

Mental Health Moratorium Consultation

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- Yes
- No

Consultation Questions

Question 1. Do you agree with the proposed initial mental health eligibility criteria?

- Agree
- Disagree
- Neither agree nor disagree

Please add any further comments on this proposal in the box below:

We agree with the proposed mental health eligibility criteria for all the reasons given in the consultation paper. A narrow, clearly defined field of eligibility is conducive to legal certainty. We agree with having a closed list but wonder about the reasons for the inclusion of certain provisions in the 1995 Act. These reasons could be better explained.

It is advisable to provide full reasoning and justification for limiting the criteria in the specified way, to minimise the likelihood of a successful challenge to the moratorium e.g. on human rights/discriminatory grounds (i.e. that others with mental health or physical difficulties will not have access to the moratorium). This is also an important issue to consider in the event that eligibility is to be expanded in future. While we are not aware of such issues having arisen in the context of the mental health crisis breathing space in England and Wales, the approach there differs somewhat, and so it does not automatically mean that a challenge on the grounds noted will not be relevant in Scotland.

Question 1a. If you believe the proposed mental health criteria are too narrow, please suggest an alternative that could be measured fairly and easily implemented.

Please comment in the box below:

N/A

Question 2. Do you agree that no minimum debt level should be set for the eligibility criteria?

Agree

Disagree

Neither agree nor disagree

Please add any further comments on this proposal in the box below:

A minimum debt level would be impracticable. It is unlikely that a true and proper assessment of the level of indebtedness could be made at the application stage. As the consultation paper notes, the strict mental health criteria already act as an important control mechanism and as a guard against abuse. Having a minimum debt level would also run counter to the policy behind the moratorium: preventing both a worsening of mental health problems occasioned by financial worries and a worsening of the individual's financial position. Even a person with a small level of indebtedness may have genuine mental health difficulties associated with it, and the level of indebtedness may grow, perhaps because of those mental health difficulties.

Paragraph 11 of the consultation paper proposes that it should be necessary simply for the Mental Health Professional to confirm that debt problems are impacting on the individual's mental health, although the extent to which a mental health professional could realistically do this is questionable. Perhaps, however, consideration has to be given to the variety of cases that might arise in this area. For a start, there may be someone who is extremely worried about debt but who is not, in fact, struggling to pay off their debts. Should this person be regarded as someone with 'debt problems' for the purposes of eligibility? There may also be a person who is struggling, practically speaking, to manage their debts, not for want of financial resources but because, for instance, of a severe lack of organisation. This leads on to another important point: paragraph 11 of the consultation paper describes debt problems impacting negatively on a person's mental health, but sometimes poor mental health can be unrelated to debt and yet lead to debt problems; or indeed poor mental health may lead to financial difficulties which, in turn, lead to even poorer mental health, producing a spiral effect. There may also be cases in which someone has no debt problems, either in point of financial resources or in their ability to pay debts as they fall due, and yet who, having been permitted to enter a moratorium owing to poor mental health, emerges from that moratorium in a worse financial position. In the light of these complexities, there perhaps needs to be consideration paid to the policy or policies which the legislation is designed to serve. Is the concern with, say, how debt problems contribute to poor mental health, how mental health problems contribute to debt problems, or both?

Question 3. Do you agree that there is no need to establish the individual's financial position at the application stage?

- Agree
- Disagree
- Neither agree nor disagree

Please add any further comments on this proposal in the box below:

Yes, for the same reasons as were given in answer to question 2.

Question 4. Do you think the proposed role of the Mental Health Professional at the application stage is appropriate?

- Yes
- No
- Don't know

Please add any further comments on this proposal in the box below:

We agree with the proposal to define precisely the types of mental health professionals who could certify a moratorium application. While we also agree with the consultation paper's proposal to 'future proof' the list of eligible professionals by providing for eligible professionals of 'equivalent standing' (and 'professional qualification') to those already identified in the legislation, the definition will need to be carefully drawn to minimise debate and challenges to applications. Perhaps one way of achieving this would be to amend the statutory instrument as and when the need to do so arose.

On a more general note, existing legislation concerning mental health professionals,

and in particular legislation which has had to delineate their levels of expertise, may be instructive for the drafting of the moratorium legislation.

Question 4a. Do you think the proposed role of the Mental Health Professional at the application stage is practical?

