Financial Services Consumer Panel
AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

Telephone: 020 7066 9346
Email: enquiries@fs-cp.org.uk

Breathing Space Call for Evidence
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

16 January 2018

By email:
BreathingSpaceCFE@hmtreasury.gsi.gov.uk

Dear Sir / Madam

Breathing space: call for evidence

The Financial Services Consumer Panel is an independent statutory body. We represent the interests of individual and small business consumers in the development of policy and regulation of financial services in the UK. We welcome the opportunity to respond to HM Treasury's call for evidence on proposals for breathing space.

The proposals offer real potential to provide much-needed, tangible help to people in problem debt and to enable them to get back onto a sustainable financial footing. They should also encourage people to seek help earlier.

For it to be successful, the breathing space scheme should learn lessons from the experience of the Debt Arrangement Scheme (DAS) in Scotland. It is also important to think through the possible unintended consequences of introducing a statutory debt management plan on existing statutory and non-statutory debt solutions.

To be effective, the Panel believes the breathing space scheme should have the following features:

- It must **apply to all creditors** – this includes Local Authorities and Government Departments, as well as utility companies and financial services companies. People in problem debt need a period during which additional charges and interest are frozen and collection activities are halted to allow them and their regulated debt adviser to work out how to deal with their debts. Currently, some banks and credit card companies offer 'breathing space' and freeze interest and charges, while FCA rules require a firm to treat customers in default or in arrears difficulties with forbearance and due consideration. But this is not universal. Government agencies are often the least sympathetic to people in debt.

- **It should be open to everyone in debt –** The benefits of statutory protection should be extended to anyone struggling with debt, not just those who go on to repay their debts via the proposed statutory Debt Management Plan (DMP). When people in debt initially seek advice, the most appropriate course of action for them may not be immediately obvious, and in any case a DMP is not the right solution for many. The breathing space should apply to everyone who comes to a regulated debt advice provider for help.

- **Breathing space should last for longer than six weeks** – in many cases six weeks will not be sufficient for people in debt to work with a regulated debt adviser to recover their situation and formulate a sustainable repayment plan. We note that debt charities have previously recommended that the Government should introduce at least a four-month breathing space in order to maximise its effectiveness. An alternative approach would be for a regulated debt adviser to recommend an extension to the six week period, where required.

- **Safeguards within the breathing space period** – we acknowledge that a breathing space scheme should feature safeguards to ensure that it is delivering help to those who genuinely wish to tackle their debts, and is not open to abuse. But conditions should not be so onerous as to put people off using the scheme. We suggest that to benefit from the breathing space protections, an individual should have to commit to regular engagement with their debt adviser. Where this commitment is not forthcoming, or the adviser determines that it is no longer appropriate, then the adviser should recommend removal from the scheme.

- **Access to breathing space should be limited to people seeking debt advice from regulated debt advice organisations –** the breathing space scheme should be administered by regulated debt advisers from both the commercial and not-for-profit sectors who have suitable professional qualifications. This will ensure that people receive good quality debt advice and will also provide reassurance to creditors that the scheme is properly targeted and resourced.

- **Breathing space should be accompanied by the introduction of a statutory debt management plan –** a statutory debt management plan (as one possible course of action following breathing space) should be an integral part of these reforms. This would offer statutory protection that is currently only obligatory when a debtor enters a formal debt solution such as bankruptcy, an Individual Voluntary Arrangement (IVA), or debt relief order (DRO). A statutory debt management plan would operate like the statutory 'debt payment plan' in Scotland and offer a long-term sustainable solution for both debtor and creditors. We understand that in Scotland creditors receive at least 90% of the money owed to them.

- **The breathing space scheme and subsequent statutory debt management plan should offer continuous protection from interest, charges and enforcement action** – there should be no gap in protection between the end of the initial breathing space period and the start of the statutory debt management plan. Interest and charges should be frozen and collection activities halted throughout.

- **Plans to boost capacity of the debt advice sector should be considered alongside the introduction of the breathing space and statutory debt management plan –** debt advisers frequently note that people in debt are reluctant to come for advice. A breathing space and the option of a statutory debt management plan should encourage more people to seek advice and to do so sooner. It is important that the debt advice sector is equipped to meet this potential increase in demand. At present, the supply of face to face debt advice is falling and can struggle to meet current demand, even though less than 21% of the over-indebted population actively seeks debt advice in any given year[1]. The government proposals will give the debt advice sector better tools to do its job;

[1] *A strategic approach to debt advice commissioning 2018–2023*, Money Advice Service, December 2017, p.6

these should be accompanied by increased funding to allow the sector to meet increased demand, taking account of relevant recommendations which emerge from the current independent review of debt advice[2].

Yours faithfully,

Sue Lewis
Chair, Financial Services Consumer Panel

[2] https://www.moneyadviceservice.org.uk/en/corporate/peter-wyman-to-head-independent-review-of-debt-advice-funding