

SCHEME HANDBOOK

THE BREATHING
SPACE SCHEME
HANDBOOK

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INTRODUCTION TO THE BREATHING SPACE LOAN HANDBOOK

The Breathing Space scheme is operated by Wakefield Council on behalf of the Local Authorities across Yorkshire and The Humber region, to enable them to offer loans to help owner occupiers in difficulty with their mortgage and/or secured loan. Wakefield Council will process and administer the Breathing Space loans for all of the participating Local Authorities from receipt of the client's referral to payment of the loan.

This Handbook covers the Breathing Space lending policy, processes and procedures between Wakefield Council and Local Authorities in the Yorkshire and Humber region.

Wakefield Council is not required to comply with the Consumer Credit Act and is not, because of its status as a 'housing authority', regulated by the Financial Conduct Authority.

Breathing Space loans must be dealt with according to the instructions in this Handbook and the training provided by Wakefield Council. This is to ensure all Applicants receive the same standard of service throughout the region.

Wakefield Council will provide training for Local Authorities participating in the Breathing Space scheme. Competent officers will be referred to as 'Caseworkers'. For the purpose of the Handbook, a Caseworker can be any officer nominated by the Local Authority, to undertake application interviews for Breathing Space loans. This includes officers who work for organisations contracted to deliver the Local Authority's homelessness service, or otherwise on behalf of the Local Authority.

Further guidance if required may be obtained from the Breathing Space team. Contact details are below.

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THE LOAN

PURPOSE OF THE LOAN

The Breathing Space Loan Scheme aims to prevent homelessness and support homeownership. The scheme provides loans to owner-occupiers in difficulty with their mortgage and/or secured loan payments.

HOW THE LOAN WORKS

- The loan is an interest free loan, secured as a legal charge against the Applicant's property, in the name of City of Wakefield Metropolitan District Council.
- There are no monthly repayments required
- The Breathing Space loan is repayable in full at the end of three years. The amount the Applicant pays back will be:
 - the amount of the loan
- If the Breathing Space Loan is not repaid when due, interest will become payable at the Bank of England base rate plus 3%.
- The Applicant has the right to repay the loan in full at any time. There are no early repayment charges payable if the loan is repaid early. Part repayments are allowed.

LOAN APPLICANTS AND ASSESSMENT CRITERIA

- The Applicant must own their property and occupy it as their main residence.
- All of the property owners must be party to the Breathing Space Loan.
- The Applicant must have sufficient equity in the property. The maximum value for all secured borrowing, including the Breathing Space Loan must not exceed 90% of the property value. Where the Applicant is within the repayment period of the Right to Buy discount, this will be taken into account as secured borrowing.
- The Applicant must be in difficulty with their mortgage (or secured loan) payments. The client either has incurred mortgage arrears, or is unable to meet their on-going mortgage instalments, and so is about to incur arrears.
- The cause of difficulties must be due to a recent and significant change of circumstances. Breathing Space is not intended to resolve issues of long standing debt.
- The Applicant must have received advice on their financial situation. This would normally be through an advice agency (see guide for sources of free advice). It is expected that the Applicant should have received advice on income and expenditure, maximising income, negotiating with lender,

possible alternatives to the Breathing Space loan, and assistance on any court proceedings or warrant of eviction. The Breathing Space loan is intended to be a last resort measure when other options cannot be applied to resolve client difficulties.

- The Applicant does not have the financial resources to pay their mortgage (and/or secured loan) instalments and/or arrears. A financial assessment will be undertaken to determine this by completing a Financial Assessment form.
- There must be an expectation that the Applicant will be able to meet their mortgage and any secured loan repayments after the period of assistance provided by the Loan, or will sell the property.
- The Applicant's application will be assessed by Wakefield Council on receipt of a referral, and they will consider all the information provided. The referral documentation required is as follows:
 - A land registry search that confirms the applicant is the owner of the property
 - A completed financial statement
 - A completed referral providing details of the difficulty and client contact details
- Wakefield Council will undertake an initial telephone consultation once the referral has been received. The purpose of this will be to better understand the client case and determine whether Breathing Space is the most suitable solution. If Wakefield Council assesses the referral and feels the Applicant has enough income to pay their housing costs and make acceptable arrangements with their lender(s) to repay any arrears, they may decline the loan and ask the Applicant to contact their lender(s). Negotiations and presentation of alternative offers will be made to the lender(s) on behalf of the client. If agreement cannot be reached with the lender(s), they may be re-considered.
- If Wakefield Council determines that a loan is appropriate then an application will be taken. Partners will be asked to provide accommodation at a local level within which to take the application. Officers from Wakefield Council will then attend and meet with the Client for the purposes of taking the Breathing Space loan application.
- As part of the application process, Wakefield Council will carry out the following:
 - A credit reference enquiry to check for adverse information. If an Applicant has adverse information registered against their name, it will not automatically disqualify them.
 - An independent valuation of the property.
- Wakefield Council will reserve the right to make a lending decision based on the information gained on a particular Applicant, but will ensure that all lending decisions are made prudently and responsibly.

- If a loan application is declined, Wakefield Council will send a letter to the Applicant and provide the Local Authority Partner with a copy.
- If the loan is approved, the Applicant will be sent a Loan Offer Document.
- The Applicant will be required to obtain Independent Financial Advice which will be paid for by the Scheme.
- Applicants will be advised that all payments will be made direct to their lender(s) by electronic funds transfer.

WHAT CAN THE BREATHING SPACE LOAN COVER?

- The Local Authority is responsible for helping the Applicant determine what help they would like from the loan scheme. This will normally be mortgage and secured loan arrears, and instalments for a period of up to 12 months (paid as a lump sum). Settlement of the mortgage or secured loan can also be considered, if it does not exceed the maximum loan amount. However the amount of the loan will be at the discretion of Wakefield Council and will be the minimum required to apply a robust solution.
- Where the Applicant can afford the on-going instalments but not the arrears, an appropriate level of instalments will be included as required, following discussions with the lender(s) and client. This is to ensure that there are no arrears at the time the loan is paid, which could result in difficulty on obtaining the lender's consent to register the legal charge.