- Yes
- No
- Don't know

Please add any further comments on this proposal in the box below:

As we lack practical experience in this area, we are not in a position to comment.

Question 5. Do you think the proposed role of the debt adviser at the application stage is appropriate?

- Yes
- No
- Don't know

Please add any further comments on this proposal in the box below:

It is appropriate for the debt adviser to provide a signed agreement and to provide confirmation that he/she has clearly explained the Mental Health Moratorium to the individual. A debt adviser's expertise will make him/her well suited to this role. A health professional, by contrast, lacks the appropriate expertise for this role, both in explaining to the debtor what a moratorium entails and in undertaking to provide debt advice.

However, we have some concerns about the other matters that the debt adviser is supposed to certify, e.g. those regarding the provision of debt advice in the future.

Of course, at a stage of the application designed to secure the individual's agreement, it will be important, in the absence of a power of attorney or guardianship, for the individual to have capacity to provide that agreement. In that regard, we agree with the recommendation (at para 23) for an assessment of mental capacity to be made by the relevant Mental Health Professional.

Question 5a. Do you think the proposed role of the debt adviser at the application stage is practical?

- Yes
- No
- Don't know

Please add any further comments on this proposal in the box below:

As we lack practical experience in this area, we are not in a position to comment.

Question 6. Connecting the Mental Health Professional to the debt adviser - which option would you choose?

- AiB acts as a link
- Debt advice organisation or third party commissioned
- Neither option

Please explain the reason for your answer in the box below:

We can see positive and negative elements in relation to both approaches.

There are advantages to a third party being commissioned but there might be issues about complexity and complete coverage, e.g. if the organisation commissioned is in the Central Belt when a debt adviser is needed for someone in Orkney. If, instead, AiB acts as the link through the provision of a list on its website, that could prove to be onerous for mental health professionals seeking to contact debt advisers (e.g. if there are problems with the contact details or listed advisers are unresponsive). In addition, there may be issues in ensuring that the website is kept up to date. Our preference would be an enhanced linking option, connecting mental health professionals with debt advisers, which would be a more reliable and less onerous means of achieving this connection.

Question 7. Do you believe that specialist debt advice and support is required for frontline debt advisers for their involvement with the Mental Health Moratorium process?

Yes

No

Don't know

Please explain the reason for your answer in the box below:

We acknowledge the difficulties that may exist in providing specialist debt advice in light of the likely small number of cases. However, it would make sense for those providing financial advice in the context of a special statutory regime to have specialist training and for that training to be repeated at regular intervals.

Question 8. Do you agree that a Mental Health Moratorium application should only be consented to by the individual, a power of attorney or guardianship?

- Agree
- Disagree
- Neither agree nor disagree

Please add any further comments on this proposal in the box below:

There is certainly a great deal of sense in having a requirement of consent to a Mental Health Moratorium by the individual, or, where appropriate, in obtaining consent via a party with power of attorney or a guardian. That is especially so if the moratorium is to start narrowly to begin with.

However, consideration needs to be given to the case in which an individual lacks capacity to consent, and there is no party with a power of attorney and no appointed guardian, and yet where a moratorium would nevertheless be to their benefit. A good analogy for this at common law is *negotiorum gestio*, a legal area concerning the management of another's affairs in certain circumstances.

To give a simplified example, suppose that X and Y are neighbours and that X's roof has been damaged in a storm. X, through absence or incapacity, is incapable of repairing the roof himself/herself and cannot be asked to consent to the repair, again through being uncontactable or lacking the capacity to consent. In the meantime, Y repairs the roof. In these circumstances, and subject to certain specific requirements which need not be enumerated here, Y may have a claim against X for compensation. The significance of this example is that Y has a claim based not on actual *consent* (contract) but on the fact that Y has acted for X's *benefit* and the repair may be something to which X would have consented but for his/her absence or incapacity. In short, sometimes the law provides protection akin to that afforded by contract law because one of the relevant parties *lacks capacity*.

