breathing Space

18.3.2. Supressing contact relating to repayment [24]

18.3.3. Notifying enforcement agents to pause enforcement action, where it is ongoing

18.3.4. Suppressing the accrual of interest and addition of late payment charges

18.3.5. Reversing these actions at the conclusion of Breathing Space.

18.4. On average, debtors have numerous debts. Debt advisers consulted as part of this Impact Assessment suggested a range of between four and six debts per debtor. It may be that some debtors have multiple debts to the same creditor, in which case the creditor would be expected to incur administrative costs only once. However, no evidence was available on the extent to which debtors owe multiple debts to the same creditor, so this assessment assumes that all debts give rise to an administrative burden, rather than only a subset. This is likely to overstate the administrative costs of Breathing Space.

18.5. The cost of performing these interventions will be equivalent to the total number of hours that each type of intervention requires multiplied by the average £13 per hour wage costs of the administrators who will perform those actions, uplifted by 20.6% to reflect non-wage labour costs.

18.6. Pausing enforcement action will only be necessary in the subset of cases where it is ongoing at the point that debtors enter Breathing Space. Debt advisers estimated that it would be necessary to pause enforcement action in between 5% and 30% of cases, or 18% in the central scenario.

18.7. This process is repeated for each of the administrative interventions associated with Breathing Space as the caseload builds to derive the total administrative cost of Breathing Space. This is expected to be £26m in 2021-22, rising to £45m in 2030-31. This cost is considered to be direct as it arises automatically: compliance will be statutory.

19. Regulatory Breathing Space – costs – debt advisor administration – option 3

19.1. The same approach as outlined in section 18 is taken in assessing the administrative costs of Breathing Space to debt advisers, with the exception that no adjustment is made to account for administrative actions that are taken in the counterfactual: all of the administrative actions attributed to debt advisers are additive to those undertaken in the counterfactual.

19.2. Debt advice agencies suggested that debt advisers are paid an average of between £14 and £19 per hour. The activities that will be required under Breathing Space in addition to those that are required in the baseline scenario are listed below. Debt advisers estimated that they would take between 23 and 41 minutes in total.

19.2.1. Assessing eligibility for Breathing Space

19.2.2. Registering debtors on the Breathing Space digital portal

19.2.3. Administering a check on debtor eligibility at the 30-day point

[24] FCA analysis of data collected via the CCR003: Lenders regulatory return for reporting periods ending June 18 – May 19. Clearly
misreported data were corrected for this analysis.

19.2.4. Removing debtors from the Breathing Space portal

19.2.5. Informing debtors of their removal from the Breathing Space portal

19.3. The 30-day check will not be burdensome in the majority of cases. The debt adviser will have to confirm that the debtor has continued to engage in debt advice – information which should be readily available to them – and will only need to investigate whether a debtor has contravened other ongoing Breathing Space eligibility criteria where a creditor has proactively reported to them that this is the case. It is expected that the 30-day check will be administered in 10% of cases.

19.4. This suggests a debt advice provider administration cost of £5m in 2021-22, rising to £8m in 2030-31. This cost is considered to be direct as it arises automatically: compliance will be statutory.

20. Regulatory Breathing Space – costs – systems changes – option 3

20.1. Where creditors see a large number of their clients enter Breathing Space, it may be more economical for them to invest in IT systems changes than to comply with the policy purely via administrative workaround. Likewise, the largest debt advice agencies may choose to make IT systems changes to reduce their administrative burden.

20.2. Ahead of conducting further scoping work, creditors struggled to estimate the costs of changing their systems in order to comply with Breathing Space. The best available estimate was that systems changes would cost between £60,000 to £85,000. Given the uncertainty, only the upper estimate has been used in the calculations that follow. To account for the risk of cost escalation, the upper estimate of costs has been uplifted by 20% to account for optimism bias, leaving it at £102,000.

20.3. Firms are only expected to make systems changes where it is economical to do so. This will be a product of the number of debtors with debts owed to a firm who enter Breathing Space, which will, in turn, be a product of market concentration. This may not be the case for firms who, by virtue of their business model, depend on automation and for whom administrative workaround is either undesirable – for example where significant restructuring would be required, such as the hire of additional staff – or undeliverable – for example where the business model depends on rapid decision making. Sector-scale data was unavailable on the proportion of consumer lenders who depend on automation and so who might make systems changes where administrative workaround would nonetheless be more cost-effective.

20.4. 190 firms own 99% of outstanding consumer credit.23 it is assumed that only these firms make systems changes. The remaining c.2600 firms who own 1% of outstanding consumer credit are likely to comply with Breathing Space via administrative workaround, which is likely to be more economical. In addition to these financial services creditors, representative organisations estimated that up to 60 energy firms and 25 water firms could need to make systems changes.