SECURITY

- All Breathing Space loans will be secured as a legal charge against the Applicant's property, in favour of The Council of the City of Wakefield. The charge will rank after any charges that are already secured on the Applicant's property. For example, if the Applicant has a mortgage, Wakefield Council's charge will be the second charge. If the client has existing charges registered against their property, it is likely that those chargees will need to give consent for Wakefield Council's to register the charge for the Breathing Space loan.

FEES

- Loan set up fees will be paid from the Breathing Space funds. The Applicant is not required to repay them.

PROPERTY VALUATIONS

- In order to calculate the loan percentage, an independent professional valuation of the Applicant's property will be arranged by Wakefield Council. This is undertaken in accordance with the Royal Institute of Chartered Surveyors' (RICS) "Red Book" rules. This is to identify a realistic and accurate property value. The Valuer will confirm the market value of the Applicant's property and the re-instatement cost for insurance purposes, which the Applicant must insure their property for.

LOAN APPROVAL

- On receipt of the valuation and all necessary information eg from lenders, the loan will be agreed in principle, or rejected.
- Loan funds will only be released once the Applicant(s) has obtained independent financial advice, signed and returned the Legal Charge and Loan Offer Document, and the necessary consent(s) to the legal charge have been obtained.

LENDING POLICY

- The property must be owned and occupied by the Applicant/s.
- The Applicant must be at least 18 years of age (there is no upper age limit)
- The minimum loan amount is normally £2,000 and the maximum normally £15,000.
- The maximum loan to value of all secured lending (and including any Breathing Space loan) will not normally exceed 90% of the property value.
- Loan amounts outside of these limits **may** be considered according to their individual circumstances..

PROCEDURES

INTERVIEW PROCESS

Wakefield Council will provide a Staff Loan Pack, which contains documents required for Breathing Space Loan interviews. Information will also be provided electronically. The Staff Loan Pack is updated periodically, so the latest version of the pack must always be used. A copy of the Staff Loan Pack can be found at the back of this handbook and should be referred to when reading this section.

An initial assessment of eligibility should be carried out prior to the application process commencing. The information needed for this assessment may be obtained during a telephone interview or other initial contact with the client. Local Authorities may want to adapt their own forms to ensure they collect sufficient information to identify whether Breathing Space is an option for the Applicant, or use the Initial Enquiry form provided in the Staff Loan Pack to determine whether the Applicant is likely to qualify for the Scheme.

Any language barriers with Applicants must be clearly identified at the referral stage and if applicable it would be best practice to appoint appropriate Council translators to attend the interview with the Breathing Space Scheme Officer. It is also strongly recommended that the Applicant's family is not used to translate at the interview – this is to prevent complaints/ challenges being made in the future, and for misinterpretation of information given in the interview.

PACKAGING PROCESS

This section should be read in conjunction with a copy of the Referral form that can be found in the Staff Loan Pack in this handbook. The Referral form is self-explanatory, but the following points should be noted:

1. Caseworkers must inform the Breathing Space Team by email or telephone if the case is being considered. E mail referrals and scanned documents are acceptable.
2. Caseworkers must complete and submit the Referral Form, unless the accompanying information provides everything that is required to allow Wakefield Council to take the application forward.
3. A Financial Assessment form must be enclosed/attached with the referral information.
4. A Local Authority search should be included within the package to verify that the Client is the legal owner of the property.

UNDERWRITING PROCESS

On receipt of the application Wakefield Council will deal with it as follows:

1. Confirmation of receipt of referral from LA
2. Financial assessment, online valuation and assessment of the referral.
3. Telephone consultation with the client and discussion to determine whether the referral is eligible.
4. Appointment made to take the application.
5. Application appointment with the client at the Partner Authority.
6. Lenders contacted, valuation undertaken, searches made, consents obtained.
7. Applicant contacted with provisional amount of loan, subject to any outstanding matters
8. Decision made
9. Loan offer document and legal charge document issued to Applicant
10. Applicant obtains independent financial advice
11. Payment issued direct to lender
12. Completion letter sent to Applicant
13. Invoice sent to the Applicant
14. Reviews undertaken at 3 monthly intervals – Wakefield will notify the Partner with a request for them to undertake the review.

PAYMENTS (COMPLETING THE LOAN)

Payment of the loan will be made directly to the Lender(s) for them to apply to the Applicant's mortgage and/or secured loan account. This will be issued when:

- the Applicant(s) has returned the signed loan offer document and the legal charge document.
- confirmation has been received that the Applicant(s) has obtained independent financial advice.
- all necessary consents have been received to enable the legal charge to be registered.

REPAYMENT OF THE BREATHING SPACE LOAN

The Breathing Space Loan is repayable in full at the end of three years or at the point of property completion if the loan has been provided to support the sale process. However the Applicant(s) may repay earlier, for instance if they remortgage or sell the property within the 3 year period. In some cases clients may wish to make regular repayments or sporadic part repayments during the 3 year term. Applicants will be given an invoice at the completion stage and information on how payments can be made

As part of the on-going loan review process during the 3 year loan period Applicants will be encouraged to make ad hoc or instalment payments to reduce their loan if this is affordable and sustainable; however, monthly repayments are not required.

DEALING WITH CASES THAT FALL OUTSIDE NORMAL CRITERIA

Where a case falls outside normal lending criteria, approval for the case to proceed should first be sought from the Breathing Space team, for instance where

- Loans would be less than £2,000
- Loan requirements would be in excess of £15,000. (The maximum Breathing Space loan cannot exceed £15,000 but flexibility to apply the loan as part payment where other mechanisms could be applied may be considered).
- Where the total secured borrowing, including the Breathing Space loan, would exceed 90% of the property value

COMPLAINTS

A complaint is a perceived or real failure to meet an Applicant's expectations or relevant participating Local Authority's standards of service, where it is not immediately resolvable and is received either verbally or written.

Complaints should be addressed to the Applicant's Local Authority in the first instance.

Each Local Authority's standard must be to assist, not resist complaints and treat them in a positive, helpful manner rather than negative criticism. Each Local Authority must deal fully with complaints regarding the Breathing Space Loan wherever possible, in line with their individual Local Authority complaint procedures. However, if it is not possible to resolve a complaint at local authority level, it must be referred to the Breathing Space team who will

decide the next course of action, which may include referral to the Breathing Space Panel.

