

**Adult Social Care and Health Directorate**

# **Guidance on mental health crisis breathing space**



**Serving Kent, serving you**

**Document Information**

<b>Owner for KCC:</b>	Akua Agyepong, Assistant Director Countywide Services Invicta House, Sandling Road, Maidstone, Kent, ME14 1XX
<b>Authors:</b>	Catriona Brodie, Policy, and Quality Assurance Officer & Wilson Banda, Team Manager for AMHP Service <a href="mailto:Policy&amp;StandardsEnquiries@kent.gov.uk">Policy&amp;StandardsEnquiries@kent.gov.uk</a>

Version	Status	Date	Issued by / Amended	Review Date	Changes
V.01	Draft	28.04.2021	CB & WB		New guidance following the Debt Respite Scheme (Breathing Space Moratorium Regulations 2020
V.02	Draft	11.05.2021	CB & WB		Flowchart for Nominated Point of Contact
V.06	Draft	19.05.2021	CB & WB		Referral processes & flowcharts
v.1	Final	16.06.2021	CB & WB	31.09.2021	No changes
v.1	Final	12.10.2021	CB & WB	30.11.2022	
v.2	Final	19.05.2022	CB & WB	30.11.2022	Mosaic processes & new flowchart
v.3	Final	19.07.2023	Simon Stockwell & Catriona Brodie	12.10.2023	Update to criteria (e) following Case Law Kaye vs Lee 2023. Criteria under S28 of Breathing Space Regulations added.

**Document Governance**

Date	Sign Off
22.06.2021	Senior Management Team
12.10.2021	Senior Management Team
24.05.2022	Senior Management Team

**Contents**

No	Title	Page
1	Glossary	3
2	Introduction	3-4
3	Eligibility	4
4	Referral Process	4-8
5	The Role of the AMHP when completing the MHCBS evidence form	9-10
6	The Role of the AMHP in relation to information and Consent	10-12
7	Nominating a Point of Contact	12-14
8	The Role of the Nominated Point of Contact	14-15
9	The Role of the carer, advocate, or representative	16

10	If AMHP is not completing the MHCBS evidence form.	16
11	Passing on the MHCBS evidence form	17-18
12	The Role of the AMHP following completion of the MHCBS evidence form	18
13	Following completion of the MHCBS evidence form	19

## 1. Glossary

AMHP	Approved Mental Health Professional
CMHT	Community Mental Health Team
CRHT	Crisis Resolution and Home Treatment Team
KCC	Kent County Council
MCA	Mental Capacity Act 2005
MHA	Mental Health Act 1983 (Amended 2007)
MHBS	Mental Health crisis Breathing Space

## 2. Introduction

- 2.1. Breathing space is a debt respite scheme. It provides protections for people who are resident in England and Wales who are in problem debt. The protections include pausing enforcement action and contact from creditors and freezing interest and charges on their debts.
- 2.2. A standard breathing space is available to anyone in problem debt who accesses debt advice and meets the eligibility criteria and conditions.
- 2.3. It may be very difficult to engage with debt advice while receiving mental health crisis treatment, but problem debt and mental health problems are often linked. The Government therefore committed to develop an alternative route to access the protections for people receiving mental health crisis treatment, so that they do not have to access debt advice first.
- 2.4. A mental health crisis breathing space (MHCBS) has some stronger protections than a standard breathing space. For example, the MHCBS lasts as long as a person's mental health crisis treatment, plus 30 days (no matter how long the crisis treatment lasts).
- 2.5. The MHCBS will help to create time and space for a person to get the treatment they need, without having to worry about their debts growing or their creditors contacting them during their treatment.
- 2.6. The MHCBS offers very substantial protections for people who are in debt and receiving mental health crisis treatment. Those protections, in

turn, have significant costs and implications for creditors that must only be applied when necessary and appropriate.

- 2.7. This guidance is intended to help Approved Mental Health Professionals (AMHPs) and other mental health and care professionals understand how a MHCBS can help the people they support, and how they can help those people to access the MHCBS.

### 3. Eligibility

- 3.1. A person may be eligible for a MHCBS if they are resident in England and Wales and receiving mental health crisis treatment (including if that treatment has already started).

- 3.2. **“Receiving mental health crisis treatment”** means that the individual:

- Has been detained in hospital for assessment or treatment (including under part 3 of the Mental Health Act 1983 (Amended 2007) (MHA))

Or

- Has been removed to a place of safety by a police constable.