20.5. Some systems change costs will fall on the public sector. In particular, there will be costs associated with the development of a central digital portal that will act as an interface between debt advisers and creditors to facilitate implementation of Breathing Space.

20.6. Engagement with debt advice agencies suggests that only the largest nine debt advice agencies will need to make systems changes to deliver Breathing Space. For the approximately 900 smaller debt advice agencies, administrative workarounds are likely to be more economical than making systems changes. Indeed, in some cases debt advice agencies may have no bespoke systems to change.

20.7. This suggests that a total of 275 private sector creditors and 10 third sector debt advice agencies will need to make systems changes, at a cost of £102,000 per firm.

20.8. The systems change cost is therefore taken to be the cost of systems change multiplied by the number of firms making systems changes. 285 private and third sector firms are expected to make systems changes costing £102,000 each, at a present value cost of £29.1m.

20.9. In addition to the cost of private and third sector system changes, a small number of large public sector creditors are expected to make systems changes. The costs to public sector creditors of making systems changes is assumed to be the same as that which falls on private sector creditors. Work within the public sector is being undertaken to a longer timeline to reach more bespoke assessments of public sector system change costs.

20.10. This cost is considered to be indirect as systems changes will only be made where creditors or debt advice providers choose to make them. They will not be an automatic consequence of the policy.

21. Regulatory Breathing Space – costs – AMHP administration – option 3

21.1. Breathing Space will offer an alternative access mechanism for people receiving mental health crisis treatment. This group will be entered into the protections of Breathing Space by a debt adviser on the basis of an application which includes evidence from an Approved Mental Health Professional (AMHP) that the individual is receiving mental health crisis treatment.

21.2. This will introduce a new burden on the time of AMHPs, at an administrative cost. This cost will be a factor of the average hourly earnings of AMHPs, the amount of time taken to enter a patient into Breathing Space and then remove them from it, and the number of patients who will enter the protections of Breathing Space via this avenue.

21.3. It is forecast that 27,500 people will enter Breathing Space via this avenue in 2021-22, rising to 54,000 by 2030-31.

21.4. The Department for Health and Social Care (DHSC) estimate that the average hourly wage of an AMHP is £20.16. This is an approximation, as AMHP remuneration varies geographically and is not set centrally. Uplifted by 20.6% to account for non-wage labour costs, the average hourly cost of AMHP time rises to £24.32.

21.5. The specific form that will be used by AMHPs to enter patients into the protections of Breathing Space has not yet been developed. DHSC identified a suitable proxy form as Form A2 under Regulation 4(1)(a)(ii) of the Mental Health Act 1983. This form is used by AMHPs to admit a patient for assessment.[25] DHSC estimated that it takes AMHPs 15 minutes to process this form.

21.6. In addition to entering patients into the Breathing Space alternative access mechanism, mental health professionals will need to inform debt advisers when treatment ends so that the breathing space can come to an end. It is estimated that this will take half as long as processing the initial entry. This suggests a total time requirement of 22.5 minutes per patient entering the mechanism. Per patient, this suggests that the administrative cost to AMHPs will be 37.5% of an hour's labour costs, which equates to an administrative cost of £9.12 per patient.

21.7. Multiplied by the forecast caseload, this suggests a 2021-22 cost of £250,000, rising to £500,000 by 2030-31. This is a cost to government and so features in the Net Present Value without a distinction being made as to whether the impact is direct or indirect.

22. Regulatory Breathing Space – costs – familiarisation

22.1. In order to comply with Breathing Space, firms will need to familiarise themselves with the relevant legislation and the accompanying guidance. Debt advice agencies will need to familiarise themselves with both the regulations and the government's guidance.

22.2. The costs of undertaking this familiarisation activity will vary between small and micro firms and debt advice agencies and larger ones. Small and micro firms and debt advice agencies are expected to engage consultants to assist them in familiarising themselves with the legislation and guidance. Larger firms are expected to engage the services of in-house legal and compliance professionals. The mean hourly wages of in-house compliance staff are expected to be £22 per hour, while those of external consultants are expected to be £24 per hour.[26] These wage costs are inflated by 20.6% to reflect non-wage labour costs. Small and micro firms and debt advice agencies are therefore expected to incur more significant familiarisation costs than larger ones. This is discussed in more detail in the small and micro business assessment.

22.3. 275 large firms and 2,600 small firms are expected to familiarise themselves with the Breathing Space regulations and guidance. This large firms figure is the sum of the 190 large consumer lenders, 60 large energy firms, and 25 large water firms. In addition, 909 large and small debt advice agencies are expected to familiarise themselves with the relevant regulations and guidance. In addition, a small number of large public-sector creditors, a small number of central government departments are expected to familiarise themselves with the relevant regulations and guidance. The costs for these bodies is assumed to be the same as for those of large creditors.