There may, therefore, be circumstances in which a moratorium should be imposed, not on the basis of the debtor's consent but on the basis of necessity. Indeed, arguably it would be anomalous to extend the protection of a moratorium to debtors who were capable of giving consent and who had given that consent, but not to those, potentially more vulnerable, debtors who were incapable of giving consent and yet who lacked the protection of an attorney or guardian. That said, the circumstances in which a moratorium could be imposed on the ground of necessity rather than consent would have to be defined very carefully. It would be excessive, for example, if a moratorium could be imposed simply because a moratorium was regarded as being, in some vague sense of the word, beneficial to the debtor. Imposing a moratorium for the best of intentions may still have adverse consequences, such as by damaging the debtor's credit-rating or reputation. The stigma that might attend the grant of a moratorium may be something which would have deterred the debtor from consenting to it if they had had capacity. To avoid such a paternalistic approach, the circumstances in which a moratorium could be imposed on the ground of necessity would have to be defined concretely and precisely. The possibility of someone who lacks capacity later becoming more lucid should also be considered.

An alternative, where there is no capacity and no PoA or guardian already in place, would be to make provision for someone else to give consent such as the Office of the Public Guardian, although we appreciate that this might involve an extension of their current role.

The criteria and/or factors determining whether someone has capacity should be kept under review.

Question 8a. If you disagree, we would be grateful for your views on how a Mental Health Moratorium application is made available to those who do not have the capacity to consent.

Please comment in the box below:

See the above answer to question 8. If a moratorium were made available to those incapable of giving consent (and who do not have a representative who can give such consent on their behalf), clear statutory provision would need to be put in place to show the precise scope of a moratorium based on, say, necessity or welfare. The test for determining what is necessary for those purposes may have to be rigid and mechanical so that the debt adviser does not need to make complex and discretion-laden value judgements.

Question 9. Do you have any other comments on the proposed application process?

Please provide them in the box below:

While there is a need for sensitivity where mental health is concerned, it does not seem objectionable that creditors be notified of the existence of a mental health moratorium. That creditors will become aware, through the existence of such a moratorium, of the fact that the debtor is struggling with mental health issues may simply be the price of the protection that the moratorium confers. Incidentally, however, if the effects of the mental health moratorium had instead been achieved by the creation of a more flexible version of the standard moratorium regime (which was our original preference), there would be less of a need to notify creditors of the existence of mental health difficulties. We do, however, acknowledge that there is a policy commitment to a separate Mental Health Moratorium.

Presumably non-notified creditors should not be penalised if they enforce their debts before notification. In other words, the moratorium should not be retroactive. That being so, it would be important for the AiB to inform as many creditors as possible as promptly as possible, and to continue to do so as new creditors came to light.

Incidentally, the flowchart on page 18 does not seem to mention the role of the AiB as a linking party between the Mental Health Professional and the debt adviser, but perhaps that is because this is an issue still regarded as up for discussion (question 6). Also missing from the flowchart is the meeting between the debt adviser and the debtor and the need to identify and notify the creditors.

Question 10. Do you agree with the proposed period of protection?

Agree

Disagree

Neither agree nor disagree

Please add any further comments on this proposal in the box below:

We agree with the period of protection for the mental health treatment (i.e. it is sensible and appropriate for there to be no specific time period here given the policy intention); however, we disagree with the proposed period of protection for the 'recovery period'. We think that the latter period of protection ought to align with that for the standard moratorium: i.e. at least as a general rule, there should not be a special mental health recovery period. That is not to deny that there would not be some cases where a longer moratorium ought to be granted, but it would perhaps be preferable in such cases for the debtor, or someone on their behalf, to apply for an extension. We also note that the proposed recovery period and the current standard moratorium period are both the same at present (i.e. 6 months); however, the standard moratorium could be reduced in future and this should be reflected for the general recovery period for the mental health moratorium.

If the regime ultimately does allow for an indefinite mental health treatment period prior to the recovery period then, as the consultation paper acknowledges, debtors undergoing mental health treatment indefinitely may benefit from a moratorium of indefinite length. It is worth considering the need, in such cases, for the administration of the debtor's affairs, e.g. via a guardian. This is relevant for the moratorium but is also applicable more broadly.

The consultation paper mentions (at para 33) the need for the AiB to notify the debt adviser and all known creditors of the likely end date for the recovery period. Some consideration has to be given to the consequences of the AiB failing to provide such notification. Would this procedural irregularity cause the moratorium to fall away or give rise to other consequences?



Question 11. Do you agree with the proposed approach to the qualifying debts?

Agree

Disagree

Neither agree nor disagree

Please add any further comments on this proposal in the box below:

The examples given of non-qualifying debts seem reasonable. In principle, we agree that ongoing liabilities should be met in general, but in some circumstances that might not be achievable in practice.