If an individual Local Authority, the Breathing Space team or the Breathing Space Panel is not able to resolve an Applicant's complaint, they may be entitled to refer their complaint to the Local Government Ombudsman.

RESPONSIBILITIES OF PARTIES
INVOLVED IN THE SCHEME

WAKEFIELD COUNCIL'S (BREATHING SPACE TEAM'S) RESPONSIBILITIES

The Breathing Space team at Wakefield Council will:-

1. Provide a source of referral and financial guidance for Local Authority staff throughout the whole loan process.
2. Provide appropriate training and continued support to loan Caseworkers
3. Provide marketing literature.
4. Provide Local Authorities with appropriate referral documentation for their use.
5. Agree with all Local Authorities any changes to policy, processes, procedures and documentation.
6. Ensure the Applicant is provided with necessary documentation throughout the process, including an annual statement and a final statement plus advisory letter advising that the loan is due for repayment on the 3rd anniversary of completion.
7. Process cases promptly in accordance with the procedure laid down in this Handbook.
8. Provide sufficient information, e.g. monitoring reports, to allow the Local Authority to track and monitor individual loan cases
9. Deal with repayment of loans. Wakefield Council will generate an invoice/notification to the owner when the loan becomes due for repayment. Local Authority Partners may be requested to undertake recovery action if there is a failure in loan repayment. In such instances, Local Authority Partners may be asked to make "best endeavours" to recover outstanding loans on behalf of the Scheme. The costs associated with any action will be reimbursed if required.
10. Consider cases within their discretion that fall outside normal criteria. Ensure that if a proposed loan falls outside normal lending criteria, they follow the procedure for obtaining permission for the loan to proceed.
11. Co-ordinate the role of the Breathing Space Panel by:
 - Establishing a core Panel (made up of legal, finance and housing representatives) and preparing reports for consideration. Prepare reports for consideration by the Panel outlining the situation, providing options and making recommendations where required. Reports will be prepared in conjunction with the relevant Partner Local Authority to ensure agreement with any proposed actions.
 - Nominating an alternative representative where a Panel member is not available for any reason.

- Minute and co-ordinate the business of the Panel for audit purposes and action any agreed recommendations.
- Circulate recommendations made by the Panel for wider sign off by Regional and sub-regional partners as part of the over-arching Steering Group role.
- Coordinating (where appropriate) referral of outside normal criteria cases to the Special Cases Panel and notify Local Authorities of the outcome.
- Coordinating (where appropriate) complaints submitted to the Special Cases Panel and notifying Local Authorities of the outcome.
- Attend the Regional Steering Group to update on the Breathing Space Scheme progress, issues and future strategies.

LOCAL AUTHORITY RESPONSIBILITIES

Local Authorities will:-

1. Adhere to procedures laid down in this Handbook and Staff Loan Pack.
2. Deal with client referrals in accordance with the processes laid down in this Handbook and Staff Loan Pack.
3. Ensure that documentation used, e.g. enquiry and review forms are the latest versions provided by Wakefield Council or if internal documentation is used that all the relevant information is contained within it.
4. Refer clients for support in accordance with the processes laid down in this Handbook and Staff Loan Pack.
5. On the request of Wakefield Council, contact the Applicant to follow-up documentation or obtain additional information if required.
6. Where possible, seek advice from Wakefield Council by email, so that both the Local Authority and Wakefield Council have a record of the information/advice sought and response given and that if the query relates to a particular case, will provide the client's name, address and contact details.
7. Keep up to date with any agreed changes to processes and procedures as notified by Wakefield Council.
8. Inform Wakefield Council if a loan applicant's details or circumstances change.
9. Inform Wakefield Council as a matter of urgency of any eviction warrants or court proceedings relating to the mortgage, secured loan or charging orders etc.

10. Ensure that Applicants are provided with appropriate advice and support in respect of any court action affecting the property or eviction warrant, or directed to an agency which can provide this.
11. Provide all necessary documents to enable the loan to be progressed.
12. Where required, provide feedback on individual client cases for consideration by the Breathing Space Panel.
13. Contact the Applicant for regular reviews (3 monthly) during the term of the loan.
14. Undertake the recovery of amounts not paid at the end of the 3 year loan period as requested.

BREATHING SPACE PANEL RESPONSIBILITIES

Ultimate responsibility for the control and monitoring of the regional scheme is taken by Wakefield Council as the Accountable Body. Within this scheme the decision of Wakefield Council in terms of any variation in loan to be offered is final.

The Breathing Space Panel with the Breathing Space Manager from Wakefield Council, who will act as the chair of the panel will consist of representatives from Wakefield Council's housing, legal and finance disciplines. Representation from each local authority whose loan is in dispute will also be incorporated into the decision making process at the report and recommendation stage. Sub-regional endorsement and opinion will also form part of this decision making process. Although group recommendations will be made in respect of any disputes, the overriding decision will be that of the Breathing Space Manager from Wakefield Council. The final decision will still be Wakefield Council in consultation with other sub-regional representatives.

The Breathing Space Panel will: -

- Consider cases outside criteria that fall outside Wakefield Council's discretion.
- Assess any disputes or issues that arise from the Breathing Space loan.
- Consider if anything can be done to help Applicants who may experience extreme financial hardship on repayment of the Breathing Space loan - each individual case will be assessed on its own merits, but **must be exceptional circumstances**.
- Deal with complaints referred to them by Local Authorities.
- Consider whether to refer a case to the Local Authority for recovery action on non repayment of the Breathing Space Loan.

SOLICITORS RESPONSIBILITIES

Wakefield Council's Legal Services will complete the legal work involved in the loan process. They will:-

1. Send all relevant forms to the Applicant to sign.
2. Make all legal checks that are required including the confirmation of title.
3. Liaise with the Breathing Space Team and the Local Authorities in respect of Applicant queries that need to be resolved for legal purposes.
4. Register the legal charge in favour of City of Wakefield Metropolitan District Council on the property.

VALUER'S RESPONSIBILITIES

The independent valuer will:

1. Be appointed by Wakefield Council to carry out a valuation of the property to confirm the current market value.
2. Be suitably qualified, through the Royal Institute of Chartered Surveyors, and experienced to undertake residential valuations in the client's area.
3. Confirm the re-instatement cost of the property for insurance purposes.
4. Provide the information in a valuation report. In turn a copy will be sent to the Applicant, if the applicant requests it.