22.4. Reading speed declines with text complexity. An assessment of the complexity of the Breathing Space regulations yields a Flesch-Kinkaid readability score that suggests a reading speed of 100 words per minute. The draft regulations are currently 7,352 words long. It is assumed that the as yet unwritten guidance accompanying the regulations will be as long as the original regulations. Taken together, this suggests a reading time of 2.45 hours. The familiarisation costs to creditors and debt advice agencies will therefore be £445,000 in 2021-22, with no ongoing costs. This cost is considered to be direct as it arises automatically: compliance will be statutory.

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[25] An image of the form is available here: https://blogs.kcl.ac.uk/socialcareworkforce/wp-content/blogs.dir/7/files/2017/07/Form-A2-Section-2-appl-by-AMHP-for-admiss-for-assess-page-001-724x1024.jpg

[26] Office for National Statistics (2018) Annual Survey of Hours and Earnings, Table 4.5a – gross hourly pay by SIC07

23. Statutory Breathing Space – Costs – Dissemination

Debt advisers will need a deep understanding of the Breathing Space regulations and guidance in order to advise their clients effectively. The exact cost of gaining this understanding will vary at an individual scale, but debt advisers consulted as part of this Impact Assessment agreed that a day of face to face training supported by one hour of e-learning would be an effective means of disseminating awareness of Breathing Space to debt advisers.

23.2. One debt advice training provider suggested that the cost of developing an e-learning package would be £17,000. They suggested that the cost of accessing that learning would be £55 per debt advisor. In addition, they suggested that the cost of delivering face to face training would be £600 per group of twelve debt advisers.

23.3. Evidence shared by a debt advice organisation suggests that there are approximately 900 professional debt advice agencies in England and Wales. National scale data is not collected on the number of debt advisers, but one large debt advice training provider estimated that a central estimate for the number of debt advisers would be 7,300. This estimate is based on that provider’s assessment of their market share, which excludes the largest debt advice agencies.

23.4. Two large debt advice agencies contacted with a request for information to inform this Impact Assessment suggested that they had 116 debt advisers each. There are nine other large debt advice agencies. It is assumed that all have the same number of debt advisers, suggesting that there are 1,040 debt advisers at these firms in addition to the 7,300 debt advisers identified by the training provider. Free training is already provided for 4,250 providers per year.

23.5. This suggests that the Breathing Space dissemination cost is likely to be £1.9m, a transitional cost that will be felt only in 2021-22. This cost is considered to be direct as it arises automatically: compliance will be statutory.

23.6. Creditor administrators will not require a deep understanding of Breathing Space. They will be expected to respond reactively to notifications from the Insolvency Service notifying them of the entry of their clients into Breathing Space. As these notifications will provide clear information on the actions required of creditors, there will be no requirement for creditor administrators proactively to develop their understanding of Breathing Space policy. This is not the case with systems architects, who will need to understand the policy in great detail in order to make systems changes. This cost is treated as a familiarisation issue and is addressed in section 21.

24. Small and Microbusiness Assessment – sectoral composition

24.1. The costs to creditors of Breathing Space are a result of foregone interest and charges, delayed revenue, additional administration, systems changes, dissemination, and familiarisation. Businesses will face fixed costs, such as systems changes, and variable costs, such as delayed revenue, that are proportionate to the number of customers that each creditor sees enter Breathing Space. As discussed elsewhere, the majority of the costs faced by most businesses will be variable, with the majority of the fixed costs falling on larger firms who will see a large number of clients enter Breathing Space.

24.2. Firms with a higher risk appetite will see a larger proportion of their clients enter Breathing Space than more conservative lenders. The Breathing Space caseload will be made up of people in problem debt, who will be riskier clients for creditors: those who choose to engage with riskier clients will see a larger proportion of their client base enter Breathing Space. Information about risk appetite is commercially sensitive, so it was not available for the purposes of this impact assessment. This does not apply in the case of involuntary creditors, who do not choose which clients they lend to.

24.3. The other part of this calculation is the number of clients that each firm will have. This is a product of their market concentration, which will vary by sector. The best available source of evidence on this question is the Business Population Estimates.[27] This data is arranged by sector (grouped by Standard Industrial Classification) and disaggregated by business size in terms of number of employees.

24.4. Breathing Space will operate in England and Wales only. At this scale, the Business Population Estimates provide data only by 1-digit Standard Industrial Classification code, grouping utility companies with those engaged in mining and quarrying, for example. This provides a potentially misleading picture about the number of SMBs likely to be affected by Breathing Space.

24.5. For that reason, UK-scale 2-digit Standard Industrial Classification codes are used as a proxy for the sectoral compositions of England and Wales. This provides a higher level of granularity, with some risk of reduced accuracy. This data suggests that, by employment, 9.3% of businesses engaged in financial and insurance activities are SMBs. Clearly, not all of these businesses will be consumer-facing credit-issuing firms, but more granular data was not available.

