

# Consultation on the Mental Health Moratorium as part of the Bankruptcy and Diligence (Scotland) Bill

## CAS response – summary of key points

In January 2024, Citizens Advice Scotland responded to the Scottish Government's Consultation on the Mental Health Moratorium as part of the Bankruptcy and Diligence (Scotland) Bill. The Financial Health Team, MATRICS and the network responded to the consultation. The key points of the response are summarised below.

### Key points

- The narrow criteria, whilst not without merit, need to be wider to ensure all those who need access to the Mental Health Moratorium can do so and benefit from its protections.
- Rather than reinventing the wheel, the Debt and Mental Health Evidence Form should be included as a "triggering point" opening the Mental Health Moratorium to a wider spectrum of individuals with mental health issues. This has the added benefit that the barrier to the current use of the Debt and Mental Health Form where medical professionals can charge a fee for completion would be removed, as no fees can be charged for access to the Mental Health Moratorium.
- At all times, the policy aims of the Mental Health Moratorium to provide time, space and compassion to individuals with mental health issues must be at the forefront of any regulations set under the Bill to allow individuals to focus on their mental health recovery first and foremost followed by a period of time to deal with their debt situation.
- Onerous practices for debt advisers when supporting clients with applications for the Mental Health Moratorium must be avoided by ensuring the debt advisers' role is as soft touch and least labour intensive possible.
- Only debt advisers who have received appropriate training should be able to sign a Mental Health Moratorium to ensure they understand the complexities of the client's situation and can navigate the process.
- CAS urges the Scottish Government and Ministers to build a period of review into the regulations of the overall Mental Health Moratorium to guarantee such processes, definitions and roles are monitored in light of it working in practice.
- Any interest or charges should be frozen, and no fees should be charged for either the work of the Mental Health professional, debt adviser or Accountant in Bankruptcy.
- Learnings from the English Breathing Space system show that most individuals entering a Mental Health Crisis Breathing Space require longer than 12 weeks to deal with their finances following mental health support. CAS supports that the second recovery period, following mental health support, should be set at 6 months. The initial period should have no time period to allow the person to have the time, space and compassion to deal with their acute mental health issues.
- All debts owed by the individual should be included.
- Creditor contact and correspondence should be limited as repeated contact from creditors, as demonstrated by the Money and Mental Health Policy Institute and CAS case studies can exacerbate poor mental wellbeing, leaving many clients feeling bullied, scared and even suicidal.

- Diligence protections should extend to all those who are jointly and severally liable as well as additional protections added to prevent eviction of any individual under a Mental Health Moratorium.
- Creditors should not be allowed the right to challenge the granting of, nor request the granting of a Mental Health Moratorium as they are not mental health professionals and are not qualified to challenge a client's mental health condition.
- There should be no penalties attached to the Mental Health Moratorium as this would go against the policy aim of the Bill.
- Any system that holds the Mental Health Moratorium should be simple, bespoke and robust, separate from any statutory debt option system currently in use.
- Individuals should be able to apply for a Statutory Moratorium as soon as the Mental Health Moratorium is granted if they require to do so as these are separate products and should be treated as such. There should be no arbitrary periods between these products.

CAS's views in the response reflect these core values and we will continue to work closely with the Scottish Government and the Accountant in Bankruptcy as the Mental Health Moratorium is developed and brought into practice.