Presumably, the reference to debts incurred prior to the moratorium date is to debts which are payable and due at that date such that, e.g., a contingent debt incurred before the moratorium but which fell due during the moratorium, would not be caught by it.

It is worthwhile to consider the effect of a moratorium on rights of relief, especially bearing in mind the issue (raised later on in the consultation paper) regarding joint and several liability. For reasons given below, we agree with the Scottish Government's position regarding joint and several liability: if there are two debtors, D1 and D2, jointly and severally liable for £10,000, and D1 has the benefit of a mental health moratorium, D2 should not automatically take the benefit of that moratorium simply because D1 and D2 are liable for the same debt (although, of course, D2 may himself/herself have mental health difficulties which lead to a separate mental health moratorium being granted for him/her). One difficulty, however, is whether, in the event that D2 is sued by the creditor for £10,000 after the moratorium has been imposed, D2 will enjoy an immediately enforceable right of relief against D1 for £5,000, or whether such a right would be enforceable only after the moratorium had come to an end. It is at least arguable that D2's right of relief would arise as soon as payment had been made,¹ and

¹ This is the sort of issue which could conceivably come before a court. Further information on this can be provided if necessary.

given that it would arise after the moratorium had been imposed, it would, in principle, not be subject to the moratorium. However, if D1 could be sued for £5,000, this would undermine the policy of the moratorium (D1 could still be pursued for a right intimately connected with the £10,000 debt). It would make more sense for D2's right of relief to be no less subject to the moratorium than the £10,000 debt itself. Once the moratorium had been lifted, D2 would be able to pursue D1 for pro rata relief.

Question 12. Do you agree that interest and charges should not be added to the individual's debt during the full period of their Mental Health Moratorium, i.e. frozen?

- Agree
- Disagree
- Neither agree nor disagree

Please add any further comments on this proposal in the box below:

There was some difference of views within our group. On one view, interest and charges ought to be frozen for the reasons given in the consultation paper, namely that if they are not frozen a debtor's situation may become worse rather than better thanks to the moratorium and the policy of supporting a person to focus on their mental health recovery may be affected. Also, as the consultation paper notes, the strict qualifying criteria for the mental health moratorium may justify a strong level of protection, which could extend to the freezing of interest and charges. At the same time, the moratorium is to be granted without any assessment of the financial position and the fact that interest and charges would continue to run may act as a safeguard against the moratorium being misused. It is also worth considering whether there needs to be only one approach to charges and interest. Perhaps, e.g., charges and interest should be frozen only if and when it is established that the mental health difficulties are partnered with, or caused by, genuine financial difficulties. If the moratorium lasts for as long as it takes for the debtor to receive treatment for their mental health difficulties plus an additional period during which they would be expected to attend to their financial difficulties, perhaps interest and charges could be

frozen only for the period of mental health treatment but start to run again during the 'recovery' period. The possibility (and practicability) of backdating interest and charges, for instance if it can be shown that the debtor does and has had the ability to pay, should also be considered.

The possibility of a public register is mentioned at paragraph 44. One problem with this is that, if it were the only means of notification, it would shift the onus onto creditors to check the register before doing anything. It seems unreasonable to expect creditors to do this, especially in the case, say, of any involuntary creditors subject to the moratorium. Still, we can see the benefit of a public register as a residual means of notifying creditors who have not been individually notified.

The other difficulty with a public register, which is acknowledged in the consultation paper, is the danger of stigmatising the debtor by broadcasting the fact that they are suffering mental health difficulties to the world, and there are consequent privacy and stigmatisation concerns. It is true that in many cases, there will have been consent by the debtor or by their representative. However, if the earlier suggestion to extend the register to someone who lacks capacity where there is no guardian or party with power of attorney is accepted, there is a danger that the existence of mental health difficulties will be made public in a way that the debtor would have objected to. If there were some way of confining the register to persons with a legitimate interest in consulting it, rather than it being entirely open to searching by individuals and organisations, then it might be possible to strike an appropriate balance between the creditors' interests and those of the debtor.

The moratorium should not be retroactive: that is, creditors who take enforcement action prior to notification should not be affected (see response to question 9, above).

It is worthwhile to clarify whether the mental health moratorium would extend to enforcement of voluntary securities, and other enforcement mechanisms, as well as to diligence, serving charges for payment and petitioning for sequestration.