Or

- Is receiving any other crisis, emergency or acute care or treatment in hospital or in the community from a specialist mental health service in relation to a mental disorder of a serious nature. This can include services offered by community mental health services and crisis houses.

- 3.3. **“Specialist mental health service”** means a mental health service provided by a crisis home treatment team, a liaison mental health team, a community mental health team or any other specialist mental health crisis service that the AMHP considers appropriate.

- 3.4. A **“mental disorder of a serious nature”** means any mental health problem, disorder or disability of the mind that the AMHP considers to be of a serious nature.

- 3.5. An AMHP is satisfied that the person meets one of the three criteria.

### 4. Referral Process

#### 4.1. Who can make a referral?

- An individual can refer themselves.

- A person's carer, advocate, or representative
- Any health or social care professional.

**4.2.** An AMHP may also consider completing a MHCBS evidence form when they carry out a MHA assessment.

**Please note:**  
 If the individual lives in Medway  
 the AMHP will inform the Medway AMHP Service  
 via the Breathing Space mailbox at:  
[medwaybspacereferral@medway.gov.uk](mailto:medwaybspacereferral@medway.gov.uk)

**4.3. When an AMHP in the AMHP Service decides to complete the MHCBS evidence form**

**The AMHP will:**

Tick the Breathing Space box under Section 8 Completion details as part of the Mosaic process

**Please indicate what onward referrals have been complete**

- Children's services/child safeguarding
- Adult Safeguarding
- Carer's Assessment
- IMHA / IMCA
- Early Discharge Planning
- Housing
- Mental Health Social Care Team/ Social Care Assessment
- MH Breathing Space**
- Advocacy
- Domestic Abuse
- Drug and Alcohol
- Eating Disorder

**The AMHP will:**

Email the Breathing Space mailbox at: [breathingspace@kent.gov.uk](mailto:breathingspace@kent.gov.uk). managed by the AMHP Service.

**The AMHP will:**

Give the individual a copy of the Breathing privacy notice

**For a copy of the privacy notice please see:**  
 Kent.gov.uk website

**The AMHP Administrator will:**

Record the referral on the AMHP Admin Breathing Space Tracker

**4.4. All referrers will:**

Be signposted to the breathing space website

*For the link to the breathing space website page please see:*

<https://www.kent.gov.uk/social-care-and-health/health/mental-health/mental-health-crisis-breathing-space>

**4.5. All referrers will:**

Complete the electronic referral form, which will then automatically be sent to the breathing space mailbox managed by the AMHP Service.

**4.6. The AMHP Administrator will:**

Screen the referral form to ensure it meets the criteria.

***Please note:***

*A referral will **not** be accepted if:*

*If the individual **does not** live in Kent  
or*

*The individual is **not** currently receiving treatment  
from secondary mental health services*

**4.7. The AMHP Administrator will:**

Ensure the referral form has been completed correctly.

***Please note:***

*It is important the individual's NHS number has been provided  
and  
it is clear if the individual has capacity to decide whether to receive a MHCBS.*

**4.8. The AMHP Administrator will:**

Send the individual a copy of the bespoke breathing space privacy notice

*For a copy of the privacy notice please see:  
Kent.gov.uk website*

**4.9. The AMHP Administrator will:**

- Check Rio or Mosaic to identify the relevant CMHT.

- Email the relevant CMHT via the admin mailbox.

**4.10. The AMHP Administrator will:**

- Upload the referral to Rio.
- Record the referral on the AMHP Admin Breathing Space Tracker

**4.11. The Duty Team Administrator will:**

- Create a new contact on Mosaic if the person is not already known to KCC.
- Add significant information to an open case on Mosaic.

**4.12. The Social Care Team Manager will:**

Allocate a mixed-role AMHP to complete this piece of work.