DEFINITIONS

BANK OF ENGLAND BASE RATE - The interest rate set by the Bank of England (the central bank of the UK) for lending to other banks

BANKRUPT - A person who has been deemed by a Bankruptcy Court as financially unable to pay debts when due.

FINANCIAL STATEMENT FORM – Income and expenditure form, completed to ascertain whether or not the client is likely to be able to pay their mortgage/secured loan and any arrears without the Breathing Space loan.

CASEWORKER – Local authority officer who has been trained and is competent to carry out Breathing Space interviews. This includes officers who work for organisations contracted to deliver the Local Authority's homelessness service, or otherwise on behalf of the Local Authority. The Caseworker is responsible for interviewing eligible Applicants and completing the necessary paperwork to submit to Wakefield Council, in addition to acting as the point of contact for the client through the entire process, both before and after completion of the loan.

CERTIFIED – Stamped and annotated, to show that the copy is a true copy of the original document.

CHARGE – The name given to someone who has the benefit of a charge over the property, for example a mortgage lender.

CREDIT REFERENCE SEARCH – A search conducted by WMDC. The search provides information about any adverse credit that the client may have and also confirms whether or not the client appears on the Voters' Roll. The client gives authority for WMDC to carry out the search when they sign the declaration on their Breathing Space application form.

A GUIDE TO THE BREATHING SPACE SCHEME – A document that must be given to the Applicant to help them to decide if our services are right for them. It sets out what assistance the Applicant will receive when choosing the loan, details of any fees payable and how they can make a complaint. This takes the place of a customer information document.

EQUITY - The value of the Applicant's property, less the value of secured borrowing, including the Breathing Space Loan.

LOAN OFFER DOCUMENT (LOD) – Includes information about the Breathing Space secured loan to enable the Applicant to check the features before deciding whether to accept the offer. To accept the offer the Applicant signs and returns the LOD, after obtaining advice from an independent financial adviser.

LOANS OFFICERS- Officers at Wakefield Council who receive, underwrite, process and administrate the loans on behalf of the local authorities. They are also responsible for training *Caseworkers*.

BREATHING SPACE TEAM – Loan officers based at Wakefield Council.

FACE TO FACE INTERVIEW QUESTIONNAIRE – Used during the loan interview to collect and impart information. The Face-to-face Interview Questionnaire contains all the information about the Breathing Space loan scheme that the Caseworker must tell the Applicant.

INSURANCE POLICY SCHEDULE – A document supporting an insurance policy, which details amongst other things the re-instatement amount and period of cover; usually issued annually.

LAND REGISTRY - The body responsible for recording details of land in England and Wales.

LEGAL CHARGE- The main way of creating a mortgage/secured loan in England and Wales. The charge is created by a deed. The deed contains the conditions to which the borrower is bound from the time the deed is signed and is a formal binding contract between the lender and the borrower.

REPOSSESSION - To reclaim possession of the property for breach of terms and conditions, or failure to pay the amount due.

STAFF LOAN PACK – A document containing most of the forms that may need to be completed or referred to during the Breathing Space interview.

TITLE DEEDS - Documents evidencing the ownership and extent of a property. They also set out any rights or obligations that affect the property and show whether there are any mortgages on it.

WAKEFIELD COUNCIL – The Council of the City of Wakefield. Wakefield Council administrates the Breathing Space loan scheme on behalf of participating local authorities in Yorkshire and Humberside.

STAFF LOAN PACK

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OVERVIEW

INITIAL ENQUIRY

When taking an initial enquiry, it is important to be aware of other options which may be suitable for the client. Also the client's situation may be resolved through speaking to the lender or through receiving money advice. Be aware that some enquirers will need urgent advice as they may be facing an imminent possession hearing or even eviction. **Even if the eviction date is tomorrow it may not be too late to act. Breathing Space has also been successfully applied after eviction in a very small number of cases.**

You should ensure that you know who to refer clients to locally who can advise and assist them, e.g. to apply for a warrant to be suspended. In urgent cases you should undertake the initial assessment for Breathing Space immediately and, where it looks as if the client will meet the eligibility criteria, Wakefield Council can provide a letter for court confirming this and stating that more time is needed to take and process the application.

Clients need to have obtained advice on their situation before their Breathing Space referral is considered. In urgent cases you may want to contact your local advice agency to arrange an urgent appointment. The Breathing Space team are happy to give telephone advice on potential referrals, especially when they are urgent or do not fully meet criteria.

Do a preliminary check of the value of the property using internet or any other facilities available to you. If there clearly is not enough equity in the property, you should not continue with the referral.

A financial statement should be completed as this will indicate potential alternative solutions.

As part of the initial referral, you may wish to contact the mortgage lender and any secured loan company to inform them, enclosing the applicant's authority for you to do so.

If a referral cannot go ahead you will need to advise the client and outline their options at that point.

REFERRAL TO Wakefield Council

The referral form contains a checklist for you to use to see if the applicant meets the scheme's criteria.

The referral procedure has been much simplified and you now only need to send the following:

- Referral form
- Land Registry Search

- Completed financial statement
- An overview of the problem including contact information for the client (a covering e mail is acceptable).

Referrals can be made by e mail or post, as preferred by the partner Local Authority.

AFTER REFERRAL

Once the referral has been received, it will be allocated to a Loans Officer to progress. Wakefield Council will make contact with the client and explain how the referral will now proceed and what they can expect. An initial telephone interview will be conducted to clarify the financial statement and understand the client situation in more detail. If the referral is still deemed to be viable, an appointment will be made with the client to take the Breathing Space loan application.

Applications will be taken at the Partner Local Authority offices and the referring authority will be asked to provide a suitable interview room for this. This minimises travel for the client. The application usually takes about 2 hours to complete. The client will be notified in advance of the meeting of information and documents to bring with them.

Wakefield Council will contact the applicant's lenders and advise them of the client's referral to the Breathing Space Scheme. Consent for any loan will also be sought. A formal valuation will be commissioned on the applicant's property as part of the application process. The charge for this is met by the Scheme.