Question 12a. We would be grateful for your views on the possible costs to creditors by the freezing of interest and charges on debts during the Mental Health Moratorium period.

Please provide comments in the box below:

We lack the practical experience necessary to answer this question.

Question 13. We would be grateful for your views on the possible practicalities of limiting creditors from contacting the individual during the Mental Health Moratorium period.

Please provide comments in the box below:

There are perhaps legitimate cases in which creditors might need to make contact with the debtor, e.g. interim diligence or preserving a claim for prescription purposes. Provision could, of course, be made for the suspension of periods of prescription for the duration of the moratorium, as exists for e.g. debt payment programmes (see Debt Arrangement and Attachment (Scotland) Act 2002, s. 4(4)).

Question 14. Do you agree with the proposed approach to the protections against diligence?

Agree

Disagree

Neither agree nor disagree

Please add any further comments on this proposal in the box below:

Broadly speaking, it would make sense for the mental health moratorium to have the same effects as those of the standard moratorium (but see above comments in response to question 12).

We agree with the Scottish Government's views regarding joint and several liability. If there are two debtors, D1 and D2, jointly and severally liable for £10,000, and D1 has the benefit of a mental health moratorium, there is no reason why D2 should also have the benefit of that mental health moratorium, even for the purposes of that specific debt. A key benefit of joint and several liability for creditors is that the insolvency of one debtor does not impinge on the creditor's rights against the others. To revisit the example involving D1 and D2, it would be anomalous if the creditor's rights against D2 were diminished simply because of D1's financial/mental health difficulties even if D1 were solvent when, as the law currently stands, the creditor's rights against D2 would not be in any way diminished if D1 were insolvent. Indeed, a key characteristic of joint and several liability is that, as a general rule, there does not need to be any legal action against D1 or any investigation into D1's ability or inability to pay the debt in order for it to be enforced in full against D2.

Question 15. Do you agree with the proposed position on creditor consequences for not adhering to a Mental Health Moratorium?

- Agree
- Disagree
- Neither agree nor disagree

Please add any further comments on this proposal in the box below:

It would make sense for the consequences of the mental health moratorium to align with those of the standard moratorium.

The moratorium should not be retroactive.

Question 16. Do you agree with the proposed position on the creditor's right to challenge the granting of a Mental Health Moratorium?

Agree

Disagree

Neither agree nor disagree

Please add any further comments on this proposal in the box below:

We take the view that creditors should be able to challenge a mental health moratorium if, say, evidence comes to light that the eligibility criteria have not been met. A blanket exclusion on challenges is inappropriate. If, as we recommend, there should be a right of challenge, some consideration has to be given to whether challenges could relate both to the propriety of granting the moratorium in the first place (e.g. it might be established that the moratorium was granted on the basis of incomplete or inaccurate information) and, even where it was appropriate to grant the moratorium in the first instance, to a change in circumstances warranting its cancellation/termination. It may also be appropriate for a creditor to challenge the notified timings of the moratorium, if, for example, evidence has come to light that the debtor exited mental health treatment at an earlier date but this was not disclosed. Given the proposed relatively clear criteria and the difficulties of a creditor obtaining relevant evidence/information to mount a challenge, the likelihood of this should be low, but it is nevertheless desirable for such a mechanism to exist.

The case of *Kaye v Lees* [2023] EWHC 758 (KB) in England deals with issues relating to challenges and it would be worthwhile to consider this and other case law with a view to determining whether there should be express statutory provision to deal with

these matters. We also wonder whether there should be a clear mechanism for the debtor to challenge the failure to grant a mental health moratorium. Where a moratorium has been granted, the debtor should also be able to bring it to an end early.

Question 16a. Do you think creditors should be able to request the cancellation of an approved Mental Health Moratorium?

- Yes
- No
- Don't know

Please explain the reason for your answer in the box below:

A moratorium could be cancelled on the grounds that it was granted inappropriately (e.g. as a result of fraud or on the basis of inaccurate information) or because the conditions for it are no longer met (see the above answer to question 16).

Question 16b. If you answered yes to question 16a, in what circumstances could the creditor request a cancellation?

Please provide your comments in the box below:

See above.

Question 16c. Further to question 16b, we would be grateful for your views on how a cancellation process could work.

Please provide comments in the box below:

Perhaps a cancellation process could work similarly to judicial review.