24.6. The fact that 9.3% of firms by employment are SMBs does not suggest that 9.3% of the burden of Breathing Space will fall on SMBs: the number of clients of each firm will not be directly proportional to the firm's number of employees. Sector-level market concentration data is unavailable in the Business Population Estimates for this sector, but stakeholders consulted as part of this impact assessment suggested that the vast majority of borrowers engage with large creditors. FCA analysis suggests that 190 firms own 99% of outstanding consumer credit.[28] Some of the further c.2600 firms who own 1% of outstanding consumer credit may be SMBs, but data on the proportion of these firms who are SMBs was unavailable.

24.7. SMBs might still face a disproportionate cost if their clients were more likely than those of larger businesses to enter Breathing Space. However, stakeholders consulted as part of this impact assessment suggested that there was no reason to believe that SMBs deal with higher risk clients than larger businesses. Indeed, given SMBs' lower capacity to absorb write-offs relative to larger firms, stakeholders suggested that SMBs might be less likely to see clients enter Breathing Space than larger businesses, where SMBs are

[27] Department for Business, Energy & Industrial Strategy (2019) *Business population estimates 2019* Available at: https://www.gov.uk/government/statistics/business-population-estimates-2019

[28] FCA analysis of data collected via the CCR003: Lenders regulatory return for reporting periods ending June 18 – May 19. Clearly
misreported data were corrected for this analysis.

voluntary creditors who choose which clients to issue with credit. This may not be the case for involuntary creditors.

24.8. Similar data availability issues were faced with other sectors. For example, trade bodies suggested that there are 60 consumer-facing energy companies operating in the UK, but that data was not available for England and Wales specifically, on the market concentration of each firm, and on the size of each firm by number of employees.

24.9. Likewise, a trade body reported that there are 25 water companies operating in England and Wales, eight of which serve limited geographical areas. Although these firms might be assumed to be SMBs, this could not be confirmed. In any case, their market concentration was unknown.

24.10. Data on the housing sector was more readily available. Debt advisers suggested that 13% of those presenting for debt advice would have rent arrears. Of these, data published in the Wyman Review suggested that 35% would dwell in private tenancies and 44% in social ones.[29] The remainder, who have rent arrears but fall into neither category, are likely to be from ‘other’ tenancies, such as informal ones. Such arrangements do not impact business.

24.11. Of the 44% of people in Breathing Space with rent arrears who live in the Social Rented Sector, 60% are likely to live in Housing Association-administered tenancies, with the remaining 40% in Local Authority housing.[30] The National Housing Federation suggested that 4% of social tenancies with Housing Associations might be with SMB associations. The Local Government Association suggested that all Local Authority social landlords would have more than 50 employees. This suggests that 1% of people in Breathing Space with rent arrears will dwell in the social rented sector and have an SMB landlord.

24.12. Of the 35% of people in Breathing Space with rent arrears who dwell in private tenancies, the English Private Landlords Survey suggests that 97% will be with landlords who own fewer than 101 rental properties.[31] Data on the number of employees of these landlords was unavailable, so it is assumed that all are SMBs. This suggests that 34% of people in Breathing Space with rent arrears will dwell in the private rented sector and have an SMB landlord. This suggests that there will be a disproportionate impact on SMB private landlords of any net costs of Breathing Space.

25. Small and Microbusiness Assessment – relative costs

25.1. Debtors in the scheme will be required to continue to meet their ongoing liabilities, such as paying their rent. As explained in paragraph 15.8, only a minority of debtors are expected to stop making arrears repayments during Breathing Space, which is not intended to be a repayment holiday. As discussed in paragraph 15.1, the cost to creditors of delayed revenue will be a

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[29] Wyman (2018)

[30] Ministry of Housing, Communities & Local Government (2019) *English Housing Survey 2017 to 2018: social rented sector* Available at: https://www.gov.uk/government/statistics/english-housing-survey-2017-to-2018-social-rented-sector Percentages derived from figure 3.3.

[31] Ministry of Housing, Communities & Local Government (2019) English Private Landlord Survey 2018: main report Available at: https://www.gov.uk/government/publications/english-private-landlord-survey-2018-main-report

factor of the source of the money lent to debtors. In some cases, this will be the cost of borrowing to lend. If SMBs needed to access finance as a result of delayed revenue this will be, in some cases, at a higher borrowing rate than those that larger businesses will have access to. In the case of landlords and other involuntary creditors, this might arise where a landlord was forced to borrow as an opportunity cost of not receiving rent arrears payments that might have been made in the counterfactual. Conversely, people in Breathing Space will be offered specialist debt advice and support whilst on the scheme, which may help landlords recover some of the owing rent arrears.

