

The complaint

Ms N complains Rethink Mental Illness:

- Have lacked clarity and consistency of advice given and information asked for, regarding the Mental Health Breathing Space (MHBS) applications she's made – along with not taking ownership of her case.
- A doctor was permitted to act on her behalf as her named point of contact (NPOC) for her first MHBS application, but they then told her this was against government guidelines when making a new application.
- They removed her NPOC which is against their own policy, and possibly against government guidelines and legislation.
- She's been asked to provide information not required under the MHBS legislation.
- She was denied debt advice by Rethink in August 2023.

What happened

MHBS' guidance says if an Approved Mental Health Professional (AMHP) certifies someone as receiving mental health crisis treatment, then this can be used by a debt advice provider to apply for MHBS. The AMHP is also required to record a NPOC.

In this case, Rethink is the debt advice provider. And the guidance says a NPOC must be either an AMHP, a care co-ordinator, or a mental health nurse.

The purpose of entering into MHBS is to then share this with the individual's creditors. They may stop any enforcement action they're taking, along with suspending any interest and charges they might have been applying to outstanding debts, upon receipt.

The MHBS guidance also says the debt advice provider will contact the NPOC every 20-30 days to check if the person is still receiving mental health crisis treatment. And, if no response is received from the NPOC, it'll be considered the treatment has ended – and then the MHBS will come to an end 30 days after that.

Following a discussion with an AMHP, Ms N was due to be placed on MHBS on 28 July 2022. Ms N says she was initially told she wasn't eligible – but then after speaking to a manager they said she was – and she was placed on the MHBS. At this time, her doctor was recorded as her NPOC – her doctor wasn't the AMHP.

In October 2022, Ms N says she was told if she was going to be removed from MHBS, then her debt adviser or a manager would contact her. In addition, Rethink's debt adviser removed Ms N's NPOC and replaced him with a nurse. Ms N says this nurse has no visibility of her notes. The nurse is now the NPOC

In July 2023, Ms N's NPOC said they could no longer confirm her eligibility for MHBS – and Rethink then emailed her to say it'd finish on 17 August 2023.

In August 2023 Ms N resubmitted her MHBS application with her doctor as her NPOC and was told for the first time she couldn't have him as her NPOC. In phone calls with Rethink

Ms N was then given contradictory information about whether she could or couldn't have her doctor as her NPOC – and what was required to confirm it if he could still act for her. Ms N was also unhappy Rethink says her doctor had to confirm what treatment she was having before signing her back on to MHBS.

Overall Ms N said she felt Rethink were discriminating against her given her circumstances.

For Ms N's privacy I've not gone into any detail about her health conditions as this decision is published on our website. But, I have taken everything she's told us into account in reaching the outcome I have.

Rethink said Ms N's doctor wasn't always in a position to reply promptly to their contact as the NPOC – and if he didn't, then this could lead to the end of the MHBS. They said when Ms N got in touch in October 2022 she provided details of a nurse who could act as NPOC and their debt adviser updated their records. Rethink say they contacted the nurse every 20-30 days until he said she was in crisis treatment up to 18 July 2023.

Rethink explained as a result of several high court cases, the definition of 'crisis treatment' was updated in June 2023 – and Ms N's nurse didn't think she qualified anymore. Rethink said in phone calls around this time Ms N didn't agree with this – and then submitted a new application with her doctor as the NPOC instead of her nurse.

Rethink say they identified at this point Ms N's doctor didn't appear to be eligible for the role of NPOC as he didn't meet the definitions set out in the guidance. They said they told Ms N's doctor, and the AMHP this, but neither of them replied. In a call in August 2023 Ms N asked if adding 'care co-ordinator' as a title to the application for her doctor to act as the NPOC would be acceptable and was told it would be. Ms N then provided an email her doctor had sent to her which confirmed this. Rethink said they wanted this email directly from her doctor not from her.