When it is possible to calculate the amount of the loan, the applicant will be contacted to check this, before a decision is made. The decision may be made subject to conditions e.g. that the lenders provide consent for the legal charge or that the client provides proof of buildings insurance. Clients who cannot sustain their mortgage in the longer term may be offered a loan on condition that they sell their home and maximise any residual equity.

Where a loan offer is made, the applicant is required to obtain independent financial advice (from a suitably qualified and licensed adviser) before they accept the loan. The charge for this is met by the Scheme.

The applicant then has to return the signed Loan Offer Document and the signed and witnessed Legal Charge Document to Wakefield Council, before the loan can be issued. Payment is made direct to the lender(s) and is usually a single payment to clear arrears and cover future instalments for an agreed period.

Once the payment has been applied to the client account by the lender, a completion letter will be issued to the applicant advising them that the 3 year loan period has begun.

The Breathing Space team will notify the Local Authority that the loan has completed.

REVIEWS

The Breathing Space Scheme requires that the applicant agrees to regular reviews to monitor their progress. Reviews are a loan condition in the Loan Offer Document. Monthly reports will be provided to each Local Authority partner to update on live loan cases and also to highlight those clients needing a review within the coming month. These are the responsibility of the Local Authority and should be carried out every 3 months. The review may be carried out at a meeting, or by telephone or by post. Clients who fail to engage may be deemed to be in default with their loan. The Breathing Space team can assist Local Authority partners who are having difficulties in contacting clients.

The purpose of the review is to discuss the client situation and to act as an “early warning system” for emerging problems. However, the review is to ensure clients are thinking about how they will repay the Breathing Space Loan. This includes selling their property if they have no other repayment vehicle in place at least 12 months before the loan due date. Whilst repayments are not required during the 3 year loan period, clients should be encouraged to make ad hoc payments if they are in a position to do so, as a means of reducing their overall loan.

If they experience further difficulty with maintaining their mortgage, they may need housing options advice.

REPAYMENTS

Applicants are not required to make any repayments within the 3 year loan but they can do so if they wish. Wakefield Council will supply an invoice to the client when their loan application completes. This details how payments can be made.

If the Applicant is unable to repay the loan in full at the end of the 3 year period, each case is evaluated on its individual merits. Wakefield Council will work in partnership with the Local Authority to prepare a report for consideration by the Special Cases Panel and for a decision on how to proceed. Where the loan is not repaid and the Panel decide that recovery action is appropriate, the Local Authority will be asked to make best endeavours to recover the loan on behalf of the Scheme. The costs associated with recovery can be reclaimed. If the loan cannot be recovered, the debt is borne by the Scheme and not the Local Authority Partner.

DOCUMENTATION

BREATHING SPACE MORTGAGE ENQUIRY – INITIAL INTERVIEW

Date:

Officer:

Name	
Telephone	
Address	
	Post Code:
Is enquiry about:	Breathing Space Loan/Mortgage Rescue Scheme/ both/not specified
Cause of difficulty with mortgage:	Relationship breakdown/ill health/jobloss/reduced income/increased mortgage payment/bankruptcy/other Details:

Property details:

Estimated value of property	
Whose names are on the deeds	
Are there any owners who do not live at the property	Y/N Details
Was it a right to buy property	Y/N
Date of purchase	

Details of mortgage

name of lender	
balance	
has lender started court action?	

Details of any secured loans

name of lender	
balance	
has lender started court action?	

name of lender	
balance	
has lender started court action?	

Details of any charging orders

name of lender	
balance	

Further details of problem

--

Details of any court hearing

--

Details of any payment protection policies

--

Breathing Space Loan Scheme

Client's wishes (eg wanting to stay, sell, etc)

What does client wish to borrow?

How does client hope to meet mortgage and secured loan repayments in the future?

How does client hope to repay the Breathing Space Loan at end of 3 years?

Initial Assessment (see form *Eligibility Check after Initial Interview*) :

Able to proceed?

Yes/No/Deferred state reasons :

--

<u>Checklist</u>	Date
Client informed whether or not able to proceed	
Breathing Space Guide issued	

Terms and Conditions for the Breathing Space Loan Scheme

1 Purpose of the loan

- 1.1 The Breathing Space Loan is available to owner occupiers in difficulty with their mortgage payments. Its purpose is to help Applicants to avoid repossession of their home.

2. Amount of loan

- 2.1 The maximum amount of the loan available is £15, 000. The minimum amount is £2,000.
- 2.2 In calculating the loan assistance that can be offered, Wakefield Council will take into account the amount of arrears outstanding on the prior mortgage or secured loans at the date of the loan application and a maximum of 12 months future monthly instalments on the mortgage or secured loan if required. Alternatively the Loan may be based on the redemption figure of the mortgage and/or secured loan or the loan which is subject to the charging order, if this is below the maximum loan amount.
- 2.3 The Loan can provide assistance in respect of a first mortgage, or second or subsequent mortgage, secured loan or to redeem a charging order. Where there are arrears on more than one mortgage, secured loan or charging order the Loan can be used towards more than one mortgage, but the total cannot exceed the maximum loan limit of £15,000.

3 Eligibility Criteria

The Applicant must satisfy the following criteria to be considered for the Loan:

- 3.1 The Applicant must have an owner's interest in the property on which the mortgage is secured. **All legal owners of the property must agree to accept joint and several liability for the loan.**
- 3.2 **The Applicant must be resident at the property and this must be their only home.** Where there are joint owners, it is sufficient in certain circumstances to be approved by Wakefield Council or the Special Cases Panel that only one of them fulfils this condition.
- 3.3 **The Applicant has sufficient equity in the property.** The maximum value for all secured borrowing, including the Breathing Space Loan must not exceed 90% of the property value. Where the applicant is within the repayment period of the Right to Buy discount, this will be taken into account as secured borrowing.