25.2. Large businesses may be able to borrow at close to the London Inter-Bank Overnight Rate, as discussed in section 15. As at Thursday 1st August, the GBP LIBOR 12-month rate stood at 0.847%. Over two months, this rate is equivalent to a 0.14% interest rate. This rate is likely to be far below that accessible to SMBs. According to the Federation of Small Business's quarterly *Voice of Small Business Index*, 53.1% of SMBs who borrowed in Q2 2019 did so at beneath 5% APR, or 0.83% over a two-month period.[32]

25.3. The extent to which disproportionate costs fall on SMBs will be a factor of their market concentration and their risk appetite, which will dictate the number of debtors that SMBs are likely to see enter Breathing Space. As data to inform a specific assessment of the proportion of costs that will fall on SMBs was unavailable, a sensitivity analysis was applied: the cost of delayed revenue for all creditors in Breathing Space is assumed to be the average of 0.14% and 0.83%, which is 0.49%. This is likely to overstate the cost of delayed revenue as, in reality, the market share of SMBs in sectors affected by Breathing Space is likely to be very small, with the exception – as described above – of private landlords. For that reason, most creditors affected by Breathing Space will face lower delayed revenue costs than the level assumed by this sensitivity analysis.

25.4. SMBs are likely to face higher familiarisation costs than larger businesses. As explained in section 21, SMBs are less likely to employ in-house legal and accounting professionals than larger firms. As a result, they are expected to familiarise themselves with Breathing Space by engaging external consultants. According to the Office for National Statistics, the mean hourly gross wage of workers engaged in management consultancy activities is £2 more per hour than that of workers engaged in legal and accounting activities.[33] As a result, the expected cost of familiarisation is expected to be 8% higher for SMBs than for larger firms.

25.5. Not all of the additional cost of engaging management consultants is attributable to their increased labour costs, so the true additional cost is likely to be higher than 8%. Quantifying the full additional cost would require data on the costs to SMBs of engaging the services of management consultants, rather than the management consultants' hourly wage costs. This data is not

[32] Federation of Small Business (2019) *FSB Voice of Small Business Index: Quarter 2, 2019* Available at: https://www.fsb.org.uk/docs/defaultsource/fsb-org-uk/fsb-sbi-q2-2019-final.pdf?sfvrsn=3d13ed21_0

[33] ONS (2018) 'Annual Survey of Hours and Earnings 2018, table 4.5a: gross hourly pay for all employee jobs by industry SIC (2007)'. Available at: https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/industry2digitsicashetable4

available, but it is clear that SMB familiarisation costs will be higher than those of larger businesses.

25.6. SMBs would face higher costs of foregone interest and charges if a higher proportion of their clients entered Breathing Space, or if those clients carried larger debts than those of larger businesses, or if SMBs charged higher interest rates than larger firms. As discussed above, data on market concentration was unavailable. As credit risk appetite varies by firm and would be commercially disclosive, respondents to requests for information submitted as part of this impact assessment were not able to quantify whether SMBs operate more risk tolerant lending strategies than larger firms or whether they lend at less competitive rates. They suggested – anecdotally – that this was unlikely to be the case. Therefore, SMBs are not expected to bear disproportionate costs as a result of interest and charges foregone.

25.7. As discussed in section 20, firms are expected to make systems changes only where it is economical to do so. Whether or not this is the case will be a factor of the costs of complying with the policy manually via administrative workaround, which will be a product of the number of interventions required, which will in turn be a product of the number of people that each business sees enter Breathing Space. As discussed above, it was not possible to assess whether SMBs were more likely to see their clients enter Breathing Space than larger firms, though anecdotal evidence suggests that this is unlikely. For that reason, SMBs are not expected to face higher systems change costs than larger firms.

25.8. Some firms may be forced to make systems changes not because doing so is more economical than complying with Breathing Space via administrative intervention, but because of their business models. For example, firms that depend upon a high level of automation might not be able to hire the staff required to make administrative changes without fundamentally restructuring. Data on the extent to which firms rely on automation was not available, so it has not been possible to assess the extent to which SMBs might be forced to make systems changes.

26. Small and Microbusiness Assessment – exemption and mitigations

26.1. The assessment above identified some disproportionate costs to SMBs. Although there is no evidence – save for in the housing sector – that SMBs will see more of their clients enter Breathing Space than larger firms, there is strong evidence that SMBs will face higher costs per debtor in Breathing Space than larger firms. For example, the costs to SMBs of delayed revenue and of familiarisation with the policy will be higher than those faced by larger businesses.