In summary responding to Ms N's four specific points of complaint, Rethink said:

- They had given Ms N conflicting information, particularly in the call in August 2023, and they should have given her one point of contact.
- Although they'd allowed Ms N's doctor to act as her NPOC, this wasn't their fault as there is no requirement for them to have verified this – it's the AMHP's responsibility. But, in the interests of good practice, they've introduced extra checks on the eligibility of AMHP and NPOC's where there is any doubt.
- They agreed their debt adviser had overstepped their own procedures – as it's down to their team of administrators to update a NPOC, not the debt adviser – but they didn't think it was against the rules.
- Although the law says a completed Evidence of Mental Health Crisis Treatment Form is all that's required, there has since been a court case which is relevant to this issue. In this court case the judge says a debt advice provider must gather further clarification when they've been given 'just cause to doubt' a debtor's crisis treatment. They go on to explain only one month earlier, they'd been told Ms N wasn't having mental health crisis treatment anymore – so they think this was a fair reason to question what Ms N was saying. Rethink added this was exacerbated by Ms N's doctor and AMHP not replying to them.

Overall, Rethink said sorry for what'd happened and said they'd take this opportunity to improve their processes.

Unhappy with Rethink's answer, Ms N asked us to look into things, explaining as a result of their actions, she'd had a County Court Judgment (CCJ) recorded against her. Ms N reiterated her concerns, and said Rethink didn't address her point that in October 2022 she was told her debt adviser or another manager would contact her before removal from MHBS, but this didn't happen.

One of our Investigators considered things and didn't agree with all of Ms N's complaint. But, felt Rethink had given her poor customer service, and awarded £300 compensation.

Ms N didn't accept this. In a call to our service after the outcome, she said she could provide a lot more information as she didn't think our Investigator had taken everything into account.

Ms N has since provided the additional information, and I've summarised what I consider to be her key points:

- She suggested a second NPOC in case her doctor who was acting as her NPOC wasn't available – she wasn't told this meant her doctor would be removed as NPOC
- The term 'care co-ordinator' and 'key worker' aren't statutorily defined, so it's wrong for Rethink to impose a narrow definition of this – and in turn remove her doctor as her NPOC when she made her second application
- Initially she was told her doctor could act as her NPOC for her second application which she got confirmation of – only for Rethink to then say they wanted confirmation directly from her doctor that he'd act in this capacity
- She thinks the request for further information wouldn't have been unreasonable if the information about her not being eligible for MHBS anymore hadn't come from a nurse who didn't have access to her records – she feels Rethink placed responsibility of gathering this additional information on her when it was urgent given the potential CCJ
- She added Rethink are required, under section 5.5 of the MHBS, to help her access debt advice

Ms N added as a consequence of all these issues, a CCJ was issued against her in May 2024. Ms N has said it took 18 months to get the CCJ overturned and in summary didn't think the award of £300 fairly reflected the level of harm, distress and financial loss she'd suffered.

As Ms N didn't agree to our Investigator's outcome, the complaint's been passed to me to decide.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I think it's important to explain I've considered all of the information provided by both parties in reaching my decision. If I've not reflected or answered something that's been said it's not because I didn't see it, it's because I didn't deem it relevant to the crux of the complaint. This isn't intended as a discourtesy to either party, but merely to reflect my informal role in deciding what a fair and reasonable outcome is.

The rules that govern how I'm required to decide cases say I need to take into account the law, guidance and other things, when reaching my outcome. But, overall, I'm required to decide things on a fair and reasonable basis.

This means I can't decide if Ms N has been discriminated against, as only a court can do that. But I'll decide if I'm satisfied Rethink have treated her fairly and reasonably.

In this case, the law setting out the provisions of MHBS is The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020.

I've taken into account this law along with the governments 'Guidance on mental health crisis breathing space' document.

Before I do so though, I need to explain to Ms N I won't be awarding her any impact for the CCJ being granted, the consequences of that, or any impact on her of having it removed.

