**TEC Guidance**

**Debt Respite Scheme**

**Annex A**

**Guidance**

Introduction

* 1. Debt Respite Scheme (Breathing Space) guidance for creditors can be found [here.](https://www.gov.uk/government/publications/debt-respite-scheme-breathing-space-guidance/debt-respite-scheme-breathing-space-guidance-for-creditors)
	2. This guidance is intended to support users of the Traffic Enforcement Centre in understanding the Debt Respite Regulations.
	3. All references to the Debt Respite Regulations mean the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 (SI1311/2020).

Breathing Space Protections Notification

2.1 You can receive notifications by:

1. electronic communication (either a notification directly from the electronic service or an email). Electronic communications can only be sent if you opted in through the electronic service. Please email breathingspace@insolvencyservice.gov.uk if you have any queries about this service;
2. post;
3. someone leaving a copy of the notification at your address.

2.2 The regulations consider that you’ve received:

1. an electronic notification on the day it was sent;
2. a postal notification 4 business days after the notification was posted;
3. a notification left at your address on the day it was left[[1]](#footnote-1)[[2]](#footnote-2).

Protections under a Breathing Space

3.1 Once a breathing space has started, you or anybody acting on your behalf **must not** take any enforcement actions against the debtor or anyone who is jointly liable with them for a breathing space debt(subject to a successful application to court under Regulation 7 or 19, on which please see paragraph 4.2 below).

3.2 You can still start or continue any legal action relating to any debt that is not a breathing space debt, during a breathing space.

3.3 Other court proceedings about the debt (other than enforcement of court judgments or orders) will continue until the court or tribunal makes an order or judgment. At the TEC this will mean that processes will continue until the TEC does one of the following:

1. Revokes the Order for Recovery;
2. Notifies the authority that an application to apply for an out of time application has been refused.

4.1 Enforcement action for the purposes of users of the TEC is prescribed as when you try to:

1. collect or enforce a breathing space debt, including where this is done by any agent you’ve appointed. (It does not include an existing attachment of earnings order made before the start of the breathing space, which may continue);
2. try to enforce a judgment or order issued by a court or tribunal, before or during the breathing space, without the court’s permission (see 4.2 below);
3. obtain a warrant or writ;
4. sell or take control of the debtor’s property or goods[[3]](#footnote-3);
5. make an application for a default judgment for a claim for money against the debtor;
6. start any action or legal proceedings (including bankruptcy petitions) against the debtor;
7. contact the debtor about the enforcement of a breathing space debt. The only exception to this is where you are required to contact or engage with the debtor under the Consumer Credit Act 1974, or by the FCA Handbook.

4.2 Please see here for processes on how to apply to the court to take any enforcement action under Regulation 7, or to cancel a breathing space under Regulation 19 of the Debt Respite Regulations. Please note applications under this process should be made to the respondent’s local court.

4.3 Where permission is granted to take a step or where breathing space is cancelled in respect of some or all of the debt following an application to court, you are not required to send a copy of the court order to the TEC, but you must keep it as a record of the court’s decision.

Processes at the TEC

5.1 Where an authority has been notified that a respondent to a charge certificate is in a breathing space, the authority **must not** file a request to the TEC to recover an unpaid charge. Recovery of unpaid penalty charges can continue when the breathing space ends.

5.2. Where the debt has been registered at the TEC and the authority has subsequently been notified that a debtor has entered a breathing space, for the purposes of regulation 10 of the Debt Respite Regulations, the authority must notify the TEC. It should do so by sending an email notification to the TEC at tec.breathingspace@justice.gov.uk.

5.3 Authorities may send a single email containing details of all debtors who they have received notification about entering a breathing space or alternatively they can send a single email for each debtor. The Debt Respite Regulations do not prescribe a specific timeframe for sending the notification to the TEC. It is suggested the email includes date of notification from the electronic service, the breathing space reference number and the name of the debtor and the Penalty Charge Notice reference number.

5.3 If a breathing space commences after registration, the TEC will continue to process applications in the usual way. The TEC will continue to send notices or correspondence to the debtor and the authority during a breathing space.

5.4 A respondent will be expected to reply to letters during this time.

5.5 A respondent may submit an out of time application, either form TE7 or form PE2 during a breathing space and the court will consider the applications in the usual way.

Enforcement

6.1 Where an authority has been notified of a breathing space the authority **must not** issue a warrant request in respect of the respondent to the TEC.

6.2 Where a warrant request had been made before breathing space, the TEC will issue the warrant. The TEC processes do not allow the issue of a warrant to be paused.

6.3 Authorities **must not** instruct enforcement agents where they are aware that the respondent is in a breathing space.

6.4 If you are notified that a debt has gone into a breathing space, you must tell any agents you’ve appointed or instructed not to recover it. You must tell the agent to stop enforcement action. **If you do not do this as soon as possible, you may be liable for any losses the debtor or the agent incur as a result of any enforcement action**

HMCTS

MoJ

1. Regulation 37(4) of the Debt Respite Regulations. [↑](#footnote-ref-1)
2. Working day is any day except a Saturday, Sunday, bank holiday, Christmas Day or Good Friday Regulation 2 of the Debt Respite Regulations. [↑](#footnote-ref-2)
3. Authorities are reminded that if an 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. [↑](#footnote-ref-3)