**4.13. The AMHP will:**

Decide if the criteria have been met for completing the MHCBS evidence form

***For how to complete MHCBS please see:***

*S.5 The Role of the AMHP when completing the MHCBS evidence form  
(below)*

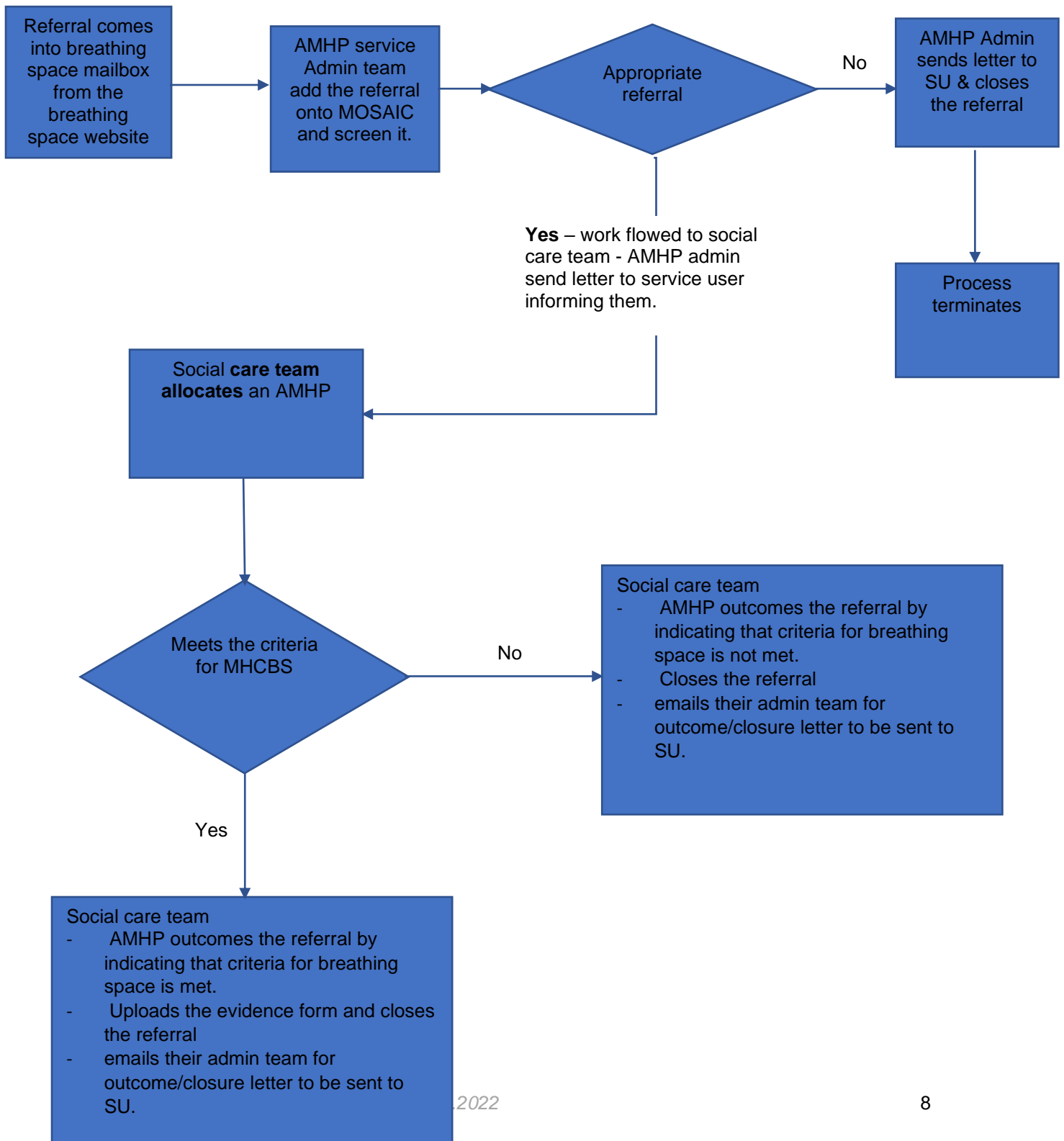
**4.14. The AMHP will:**

- Outcome the referral by indicating if the criteria have been met
- Upload the evidence form
- Completes the outcome letter
- Close the referral
- Emails the Duty Team Administrator informing them of the outcome and requesting that they send the outcome letter

**4.15. The Duty Team Administrator will:**

- Send the outcome letter

## Mixed Role AMHPs process for completing breathing space referrals





## 5. The Role of the AMHP when completing the MHCBS evidence form.

- 5.1. AMHPs are the professional group required to provide evidence that an individual is receiving mental health crisis treatment. This evidence will be used by debt advisers to check a person's eligibility for the MHCBS.
- 5.2. AMHPs' professional expertise in assessing individuals with the most serious mental health conditions and their understanding of the applicable legislation, determinants of mental health and appropriate therapies for mental health crisis is crucial.
- 5.3. The expertise of the AMHP allows the debt advice provider receiving the evidence form to trust that the person is receiving mental health crisis treatment without further research or assessment.
- 5.4. Although an AMHP may be asked to complete an evidence form, the AMHP is **not** under any statutory duty to complete a form. It is the AMHP's judgement that is of paramount importance.

