

Further details about Breathing Space

Eligible Debts

- Consumer credit debts (credit cards, store cards, personal loans, overdrafts etc)
- Parking penalties
- Arrears on utility bills
- Tax and benefit debts
- Debts being collected by Bailiffs
- Council Tax liabilities that have already fallen due. If you have been served with a 'reminder notice' the remaining liability for the financial year is a qualifying debt
- Rent and mortgage arrears
- Some business debts also qualify for a Breathing Space – see detailed guidance in AP
- Joint debts – debts in joint names are eligible and the same protections will apply to both parties
- Guarantor loans can be included in a Breathing Space, but the protections do not extend to the guarantor

Excluded Debts

- Secured debts (like mortgages, hire purchase or conditional sale agreements), however, you can include any arrears on regular repayments (not the full amount outstanding) that exist at the date of an application for a Breathing Space
- Debts incurred during a Breathing Space
- Debts incurred because of fraud
- Liabilities to pay fines imposed by a court for an offence. This includes any interest on the fine and any penalties or charges connected to it (does not include penalty penalties)
- Obligations from a confiscation order
- Child maintenance or obligations under an order made in family court proceedings
- A crisis or budgeting loan from the social fund
- Student loans
- Damages relating to the death or personal injury caused to someone else
- Advance payments of Universal Credit
- Council tax liabilities that have not yet fallen due

Effect of a Breathing Space moratorium

1. Creditors (incl. Bailiffs) are unable to claim any interest, fees, penalties or charges that accrue on the debts during the moratorium (applies only to interest on *arrears* of secured debts)
2. A creditor can't take any enforcement action in relation to a moratorium debt, unless a court or tribunal gives them permission i.e. they cannot:
 - enforce a court order or tribunal judgment about a Breathing Space debt
 - enforce security held for a Breathing Space debt
 - obtain a warrant or writ
 - obtain or seek a liability order (e.g. for Council Tax)
 - start any action or legal proceedings (including bankruptcy petitions) against you for a Breathing Space debt
 - apply for a default judgment for a claim for money against you
 - take steps to install a pre-payment meter to take payments for a Breathing Space debt
 - use a pre-payment meter already installed to take payments
 - take steps to disconnect your gas or electricity supply, unless they'd illegally taken the supply
 - serve a notice to take possession of your property for rent arrears or take possession of their property for rent arrears if a notice has already been served. Creditors can still serve a notice or take possession on grounds not related to rent arrears during a Breathing Space

- contact you about the enforcement of a Breathing Space debt

3. A Bailiff must not:

- take control of goods or give notice about taking control of goods
- visit your home or business to take control of goods
- sell goods belonging to you, unless the enforcement agent took them before the Breathing Space started
- If a bailiff or enforcement agent has taken control of any goods by removing them and securing them elsewhere before a Breathing Space started, the goods may be sold during the Breathing Space and the costs of the sale deducted from the proceeds. However, fees accrued during the Breathing Space for storage of those goods cannot be charged either during the Breathing Space, or after it ends.

What collection activity is still allowed?

- An attachment of earnings order made before the start of the moratorium
- A direct earnings attachment if notice of the deductions was served before the moratorium
- Third party deductions from Universal Credit in force before the start of the moratorium
- The sale of goods, if enforcement agents took possession before the start of the moratorium