- 3.4 **The Applicant is in difficulty with their mortgage or secured loan payments, or a charging order is forcing legal action.** The client either has incurred mortgage or secured loan arrears or is unable to meet their mortgage or loan instalments and so is about to incur arrears.
- 3.5 **The cause of difficulties must be due to a recent (within the last 12 months) and significant change of circumstances that are outside the control of the client** eg unemployment, sickness, drop in income, or any other circumstance considered reasonable by the Special Cases Panel in its sole discretion. The Loan is not intended to assist those with issues of long term debt and money mis-management. Wakefield Council will have sole discretion to decide whether this criteria has been met by the Applicant.
- 3.6 **The Applicant has received recent advice on their financial situation.** Advice can be obtained from an advice agency, eg Citizens Advice Bureau, who can discuss all options.
- 3.7 **The Applicant does not have the financial resources to pay their mortgage or secured loan instalments and/or arrears.** A financial assessment will be undertaken to determine this and other options will be considered before a loan is offered.
- 3.8 **There must be an expectation that the Applicant will be able to meet their mortgage and any secured loan repayments after the period of assistance provided by the Loan, or will place the property on the market either prior to a loan being provided or during the loan period if circumstances change for the worse or do not improve.** This will be assessed by the loan officer on the facts of the case, taking into account potential increases in income or reductions in expenditure. Wakefield Council will carry out a credit reference search and will take into account the whole of the Applicant's financial situation in deciding whether a Loan is appropriate.
- 3.9 If property sale is the nominated loan repayment vehicle, the Loan will only be completed once the property has been marketed for sale.

4 Conditions

- 4.1 The Applicant will be eligible for one Loan only.
- 4.2 The Applicant will be required to obtain independent financial advice before they enter into the Loan with the Council.
- 4.3 The Applicant must agree to receive debt counselling and money advice during the loan application process.

- 4.4 The Applicant must agree to 3 monthly review meetings to monitor their financial situation. The client must agree to provide review information and sign consent to allow Wakefield Council to engage with lenders and other creditors. If appropriate, the Applicant must agree to receive wider additional money advice.
- 4.5 The Loan will be secured on the property by registering a Legal Charge at Nottingham (West) District Land Registry.
- 4.6 All owners of the property must be party to the application for it to be considered.
- 4.7 Adequate building insurance for the property must be maintained during the Loan period and a copy provided to the Council if required.
- 4.8 The property must be kept in good repair throughout the Loan period.
- 4.9 The applicant (or, in Exceptional Cases of a joint application, one of the applicants) will occupy the property as his or her only residence throughout the loan period. The property must not be left empty for over 30 days without an appropriate reason and must be notified to Wakefield Council. **Sub-letting of the property is not permitted without the permission of Wakefield Council.**
- 4.10 The loan must be repaid in full at the end of the three year term or on first disposal of the property. Where the property is in joint ownership and is subsequently transferred to one of those owners singularly then Wakefield Council should be informed. The Panel in its sole discretion will decide whether this disposal will be exempt of the repayment requirement.
- 4.11 **If there is a breach of the above conditions 4.4, 4.7, 4.8, 4.9, and 4.10 the owner/s shall on demand from the Council repay the full loan or lesser amount decided by the Panel in its absolute discretion as being reasonable in the circumstances.**
- 4.12 Where the home is jointly owned all the owners will be jointly and severally liable to pay the loan in full.
- 4.13 Wakefield Council shall be entitled to demand immediate payment of the loan together with all other sums then owing but unpaid, upon the happening of any of the following events:
- If in the event of the applicant's death the property has not been sold or loan repaid within a period of 18 months by the executors of the applicant's estate: OR
 - If someone else moves into the property with the applicant, without the consent of the Council: OR
 - If the applicant lets out the property to another party without the prior approval of the Council: OR

- The applicant ceases to live in the property as their principal residence or the property changes type from an owner occupied residential property: OR
- If any information provided by the applicant for the purposes of the loan proves to be incomplete or inaccurate: OR
- The applicant takes out an additional charge secured against the property, other than any mortgage or loan taken without the full knowledge and agreement of the Council at the time the property is purchased: OR
- The applicant takes out a further advance of monies from a mortgage provider who either already has a charge registered on the property or subsequently takes a charge over the property without obtaining the Council's written consent.

General Terms

- 4.14 In the event that the loan does not proceed to completion, Wakefield Council will not be liable in law or otherwise for any claims, costs or loss.
- 4.15 All assistance in this policy is subject to available financial resources and the final decision to approve or refuse an application for assistance is at the sole discretion of Wakefield Council. In making an application for any assistance under this policy, applicants will be required to sign and accept the conditions. Applicants should seek independent legal and/or financial advice.

5 Applications

- 5.1 Where there are joint owners of a property, only one application can be made.
- 5.2 Loan applications will normally be considered in order of date of receipt of application. If demand exceeds available funds the loans officer will develop a process to prioritise cases with reference to the priority need criteria at paragraph 10.2 of the Homelessness Code of Guidance for Local Authorities (Department for Communities and Local Government, 2006).
- 5.3 Enquiries regarding applications for assistance can be made at:

Breathing Space Homeowner Support Team
01924 305892

Or in writing to:
Strategic Housing
Wakefield Council
Wakefield One
Wakefield
WF1 2EB

E mail: mortgagehelp@wakefield.gov.uk

6 Exceptional cases

- 6.1 Where an application for assistance is made outside the approved policy, this will be considered by the Lead Officer, Homeowner Support Team and Wakefield Council's Service Director, Strategic Housing who will determine whether it can be approved or refused on a case by case basis.

7 Breathing Space Loan Support Grant

7.1 Where the Loan is provided, a Breathing Space Loan Support Grant will be provided to cover the initial setting up costs of the loan if they are charged in respect of:

- Property valuation fee
- Legal Fees
- Administration costs
- Independent Financial Advice up to a capped ceiling amount.

A Loan Support Grant will be automatically considered on receipt of the application for the Breathing Space Loan.

8 Payment of the loan

- 8.1 The loan will be paid directly to the mortgagee (mortgage lender) or client's solicitor where appropriate on completion of the legal charge.
- 8.8 The loan will not be paid if the property is repossessed or if all the applicants give up residence in the property before payment of the loan has been issued to the mortgagee (mortgage lender).

9 Repayment

- 9.1 The loan will be an interest free, fixed term loan for 3 years from the date stated on the loan completion letter. Repayment will be deferred for up to 3 years. The loan is to be repaid in full by the end of the 3 year term.
- 9.2 Any sum outstanding after the end of the 3 years fixed term will accrue interest, which will be charged at 3% above the Bank of England base rate which is current on the date that the 3 year fixed period expires.
- 9.3 The Special Cases Panel will consider cases of financial difficulty sympathetically and positively. However any recovery action on failure to repay the loan will be the responsibility of the Council.
- 9.4 Court action to enforce repayment (which can result in repossession of the property) may be taken by Wakefield Council if the Loan is not repaid at the end of the three year loan period, or the client defaults on conditions 4.4, 4.7, 4.8, 4.9 or 4.10.