***Please note:***

*There are **no circumstances** in which an AMHP can be required to complete an evidence form by anyone else.*

- 5.5. **The AMHP does not need to:**  
Have carried out a MHA assessment in relation to the individual.
- 5.6. **The AMHP may:**
  - Carry out an assessment of the individual in person or remotely.**Or**
  - Simply rely on evidence provided to them by another professional who is involved with the individual's care.

***Please note:***

*The relevant legislation **does not** set out the steps an AMHP should follow before completing an evidence form.*

- 5.7. **The AMHP does not need to:**  
Have a conversation with the individual or their carer about their finances or know anything about their debts to complete the evidence form.

### 5.8. The AMHP can:

Complete the evidence form provided they are satisfied that the individual meets one of the criteria (Section 28 The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020) set out below *and confirm if the reason for referral was (a), (b), (c), (d) or (e).*

- a) has been detained in hospital for assessment under sections 2 or 4 of the Mental Health Act 1983,
- b) has been detained in hospital for treatment under section 3 of that Act,
- c) has been removed to a place of safety by a police constable under sections 135 or 136 of that Act,
- d) has been detained in hospital for assessment or treatment under sections 35, 36, 37, 38, 45A, 47 or 48 of that Act, or
- e) is receiving any other crisis, emergency or acute care or treatment in hospital or in the community from a specialist mental health service in relation to a mental disorder of a serious nature.

***Please note:***

*It is **unlawful** for an AMHP to complete the evidence form for an individual who is **not** in receipt of crisis treatment*

*If an individual is referred under (e), there **must** be sufficient evidence that the person's mental disorder is of a serious nature that could justify overriding the freewill of the person.*

*For example, the nature and frequency of interactions may satisfy the definition of crisis treatment of the scheme.*

*Should no further information be provided, or the information given is **not** sufficient, the application may be rejected.*

*No further evidence is required for an individual who is referred under (a) to (d) only confirmation of this.*

### 5.9. The AMHP must:

Complete the evidence form **if** they are satisfied that the person is receiving mental health treatment.

### 5.10. The AMHP does not need to:

Provide any specific details of the person's debts in the evidence form.

***Please note:***

*It is very helpful to include any information they do have even if it is **only partial** information.*

*This is also the case if the person has business debts.*

- 5.11. The AMHP must:**  
Follow the Mosaic guidance

**Please note:**  
*For a copy of the Mosaic guidance please see Knet.*

## **6. The Role of the AMHP in relation to information and consent.**

- 6.1. The AMHP has:**  
**A duty** of confidentiality to the individual.
- 6.2. The AMHP must:**  
Be satisfied the individual has given consent to share their personal information with a third party before completing and passing on the form if they **have capacity**.

**Pease note:**  
*This can include simply relying on the evidence provided to them by another professional who is involved with the individual's care*

- 6.3. If the AMHP has a conversation with the person, they could say:**

*“You are receiving mental health crisis treatment, and you may be struggling with problem debt. With your permission, I can complete a form to be sent to a debt adviser on your behalf to ask for a mental health crisis breathing space for you. Having a breathing space should stop you being contacted by someone you owe money to or being charged fees and interest on your debts while you are receiving crisis treatment. The breathing space will last for 30 days after your crisis treatment ends.*

*A debt advisor will share the information I provide in the form with other organisations, including the breathing space scheme administrator, your creditors and their agents. This needs to happen for them to establish your financial situation and make sure your creditors know you are protected by the scheme. Your creditors will be notified that you are in a mental health crisis breathing space, but they will not be given any specific information about your condition or treatment. The debt adviser will also be able to contact you later, to offer you help to manage your debts. Are you happy for me to share your details with*

*a debt adviser to see whether you are eligible for a mental health crisis breathing space?”*

*“If you want to go ahead, but are worried that your creditors may be violent, we can ask the debt adviser not to share your address with your creditors. Do you want the debt adviser to consider this?”*

**6.4. The AMHP should:**

Provide further information to the individual, which has been provided by the Government if they judge that it is appropriate to do so.