I say that because a court decided at the time it was appropriate to issue the CCJ. So, if I were to award any compensation or financial losses incurred as a result of that decision, it'd be interfering with the court's judgment which isn't something I think it's appropriate for me to do in Ms N's case.

So, anything flowing from the decision to issue the CCJ is also something I won't be awarding compensation or any financial losses for.

My understanding of the court process is Ms N would have had the opportunity to file a defence about why she thought it wasn't right for the CCJ to be granted. If Ms N thinks there was an issue with this process, the CCJ being granted, any impact while the CCJ was live, or any other impact before she had it removed, then she may wish to seek legal advice about her options.

I also wanted to explain I'm only considering Rethink's actions in this complaint. I can't hold them responsible if someone else involved in the process of MHBS has or hasn't done something.

I've split my consideration of Ms N's concerns into the separate headings of her complaint. I've used the headings she used when providing her information on 26 January 2026 so I can directly and clearly answer her points.

NPOC removed without notification, and despite being permitted to perform the role previously

Ms N has said she proposed adding the nurse as a second NPOC in addition to her doctor – not in place of her doctor. She said she was planning to do this because it'd been challenging at times for Rethink to get in touch with her doctor.

Ms N says she wasn't told her doctor was being removed as her NPOC – and she's also raised concerns that Rethink accepted her doctor as the NPOC initially, but then when she made her second MHBS application they wouldn't accept him.

Rethink have suggested Ms N provided her nurse's details as a NPOC in place of her doctor's because the doctor couldn't always reply promptly. Rethink also felt the addition and subsequent issues regarding her doctor being added as a NPOC wasn't their responsibility. But they do accept the staff member Ms N spoke to shouldn't have changed the NPOC – their administrative team should have.

Before I get into Rethink's actions, I think it's helpful to set out what the legislation and guidance explains about this point – specifically whose responsibility it is to provide the details of a NPOC.

Part 3 of the legislation deals with mental health crisis moratorium. And section 29 'Application for a mental health crisis moratorium' contains the following information relevant to Ms N's complaint:

(1) Any of the following persons may submit an application to a debt advice provider for a mental health crisis moratorium in relation to a debtor—

...

(c) an approved mental health professional,

(2) The application must include the following information—

...

(b) evidence from an approved mental health professional that the debtor is receiving mental health crisis treatment.

(3) For the purpose of paragraph (2)(b), evidence from an approved mental health professional must include the following—

...

(c) the name and contact details of the debtor's nominated point of contact,

From reading the legislation, it would appear the AMHP is the party responsible for putting down a NPOC. This is supported by one of the documents Ms N has provided recently, which shows the MHBS application which is for the AMHP to complete. In it, under section 3, it says the AMHP should include the NPOC for them to receive updates.

It's also reflected in the government guidance issued. In chapter 2 at 2.8 it says:

If the AMHP is satisfied that the person is receiving mental health crisis treatment, the evidence form should be completed, including details of the AMHP and a nominated point of contact (see Chapter 3: Evidence of mental health crisis treatment)

This makes sense to me that it's not Rethink's responsibility to know who Ms N's NPOC should be. That's because they're not involved in her medical care – they're involved in helping her with her creditors. This is important, because it means Rethink aren't responsible for accepting Ms N's doctor as her NPOC when he was first suggested. And, as I've said above, I can only decide if Rethink have acted fairly or not.

So, I can't hold Rethink responsible for any impact as a result of this not being completed correctly when the MHBS application was initially raised to them – because it wasn't their responsibility to have checked.

I think this flows into what I understand to be Ms N's key concern about this – the difficulties she experienced after her first MHBS came to an end. I say that because if this had been done correctly, then there wouldn't have been any issues when the MHBS was submitted to Rethink a second time.

I'll come back to Rethink's communication around this – both in terms of the nurse being added as a NPOC and Rethink saying if Ms N added 'care co-ordinator' to the MHBS application form then it could be accepted.