26.2. For that reason, the government considered full exemption for SMBs. This would mean that debts owed to SMBs would not fall within the protections of Breathing Space. The government concluded that this would undermine the wider policy intent of incentivising people in problem debt to take-up debt advice and of promoting more positive debt advice outcomes, as it would not provide genuine respite from enforcement action and spiralling debts, particularly where debtors' liabilities were mostly or entirely to creditors who were excluded from the protections of the scheme. This would mean that debtors with the same debt types and levels would be treated differently on the basis of the number of employees of their creditor. For debtors whose only debts were to SMBs, there would be no additional incentive to seek debt advice. For those undergoing enforcement action and continuing to accrue interest and charges on some of their debts, they would not have the headspace to identify and enter the most appropriate debt solution, rather than the most readily accessible.

26.3. Separately, full exemption would impose an excessive administrative burden on debt advice agencies or an undeliverable obligation on the Insolvency Service: either debt advice agencies or the Insolvency Service would need to verify that a creditor was an SMB. As such evidence is not readily available, this would require administratively burdensome investigation and verification, as well as introducing the risk of gaming on the part of unscrupulous creditors.

26.4. As full exemption would not achieve the policy intent and would be undeliverable, the government considered a range of mitigations.

> 26.4.1. In recognition of the fact that SMBs will face higher familiarisation costs, the government could provide additional time for SMB creditors to comply with Breathing Space, bringing SMB debts into Breathing Space at a later date than the commencement of the wider policy. This would not be proportionate, given that the costs to SMBs are not forecast to be significantly higher than to larger businesses. It would also undermine the policy intent for debtors who have debts only to SMBs.
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> 26.4.2. The government could apply the protections of Breathing Space to debts owed to SMBs only in respect of pausing enforcement, allowing SMBs to continue charging interest and adding charges. This would not achieve the policy intent, as the effect on debtors undergoing enforcement action in respect of one creditor is similar to that of debtors undergoing enforcement action across a range of creditors: it would reduce their headspace to engage with debt advice, undermining the policy intent of promoting more positive debt advice outcomes. In addition, the operational difficulty set out in paragraph 25.3 would apply.
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> 26.4.3. The government could reduce the duration of Breathing Space in respect of debts owed to SMBs. This would reduce the ongoing costs to SMB creditors, such as delayed revenue, but not the transitional costs of, for example, familiarisation. As with the mitigations discussed above, this mitigation would compromise the policy intent while delivering only a small benefit to SMBs, so this mitigation would be disproportionate. The operational challenge set out in paragraph 25.3 would apply.

26.5. All of these mitigations would significantly undermine the policy intent, so the government will not provide mitigations for SMBs. Exemption would also critically undermine the policy intent. The government does not propose to treat debts owed to SMBs differently to those owed to larger creditors.

27. Wider impacts

27.1. The government’s preferred option has been formulated with due regard to the Public Sector Equality Duty. Several potential disadvantages in access to Breathing Space have been identified as arising as a consequence of debtors’ protected characteristics. These have been mitigated appropriately.

27.1.1. **Age:** the Money Advice Service estimates that 1% of the overindebted population is aged over 65.[34] The Wyman Review suggests that 7% of debt advice clients are aged over 65.[35] This suggests that people in problem debt who are aged over-65 will benefit disproportionately from Breathing Space. However, evidence from Ofcom suggests that people aged over-65 may be less able to access debt advice via online or telephone channels than the general population. For example, people aged 65-74 are 15 percentage points less likely than the adult population to use a mobile phone, nine percentage points less likely to use a computer, and 16 percentage points less likely to use a tablet.[36] To ensure that this inequality of access to debt advice delivered via telephone or online channels does not discriminate against those aged over-65, the government will make Breathing Space accessible via either telephone, online, or face-to-face debt advice channels.

27.1.2. **Gender:** the Money Advice Service estimates that 64% of overindebted people are female.[37] The Wyman Review suggests that 59% of debt advice clients are female.[38] This suggests that Breathing Space is more likely to benefit females than males, both because females are more likely to be overindebted but also because they are more likely to take-up debt advice.

27.1.3. **Disability:** the Wyman Review estimates that 40% of debt advice clients suffer from a disability or long-term health condition.[39] Disability may restrict the channels through which debtors may seek advice. For example, the Money and Mental Health Policy Institute suggests that those with mental health problems are 22 percentage points more likely than the population in general to have serious difficulty carrying out essential administration over the phone.[40] Likewise, difficulties of physical access may make seeking face-to-face debt advice problematic for those with physical health problems.