**For this further information please see:**  
*Annex A, Debt respite scheme (breathing space) at:*

[\(<http://www.gov.uk/government/publications/debt-respite-scheme-breathing-space-guidance-on-mental-health-crisis-breathing-space>\)](http://www.gov.uk/government/publications/debt-respite-scheme-breathing-space-guidance-on-mental-health-crisis-breathing-space)

**6.5. The AMHP must not:**

Take any further action if the individual does not want a breathing space or for their information to be shared.

**6.6. The AMHP must:**

Establish if the individual **lacks capacity** to agree to a breathing space **if they do not** have someone who can consent on their behalf.

**Please note:**

*This is a simple decision  
and **does not** require a complex decision form to be completed  
or a best interests meeting to be held*

*The AMHP can also **simply rely** on the evidence provided to them  
by another professional who is involved with their care*

**6.7. If the person lacks capacity**

**The AMHP may:**

Seek consent from someone the individual has previously indicated can make decisions on their behalf e.g.

- a person with Lasting Power of Attorney under the Mental Capacity Act 2005 (MCA)

**Or**

- a deputy appointed by the court of protection

**Or**

- an appointee

**The AMHP must:**

- Record clearly why they believe the person does **not have** the capacity to make a decision on their own behalf

**And**

- That they are unlikely to regain capacity by the time a decision needs to be taken

**And**

- The reasons why disclosure of confidential information is in their best interests (e.g. to protect them from serious physical or psychological harm).

## 7. Nominating a point of contact

### 7.1. The nominated point of contact must:

Either be:

- An AMHP

**Or**

- A care co-ordinator (*this may be subject to amendment with pending changes to care co-ordination in the Kent and Medway NHS and Social Care Partnership Trust*)

**Or**

- A mental health nurse.

### 7.2. The nominated point of contact cannot:

Be the individual's carer, advocate or representative.

***Please note:***

*Details of anyone else **cannot** be provided even if they are involved in the individual's care.*

### 7.3. The nominated point of contact must:

Be someone likely to have ongoing involvement in the individual's crisis care.

### 7.4. The nominated point of contact should:

**Be the care co-ordinator if one has been appointed under the Care Programme Approach.**

### 7.5. The nominated point of contact will:

Be the senior practitioner or operational team manager within the Crisis Resolution and Home Treatment Team (CRHT).

***Please note:***

***Only** when the individual is **not** known to secondary community mental health services*

**7.6. The nominated point of contact will:**  
Transfer from the senior practitioner or operational team manager within the CRHT to the care co-ordinator within the Community Mental Health Team (CMHT) once allocation has taken place.

**7.7. The nominated point of contact will:**  
Be the ward manager or deputy ward manager.

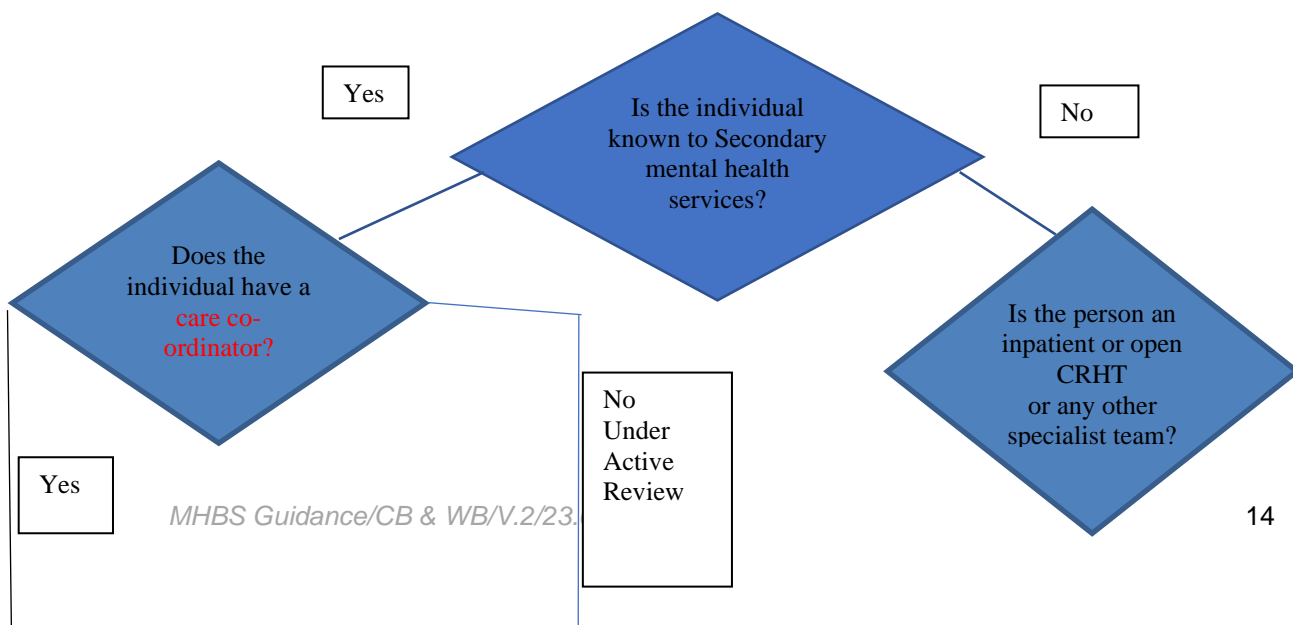
**Please note:**  
*Only when the individual is **not** known to secondary community mental health services*