I want to first address Ms N's concerns about whether Rethink have acted fairly when they have objected to her doctor being the NPOC in the second application.

Rethink have said the reason they raised concerns about this is because her doctor isn't one of the three categories of NPOC listed out – specifically an AMHP, a care co-ordinator, or a mental health nurse. Rethink added they told Ms N's doctor and her AMHP this but received no reply.

Ms N says there is no definition of the term 'care co-ordinator' – and in turn Rethink then shouldn't have objected to her second MHBS application being submitted. Recently, Ms N provided a document she says shows her doctor was allowed to act as a key worker and, I assume, Ms N means this also meant he could act as a care co-ordinator for her.

Of particular relevance is whether Ms N's doctor met the criteria of a care co-ordinator as required by the legislation.

The National Health Service (NHS) has the following definition of Care Co-ordinators on their website:

Care co-ordinators help to co-ordinate and navigate care across the health and care system, helping people make the right connections, with the right teams at the right time. They can support people to become more active in their own health and care and are skilled in assessing people's changing needs. Care co-ordinators are effective in bringing together multidisciplinary teams to support people's complex health and care needs.

They can be an effective intervention in supporting people to stay well particularly those with long term conditions, multiple long-term conditions, and people living with or at risk of frailty.

This guidance seems to suggest a care co-ordinator is an entirely different role with different responsibilities from Ms N's doctor. It doesn't exclude Ms N's doctor, but equally it's not clear it could or should be her doctor.

When Rethink raised their concerns it was against the background that just one month earlier they'd been told by Ms N's second NPOC she was no longer eligible for MHBS. So, given this, I think it was reasonable for them to scrutinise a second application for MHBS in more detail than they did the first.

Rethink tried to clarify matters with Ms N's AMHP and her doctor – neither of whom replied. I'm aware Rethink told Ms N this when they replied to her complaint sometime ago, and our Investigator talked about this too. Ms N hasn't provided any information to suggest this is wrong.

I'm also conscious Ms N was made aware by Rethink they couldn't accept her doctor as her NPOC – so she had an opportunity to propose someone else. I don't doubt this would have been very challenging for her, but Rethink were following the legislation as far as I can see.

It's not clear from the document Ms N recently provided – which says her doctor could act for her – was shared with Rethink. But, even if it was, I don't think this changes anything. I say that because even if they saw this document then I still think it was reasonable for them to have questions given the events that happened – specifically Ms N's NPOC saying she was no longer receiving crisis treatment – meaning she was no longer eligible for MHBS.

So, based on what I've got, I'm satisfied Rethink didn't do anything wrong in accepting Ms N's first application, and I think they've acted reasonably raising concerns over her second application. I can't hold Rethink responsible for them not receiving this information.

Rethink have also accepted they shouldn't have told Ms N it was ok to add 'care co-ordinator' to the MHBS application form – and should have told her they needed to hear from her doctor directly. They've also said their administrative team should have updated her NPOC – not the debt adviser she spoke to. I agree with these points. I'll come back to these issues in the 'Putting things right' section towards the end of this decision when I think about what fair compensation would be.

In respect of Ms N's nurse being added as a second NPOC, I can't find there has been any detriment when they were added initially. I say that because they continued to confirm Ms N was eligible for MHBS from when they were added in October 2022 until July 2023.

The issue only seems to have occurred when Ms N's NPOC said she was no longer eligible for MHBS.

Ms N says it was clear this was incorrect, as she was always eligible based on her medical history – and that her nurse didn't have access to her medical records so didn't know what treatment she was having. Although I appreciate Ms N's nurse didn't know her treatment, that isn't something I'd expect Rethink to interpret.

The key point for me here is that Rethink are entitled to fully rely on what they're being told by Ms N's NPOC. Rethink aren't trained to understand where Ms N's health is. And if they were to have tried to interpret this, I'd likely have been very critical of their actions.

But I think Ms N would say her biggest concern is if Rethink had kept both her doctor as her first NPOC and her nurse as her second NPOC then this wouldn't have happened.