27.1.4. To ensure that difficulties in accessing debt advice via some channels does not discriminate against disabled people accessing Breathing Space, the government will make Breathing Space accessible via a range of debt advice channels, including telephone, online, and face-to-face. The government has committed to mitigations to ensure that Breathing Space is accessible to people receiving treatment for

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[34] Money Advice Service (2013) *Indebted Lives: The Complexities Of Life In Debt.* Available at: https://mascdn.azureedge.net/cms/cs-indebtedlives-the-complexities-of-life-in-debt_november-2013.pdf

[35] Wyman (2018)

[36] Ofcom (2017) *Adults' Media Use and Attitudes Report 2017*. Available at: https://www.ofcom.org.uk/ data/assets/pdf_file/0019/102772/section-5-digital-media.pdf

[37] Money Advice Service (2013)

[38] Wyman (2018)

[39] *Ibid.*

[40] Money and Mental Health Policy Institute (2019*) Annual review 2018/19*. Available at: https://www.moneyandmentalhealth.org/wpcontent/uploads/2019/07/Money-and-Mental-Health-Annual-Review-2018-19.pdf

mental health crisis. They will be able to enter Breathing Space without seeking advice from a debt adviser and will have access to its protections throughout their crisis treatment and then for a further 30 days, after which they will have the option of entering the protections of the main scheme for its full 60-day duration.

27.2. Breathing Space is accessible only via professional debt advice. The debt advice sector makes a variety of adaptations to ensure that advice is accessible to those with protected characteristics. For example, StepChange – a debt charity – has an advocacy team who provide additional practical support to vulnerable debt advice clients. This support is delivered in partnership with dedicated support organisations including Macmillan, Age UK, Dementia Friends, Mind, and Samaritans. It can involve offering supplementary debt advice sessions, referring debt advice clients to specialist third party organisations, and submitting debt write-off requests to creditors in certain circumstances - ensuring that people with protected characteristics have access to debt advice.

27.3. **Family Test:** The costs of problem debt are felt strongly by families. *StepChange*, a debt advice agency, suggest that 90% of parents in problem debt cut back on essential items for their children to help them keep up with their debts. They suggest that families in problem debt are twice as likely to argue about money than families in general, contributing to relationship strain and family breakdown. These problems are not limited to parents. Amongst children from families in problem debt, StepChange found that 60% often worried about their families' finances.

27.4. Debt advice agencies responding to requests for information submitted as part of this Impact Assessment were unanimous in reporting that Breathing Space would reduce rates of family breakdown amongst those in problem debt. They suggested that, in promoting more positive debt advice outcomes, Breathing Space would reduce the psychosocial burdens of problem debt. Amongst those who seek debt advice in the counterfactual, debt advice agencies suggested that over 50% of their clients had reported improved personal relationships after having received advice.[41]

28. Trade implications

28.1. No trade impact is expected as a result of Breathing Space.

29. Summary

29.1. The Net Present Value of a regulatory Breathing Space is substantially higher than that of a voluntary Breathing Space. Both options have higher net present values than doing nothing. A regulatory Breathing Space is therefore the government's preferred option.

29.2. In present value terms, the forecast benefits of Breathing Space – £13,644m – would need to fall to £2,067m for the Net Present Value of Breathing Space to be nil.

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[41] The Children's Society and StepChange (2014) *The Debt Trap: Exposing the impact of problem debt on children.* Available at: https://www.childrenssociety.org.uk/what-we-do/resources-and-publications/publications-library/debt-trap-exposing-impact-problem-debt-ch

29.3. In the worst-case scenario, the marginal increase in the benefit of debt advice under Breathing Space would be nil and, as a result, no additional debtors would take up debt advice. In this extreme scenario, the Net Present Value of Breathing Space would be -£42m. The £1,802m residual benefit would be derived from debtors receiving mental health crisis treatment. This group will benefit from improved wellbeing and from economic transfers as a result of not being charged interest or fees and, for debtors who choose to alter their repayment behaviour, from retaining money that would otherwise have been paid to their creditors. This is considered to be the floor in the Net Present Value of Breathing Space, as there is a high degree of certainty that this group will enter the mental health crisis moratorium without altering their behaviour and that they will benefit to the same degree as debtors who receive debt advice in the counterfactual.

29.4. If the costs of Breathing Space materialise but the benefits for creditors do not, there is a risk that these costs are passed through to debtors in the form of higher interest rates and more limited access to credit.

29.5. There is consensus within the debt advice sector that Breathing Space will increase the value of debt advice and that it will increase the incentive for people in problem debt to take-up debt advice. There is a strong evidence base to support the assertion that more positive debt advice outcomes generate higher recoveries for creditors and reduce debt collection costs. The risk of pass through is therefore considered to be limited.

29.6. Breathing Space may increase demand for the services of debt advice providers in the short term. In the long term, by supporting people in problem debt to enter debt solutions that are sustainable in the long term, Breathing Space should reduce demand for debt advice, all other variables remaining equal.