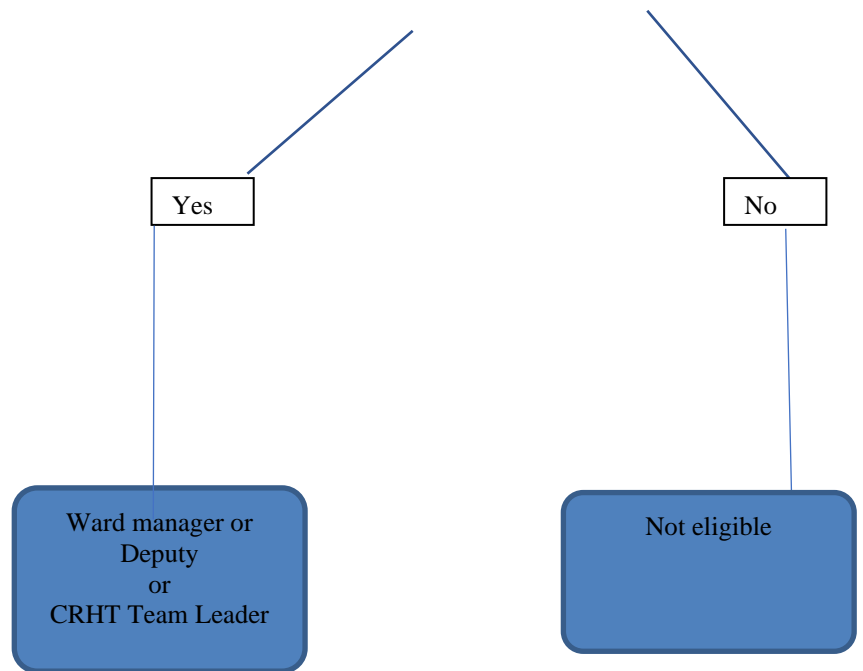
**7.8. The nominated point of contact will:**  
Transfer from the ward manager or deputy ward manager to the care co-ordinator with the CMHT once allocation has taken place.

**7.9. The nominated point of contact will:**  
Be the Health Team Leader within the CMHT

**Please note:**  
*Only when the individual **does not** have a care co-ordinator and is under the Active Review Caseload system*

### Flowchart





## 8. The Role of the nominated person

### 8.1. The nominated point of contact must:

Respond to requests for information from the debt adviser (e.g. if there is a problem with the evidence form or delay in starting the MHCBS).

### 8.2. The nominated point of contact will:

Be contacted by the debt adviser between 20 and 30 days after the MHCBS started.

### 8.3. The nominated point of contact must:

Inform the debt adviser when contacted whether:

- The individual's crisis treatment is ongoing.

Or

- When that treatment ended

**Please note:**

*If the debt adviser is **unable** to contact the nominated point of contact, the assumption will be that the individual is **no longer receiving** mental health crisis treatment.*

*The individual's **MHCBS will end** 30 days from the date on which the debt adviser failed to receive a response.*

### 8.4. The nominated point of contact does not:

Need to provide any other information about the individual's treatment or their condition.

- 8.5. The nominated point of contact will:**  
Be contacted by the debt adviser again within 20-30 days.