I see her point, but I'm not completely persuaded by this. Ms N's second NPOC was added in October 2022 because of issues with her first NPOC – her doctor. He was constantly very difficult to reach.

Rethink have said due to a court case, in June 2024 they emailed this guidance to Ms N's NPOC to check if she still remained eligible for MHBS.

This would have required an assessment of Ms N's health – which only her NPOC could co-ordinate at this point. Both Ms N's doctor and her nurse would have had the same opportunity to reach out to any other healthcare professionals involved in Ms N's care. All of this likely would have taken time. And, given Ms N's doctor repeatedly wasn't communicating with Rethink, I have to accept it's possible he wouldn't have confirmed in time she was still eligible.

Ultimately, I need to be persuaded if Rethink had contacted Ms N's doctor – her first NPOC – then the MHBS wouldn't have ended. But, for the reasons I've set out above, I'm not persuaded that is the case.

Further information requested than is required under the terms of the legislation

Ms N says if Rethink had allowed both NPOC's to act, then she wouldn't have been put to the burden of gathering additional information to ensure the second MHBS application could go ahead. She adds Rethink already had extensive evidence confirming both her diagnosis and the legitimacy of her application. Ms N says given the urgency of the situation – specifically the impending CCJ hearing – the moratorium should have been allowed to continue.

Rethink say given an AMHP had recently told them she no longer qualified for MHBS, it was right for them to ask for further information.

The additional information Rethink asked for was, as far as I can see, to confirm Ms N was still eligible for the MHBS.

In line with my findings above, I don't think it was unreasonable for Rethink to scrutinise her second MHBS application given one of her NPOC's had recently told them she was no longer eligible.

And although I know Ms N said it wasn't fair for Rethink to tell her she had to get the information they wanted, they had contacted her doctor and AMHP – neither of whom replied to them. In the circumstances, it seems Rethink only had one other party involved in Ms N's care who might be able to get the information to prevent the MHBS from lapsing – Ms N herself.

So, I don't think Rethink have done anything wrong on this point and I can't agree they could or should reasonably rely on her historic of eligibility for MHBS, or her medical history – they should only rely on what the NPOC tells them.

Denied financial advice

Ms N has referred to section 5.5 of the guidance which says:

The debt adviser should try to help the individual access debt advice once their MHCBS ends, in order to help them to manage their debts in a sustainable way.

Rethink said they weren't obligated to provide her with debt advice.

In reading the information Ms N has provided I can't agree with her that it says Rethink have to provide debt advice. What it says is the debt adviser should try and help Ms N access debt advice. I think there is a subtle but important distinction here.

That distinction in some cases may not be relevant – but in Ms N's case I think it is. I say that because the question Ms N was asking was about whether a creditor has to give notice before enforcing a money order.

This is a court process, and she's told us Rethink suggested she contact the court to ask this question. Ms N said the court doesn't give debt advice. But in the circumstances, I think the suggestion of contacting the court was a fair and reasonable one – because the party most likely to know the answer is the court.

So, given this is the specific advice Ms N was asking for, I do think Rethink provided a fair and reasonable response to her.

Putting things right

A lot has happened in this case, and I don't feel Rethink have treated Ms N fairly on a number of customer service related issues. But, I can't see they've treated her unfairly in relation to her NPOC's, their application to both MHBS applications, requests for further information or in their approach to helping her with her question.

Against that backdrop, I won't be awarding any of the financial losses Ms N has claimed for. And I can't quantify the undoubtedly severe impact on Ms N is fully due to Rethink's unfair or unreasonable actions.

Ms N does have my significant sympathy for what was clearly an extremely challenging time for her, but overall I do think £300 is a fair outcome for the customer service issues I've found.

My final decision

I partially uphold this complaint and require Rethink Mental Illness to pay Ms N £300 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms N to accept or reject my decision before 4 March 2026.

Jon Pearce
Ombudsman