10 Complaints procedure

- 10.1 The Council has a complaints procedure. A complaint can be made by contacting the Complaints Team:

Email: customerrelations@wakefield.gov.uk

Tel: 01924 305757

Fax: 01977 724308

Wakefield One
Burton Street
Wakefield WF1 2EB

11 Appeal procedure

- 11.1 If an applicant wishes to appeal a determination on their loan application, an appeal can be made to:

The Lead Officer, Homeowner Support Team
Strategic Housing and Economic Growth
Wakefield One
Burton Street
Wakefield
WF1 2EB

Tel: 01924 305892

Fax: 01924 306325

E mail: mortgagehelp@wakefield.gov.uk

Definitions

- 12.1 The **Applicant** is defined as a person who occupies the property as their only or main home.
- 12.2 **Owner's Interest** is defined as a freehold interest or a leasehold interest of at least 50 years.
- 12.3 **First Disposal** means any change or alteration in the proprietorship register at HM Land Registry.
- 12.4 **Independent Financial Advice** means advice from an independent financial adviser or whole of market mortgage adviser.
- 12.5 **The Council** means Wakefield Metropolitan District Council
- 12.6 **The Special Cases Panel** means a panel of representatives from the councils participating in the Breathing Space scheme appointed to make decisions on exceptional cases and recovery of Breathing Space loans.
- 12.7 **Exceptional Case** means an individual situation relating to a loan application to be decided in accordance with clause 6.
- 12.8 **Exempt Disposal** means a disposal of the property during the 3 year loan period to be considered by the panel in their sole discretion as one where repayment of the loan is not required at that time.

FINANCIAL STATEMENT

NAME _____

ADDRESS _____

No of People in Household: _____

Date: _____

STEP 1 Monthly/ Weekly	INCOME
Wages/Salary	
Wages/Salary (Partner)	
Other wages	
Job Seekers Allowance	
Income Support	
Work/Child Tax Credit	
Retirement/Works Pension	
Child Benefit	
Incapacity/Sickness Benefit	
Maintenance	
Non-dependents' Contribution	
Other	
TOTAL INCOME	£ 0.00

STEP 2 - IDENTIFY EXPENSES

List all expenses and ask probing questions to obtain a full picture. For Car Loans, only hire purchase is a priority debt, other loans are unsecured.

unsecured.

STEP 2 Monthly/ Weekly	EXPENSES	ARREARS
Mortgage		
Mortgage Endowment Policy		
2nd Mortgage/Secured Loan		
Secured Loan		

STEP 2 (continued) Monthly/ Weekly	EXPENSES	ARREARS
Housekeeping		
School/Work meals		
TV Rental and Licence		
Car: Finance		
Insurance		
Petrol		
Maintenance and repairs		
Clothing		
Laundry		
Telephone: landline		
Mobile 1		
Mobile 2		
Mobile 3		
Prescription Charges		

Rent		
Council Tax		
Water Rates		
Buildings/Contents Insurance		
Life Insurance/Pension		
Gas		
Electricity		
Other Fuel		
Sub total	0.00	0.00

Child Minding		
Maintenance Payments		
Magistrates' Court Fines		
Other		
Other		
Other		
Sub total brought forward	0.00	0.00
TOTAL EXPENSES £	0.00	0.00

STEP 3	MONEY LEFT
TOTAL INCOME	£0.00
MINUS TOTAL EXPENSES	£0.00
MONEY FOR PRIORITY DEBTS	£0.00

STEP 4	STEP 5	
PRIORITY DEBTS	Amount Owing	Offers Agreed
Mortgage Arrears	0.00	
2nd/Mortgage/Secured Loan Arrears	0.00	
Secured Loan	0.00	
Rent Arrears	0.00	

STEP 7	Amount Owing	Offers Agreed
NON PRIORITY DEBTS		
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
TOTAL OWED	£0.00	
TOTAL POTENTIAL OFFERS		£0.00

Capital	AMOUNT	DETAILS
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Council Tax Arrears	0.00	
Poll Tax Arrears		
Water Rates Arrears	0.00	
Fuel Debts: Gas	0.00	
Electricity	0.00	
Other		
Magistrate Court fines	0.00	
Fines Arrears		
Maintenance Arrears	0.00	
Car hire purchase		
Other		
Other		

STEP 6	
TOTAL PRIORITY DEBTS	£0.00
MONEY AGREED FOR PAYMENT	£0.00
MONEY TOWARDS NON PRIORITY DEBTS	£0.00

Cash	0.00	
Bank account	0.00	
Building society	0.00	
Premium bonds	0.00	
Stocks and shares	0.00	
Unit trusts	0.00	
Life Assurance policy	0.00	
Endowment policy(not linked to mortgage)	0.00	
Redundancy payment	0.00	
Pension lump sum	0.00	
Other		
Other		
TOTAL	0.00	

Debts/bankruptcy	DETAILS
County Court judgements	
IVAs	
Bankruptcies	

Breathing Space Equity/Loan to Value Calculation	Step 1
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Property Value	
----------------	--

Existing Charges	
Mortgage	
Secured Loan 1	
Secured Loan 2	
Secured Loan 3	
Charging Order 1	
Charging Order 2	
Charging Order 3	

Total existing Charges	£0.00
-------------------------------	-------

Current loan to value level	#DIV/0!
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Available equity	£0.00
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Breathing Space Element:-	
Arrears (inc charges if necessary)	£0.00
Instalments	£0.00
Savings (disregard the first £1,000)	

Total Breathing Space Loan Required	£0.00
-------------------------------------	-------

Overall property charges	£0.00
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IF TOTAL IS LESS THAN £2,000 OR MORE THAN £15,000 THEN BS LOAN CANNOT GO AHEAD

Arrears/CMI	Step 2
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Loans	1	2	3	Total Arrears
Arrears				£0.00
CMI				
Months(12 months max)				
Total CMI	£0.00	£0.00	£0.00	£0.00

Total Both				£0.00
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Client Signature to verify accuracy: _____

Client Signature to verify accuracy: _____

Officer Signature to witness: _____

Overall loan to value level	#DIV/0!	IF LOAN TO VALUE LEVEL IS MORE THAN 90% THEN BS LOAN CANNOT GO AHEAD
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REFERRAL FORM

Client details

Name	
Address	
Post code	
Telephone no.	