***Please note:***

*The debt adviser will repeat this contact for the duration of the individual's crisis treatment*

- 8.6. The nominated point of contact must:**  
Inform the debt adviser if new information about the individual's debts comes to light during their MHCBS.
- 8.7. The nominated point of contact must:**  
Inform the debt adviser as soon as the individual is no longer receiving crisis treatment.

***Please note:***

*The individual's MHCBS will end 30 days from the date when treatment ended.*

*The debt adviser will remove the individual from the Insolvency Service's register.*

- 8.8. The nominated point of contact must:**  
Inform the debt adviser if the individual dies during the MHCBS.

***Please note:***

*The MHCBS will end the following day.*

*The Insolvency Service will update the register and send a notification to all creditors.*

*The individual's next of kin will still need to contact all creditors in the usual way.*

## **9. The Role of the carer, advocate, or representative**

- 9.1. They cannot:**  
Require an AMHP to complete the evidence form if the AMHP **does not** consider that the person is receiving mental health crisis treatment.
- 9.2. They can:**  
Assist the AMHP in completing the evidence form by providing information about the individual or their debts.
- 9.3. They can:**  
Take responsibility for sending the completed evidence form to a debt adviser.



**9.4. They can:**

Provide information about any additional debts to the debt adviser, after the MHCBS has started.

**9.5. They can:**

Liaise with the debt adviser on the individual's behalf.

**9.6. They cannot:**

Act on the individual's behalf if the individual has mental capacity and has objected to them acting in this way or making decisions on their behalf.

**10. If AMHP is not completing the MHCBS evidence form.**

**10.1. The AMHP must:**

Complete a progress note on Rio or Mosaic clearly documenting their reasons for **not** completing the MHCBS evidence form.

**10.2. The AMHP must:**

Email the Breathing Space mailbox at: [breathingspace@kent.gov.uk](mailto:breathingspace@kent.gov.uk) to inform the AMHP Administrator of the outcome

**10.3. The AMHP must:**

- Inform the individual.
- Inform the referrer.

**11. Passing on the evidence form**

**11.1. The evidence form must:**

Be sent to a debt adviser at the dedicated online service provided by the Money and Pensions service

***Please note:***

*The evidence form explains how to do this,  
and the link is at:*

<http://www.maps.org.uk/mhcbs>

*There is no charge for this service.*

**11.2. The evidence form can:**

Be sent by:

- The AMHP
- Or
- The individual
- Or
- The individual's carer
- Or
- **The Care Coordinator**
- Or
- A mental health nurse
- Or
- A social worker
- Or
- An independent mental health advocate
- Or
- An independent mental capacity advocate
- Or
- The individual's representative
- Or
- An approved mental capacity professional or appropriate person

***Please note:***

*This is to limit the administrative burden of the AMHP.*

**11.3. The evidence form must:**

Be sent as soon as possible.

***Please note:***

*Any delay will mean that enforcement activity continues, and interest, fees, and charges on the individual's debts continue to grow.*

**11.4.** The MHCBS will start the following day after the evidence form has been received.

***Please note:***

*The MHCBS **cannot** be backdated.*

**12. The Role of the AMHP following completion of the MHCBS evidence form.**

**12.1. The AMHP must:**

Complete a progress note on Rio or Mosaic clearly documenting their reasons **if** they decide **not** to complete the MHCBS evidence form.

**12.2. The AMHP can:**

Send the evidence form to a debt adviser.

***Please note:***

*The AMHP does **not** have to be the one to pass on the evidence form.*

***For further information please see:***

*s.11.2. above*

**12.3. The AMHP must:**

- Upload a copy of the completed evidence form to Rio or Mosaic.
- Add a progress note stating the evidence form has been completed

**12.4. The AMHP can:**

Give the individual a copy of the evidence form.

**12.5. The AMHP must:**

Email the Breathing Space mailbox at: [breathingspace@kent.gov.uk](mailto:breathingspace@kent.gov.uk) to inform the AMHP Administrator of the outcome

**12.6. The AMHP has:**

**No further role** once the evidence form has been submitted unless they will also be the nominated point of contact for the individual.

**13. Following completion of the MHCBS evidence form**

**13.1.** All outcomes of referrals will be sent to the Breathing Space mailbox at: [breathingspace@kent.gov.uk](mailto:breathingspace@kent.gov.uk).

**13.2. The AMHP Admin will:**

Record the outcome on the Breathing Space tracker