Some consideration has to be given to the difference, if any, between challenging an application and cancelling an already granted moratorium and to how the grounds for each might differ. Attention should also be given to the extent to which creditors need to be notified where a challenge has been made and when it is successful or unsuccessful.

It would be worthwhile to consider the relevant cancellation and challenge provisions in England and Wales, the role of the debt adviser there, and whether creditors could apply for cancellation too.

Question 17. Do you agree with the proposed approach to the obligations on the individual?

- Agree
- Disagree
- Neither agree nor disagree

Please add any further comments on this proposal in the box below:

We are uncertain about what is meant in paragraph 56. It is difficult to follow the reasoning and the point being made.

Not all creditors can or will check an individual's credit file every time.

We are not entirely convinced by the conclusion in paragraph 57, if there is deliberate fraud or abuse. We consider that penalties may be appropriate in these circumstances.

Question 18. Do you believe penalties should be applied to the individual for not following the rules of the Mental Health Moratorium?

- Yes
- No
- Don't know

Please add any further comments in the box below:

As above, in certain circumstances such as fraud, we believe that penalties should be applied to the individual for not following the rules of the MHM.

Question 18a. If you answered yes, we would be grateful for your views on what kind of penalty would be appropriate.

Please comment in the box below:

The same approach as for other moratorium and/or bankruptcy transgressions should be adopted. As an alternative, or as a further penalty in certain circumstances, additional protections in the MHM could also be removed, such as the freezing of interest and charges (if introduced).

Question 19. Do you agree there is insufficient justification to place restrictions on the individual's access to credit?

- Agree
- Disagree
- Neither agree nor disagree

Please add any further comments on this proposal in the box below:

We can see some merit in the argument advanced but also note that there are some differences between what is proposed for the MHM and the standard moratorium, and we give some credence to the working group's recommendation regarding limits on an individual's ability to access additional credit during a MHM.

Question 20. Do you believe other obligations should be placed on an individual in a Mental Health Moratorium?

- Yes
- No
- Don't know

Please explain the reason for your response in the box below:

On balance, we agree that it is reasonable for ongoing liabilities to be met in general (but see above our answer to question 11).

With reference to para 61, if there is any doubt about an individual's capacity and there is no party with a power of attorney or a guardian, then they presumably will not be in a MHM, given what was discussed earlier. However, we recognise that a creditor's perception of capacity may not accurately correspond with the reality.

Question 21. Which of the following options would you choose as the delivery mechanism for the Mental Health Moratorium?

- Option 1 - Clone the underlying IT system in place for the Debt Arrangement Scheme to administer the Mental Health Moratorium
- Option 2 - Enrol the individual into a Debt Payment Programme under the Debt Arrangement Scheme with no payments due

Neither option

Please provide the reason(s) for your response in the box below:

The IT system in place for the Debt Arrangement Scheme could be cloned or adapted, if desired, but we do not think it is appropriate in the circumstances to create an artificial DAS, as the two things are different from one another.

Question 21a. If you selected neither option, we would be grateful for your views on a workable alternative which would meet the Mental Health Moratorium requirements.

Please provide comments and reasoning in the box below:

N/A

Question 22. Do you agree with the proposed position on how the Mental Health Moratorium will interact with a standard moratorium?

Agree

Disagree

Neither agree nor disagree

Please add any further comments on this proposal in the box below:

This seems logical. It makes sense to bring the standard moratorium to an end when a MHM is awarded. We agree that there should be a six-month gap between the end of the MHM (i.e. end of the recovery period) and the commencement of a standard moratorium.

Question 23. We would be grateful for your views on how best to promote the Mental Health Moratorium.

Please provide your views in the box below:

Various ways of promoting the MHM should be used, such as: advertising/marketing campaigns, information and advice provision, and training events for debt advisers, mental health professionals and other relevant parties (this could be part of CPD or equivalent).

Question 24. We would be grateful for any further comments you have about the Mental Health Moratorium which has not been raised in this consultation.

Alternatives to the approaches advocated in the consultation paper include a more flexible standard moratorium (as referred to above), albeit we note that this has already been rejected in favour of a mental health moratorium. Another type of mental health moratorium would be an automatic one (with or without an opt-out) which applies where an individual is subject to treatment with an element of compulsion, without any other requirements. Even then there would still need to be some sort of information-sharing between the mental health professional and the AiB.

Question 24a. Would you be happy for officials to contact you to discuss your response if we want to explore your comments in more detail?

Yes

No