29.7. The costs and benefits of a regulatory Breathing Space are expressed in present value terms in table 12 below.

	Costs/£m	Impact on business
Business charges foregone	186.2	Direct
Business charges foregone	21.5	Indirect
Business interest foregone	1296.8	Direct
Business interest foregone	164.0	Indirect
Govt interest and charges foregone and delayed revenue	3.7	N/A
Business delayed revenue	1.4	Indirect
Business and debt advice provider administration	358.2	Direct
Approved Mental Health Professional administration	3.1	N/A
Business and debt advice provider systems changes	29.1	Indirect
Government systems changes	0.3	N/A
Familiarisation	0.4	Direct
Dissemination	1.9	Direct
Total costs	2066.8	N/A

Higher recoveries	6108.9	Indirect
Higher employee productivity	3708.3	Indirect
Higher debtor wellbeing	2153.4	N/A
Economic transfers	1673.7	N/A
Total benefits	13644.4	N/A
Net Present Value	11577.5	N/A

Table 12: *Summary of costs and benefits of Breathing Space expressed in present value*

30. Description of implementation plan

30.1. This impact assessment demonstrates the significant benefit that Breathing Space will deliver. The government recognises the strong parliamentary interest in delivering the policy and its benefits as quickly as possible.

30.2. The government will lay regulations on Breathing Space before the end of 2019, and then intends to implement the policy in early 2021. The intervening period is vital in ensuring that creditors and debt advisers are prepared to deliver breathing space from the outset. HM Treasury is working closely with expert external stakeholders including debt advisers, creditors, and trade bodies to help them to prepare to deliver Breathing Space in practice.

30.3. As discussed in paragraph 14.3, creditors will be required to perform a variety of administrative tasks to comply with Breathing Space, including processing the notification of an entry into Breathing Space, supressing contact relating to repayment, notifying enforcement agents, and pausing interest, fees and charges. Creditors will need some time to prepare to perform these actions, for example by making systems changes as accounted for in section 20.

30.4. A key element in the success of breathing space will be the development of an IT portal that will record entries into Breathing Space, notifying creditors accordingly that they should initiate the protections of Breathing Space. The portal will be developed by the Insolvency Service and used by debt advisers. HM Treasury is working closely with the Insolvency Service to ensure that the portal meets the needs of creditors, and debt advisers, as well as recording some of the management information that will be required to evaluate the policy.

30.5. The government commissioned advice from MAPS on raising awareness of Breathing Space amongst both people in problem in debt and creditors in advance of the policy's commencement.[42] This will be central to the policy's implementation.

30.6. MAPS recommended that the government explore a one-off awareness-raising and marketing campaign. This would seek to de-stigmatise debt advice, so that people who are either unaware of their debt problem, see their problem debt as manageable, or who are ashamed to seek advice choose to come forward.

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[42] Money and Pensions Service (2019) *Response to Request for Advice.* Available at: https://www.gov.uk/government/publications/breathingspace-scheme-money-and-pensions-service-advice

30.7. MAPS highlighted the specific need for the benefits of Breathing Space and of debt advice to be highlighted to potential beneficiaries of the scheme. This would encourage more people to seek advice and to do so sooner, before they reach crisis point.

30.8. For people with multiple complex needs, MAPS recommended that the government ensures that Breathing Space is compatible with referral between specialist debt advice agencies so that people with specific needs receive the support that they need.

30.9. MAPS also highlighted the need for the government to ensure that creditors are prepared to comply with Breathing Space. MAPS recommended that this work is pursued via existing avenues, such as trade bodies and sector-specific forums. The government is developing its implementation plans following receipt of MAPS's advice.

31. Post-Implementation Review Plan

31.1. The same advice from the MAPS also covered evaluation of Breathing Space.[43] MAPS recommended that this work is advanced via three work streams: one evaluating the policy's operational processes, one evaluating the policy's impact, and another monitoring the evolving counterfactual.

31.2. MAPS highlighted several specific areas where monitoring of the counterfactual could focus. These included: overall levels of over-indebtedness, creditor repayments, and debt advice take-up, as well as debtor's mental wellbeing, the distribution of debt solutions that debtors choose to enter, the numbers of people entering those solutions, and the sustainability of those debt solutions.

31.3. MAPS recommended that the government establishes an advisory group of expert stakeholders to help inform the evaluation design. MAPS suggested that the group should include members drawn both from the debt advice and creditor sectors.

31.4. The government is developing on a monitoring and evaluation strategy to ensure that appropriate management information is captured in order to facilitate an effective post implementation review.

31.5. The Breathing Space scheme consists of two parts: Breathing Space, which has been assessed here, and the Statutory Debt Repayment Plan (SDRP). The government intends to implement Breathing Space in early 2021, with the SDRP developed to a slower timeline. The SDRP will extend the protections of Breathing Space to debtors who commit to fully repaying their debts to a manageable timeline. Each part of the scheme will be evaluated separately. This will require the impact of each part of the scheme to be isolated, as there will be some overlap between the two parts. The phased implementation of the two parts of the scheme will allow the government to evaluate the impacts of Breathing Space alone and then the two parts of the scheme combined.

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[43] *Ibid*