Local authority details

Local Authority name	
Address	
Referring officer's name	
Telephone number	
E mail address	
Local authority reference	
Case worker's signature	

Does application meet the Breathing Space criteria? Y/N

Does client own the property?	Y/N	
Is the client resident in the property as their only home	Y/N	
Do they appear to have enough equity?	Y/N	State approx valuation: State estimate of total secured debt: State % State % including approx BS loan
Are they in difficulty with their mortgage/secured loan payments?	Y/N	
Is the cause of the difficulty due to a change of circumstances?	Y/N	State reason:
Has the client received advice on their financial circumstances?	Y/N	State agency:
Does client satisfy the financial assessment?	Y/N	
Do they expect to be able to make their mortgage/ secured loan payments in the future (max 1 year)? Or do they expect to sell the property?	Y/N	State how/why:
Have all owners signed the application form?	Y/N	Details:
Are there any circumstances which make it unlikely the client will be able to repay the MAL (taking in to account client's age,	Y/N	

health, any expected change in circumstances)?		
Are there any other circumstances which may lead to loss of the home eg potential enforcement action by other creditors, bankruptcy?	Y/N	
<i>Any potential difficulties?</i>	Y/N	Details:
<i>Any other information?</i>	Y/N	

Have you enclosed the following documents?

Land registry search	
Application form	
Face to Face document	
Financial Assessment form	
Proof of income and capital	
Proof of identity	
Confirmation of identity form	
Documentation relating to mortgage/secured loans/charging orders	
Proof of buildings insurance (if the Applicant does not have this, it will need to be provided before the loan payment is issued)	

Any missing documents and when will they come?

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Send to: Breathing Space Scheme, Floor 2, Wakefield One, Burton Street, Wakefield, WF1 2EB

Tel: 01924 305892

E mail – jhowley@wakefield.gov.uk

Client Review

Date:

Loan Amount: £

Loan Repayment Date:

Name:

Address:

Email Address:

Landline Number:

Mobile:

Review question	Clients Response	Comments & Advice Given
Has the Mortgage Assistance Loan achieved its aim?		
<u>Has there been any relevant change in your household circumstances?</u>		
Has your income/employment status changed since your last review?		
Who is currently living in the house with you? Update the budget with info		
Do you have any arrears on your priority debts? If so, how much, to whom and have you made an offer to discharge your arrears. Include this in the budget	Mortgage Arrears: Yes/No Secured Loan Arrears: Yes/No Council Tax Arrears: Yes/No Water Arrears: Yes/No Gas/Electric: Yes/No	
Have you taken out further		

<p>credit since the Breathing Space Loan was provided? (if so, please list)</p>		
<p>Are you having any problems with unsecured debt?</p> <p>Token Payments set up? Debt Advice Charity used? If so, who? If with a fee charger advise of StepChange details 0800 138 1111</p>		
<p>Is your buildings and contents insurance up to date?</p> <p>If Yes – take copy for file If No – instruct client this forms part of both their mortgage and loan agreements. Buildings Insurance must be in place.</p>		
<p>HOW ARE YOU GOING TO REPAY YOUR BREATHING SPACE LOAN?</p> <p>(Client needs to be made aware that if they have no strategy for repayment in place 12 months before due date that we will require the property to be marketed for sale – this is stated in the loan Terms and Conditions)</p>		
<p>1. Sale</p> <p>Remind the client that the property should be on the market 12 months prior to the loan repayment date for a REALISTIC selling price</p>		
<p>2. Make Regular Payments</p> <p>Calculate loan amount divided by how many months before due date and calculate monthly instalment (e.g. £3,000/24 months = £125 pcm).</p> <p>Remind the client that they are not</p>		<p>Does the client's budget show this method is possible? Does the budget support the payment?</p>

<p>required to make monthly payments to the scheme but they need to save an equivalent amount somewhere to repay in full at due date. Breaking the loan down in this way gives a good illustration on how much they would need to put away. Ad hoc or monthly payments are encouraged if the client wants to do it.</p>		
<p>3. A Lump Sum Payment by due date</p> <p>Where is the money coming from? If pension lump sum of savings – provide proof funds will be available by due date.</p>		
<p>4. Remortgage/Release Equity</p> <p>(Our experience on this has been that over 50 previous loans have cited this repayment method. To date only 1 has been successful in achieving it).</p> <p>If client cites either of these methods for repayment, has the mortgage been kept up to date within the last 12 months with no payments missed?</p> <p>If LTV is more than 60% then this method is highly unlikely. Check figures. The client would need to be having this discussion with their lender 12 months before loan due date to confirm that the lender will support it. If not, then sale would need to be pursued if there is no other plan.</p>		<p>If the answer is no to either question then client needs a fall-back position with regards payment</p>
<p>UPDATE FINANCIAL STATEMENT</p>		

<p><u>Outcomes:</u></p> <p>1. <u>Budget shows surplus</u></p> <p>Ad hoc payments are encouraged to the Scheme but are not compulsory even if there is a surplus. However, any payments will reduce the balance that would be due so they should be encouraged to save money towards their loan as a minimum. Clients should be made aware that if they have a surplus budget and fail to repay at the due date, this information will be shared with the Special Cases Panel and they may not be as sympathetic as in true hardship cases.</p> <p>If they choose to make payments, calculate how much they will repay on that basis and how much they will need to find at loan due date.</p> <p>2. <u>Budget shows deficit</u></p> <p>Suggest trims in the budget if appropriate. If still deficit then client cannot afford to remain in the property and should look to market property for sale. If after cut backs budget shows can sustain priority bills but make no offer of repayment client still needs to determine a repayment strategy</p>		
<p>Letters of Authority completed</p>	<p>Yes/No</p>	
<p>Date of next review agreed</p>		

Recovery officer name:

Recovery officer signature:

Date:

Comments: