



House of Commons  
Work and Pensions Committee

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# Benefit sanctions policy beyond the Oakley Review

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**Fifth Report of Session 2014–15**

*Report, together with formal minutes relating  
to the report*

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## The Work and Pensions Committee

The Work and Pensions Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Work and Pensions and its associated public bodies.

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## Summary

Unemployment benefits have always been conditional. A system of disallowances where claimants do not meet the underlying entitlement conditions, including being involuntarily unemployed, available for work, and actively seeking work, has existed with some variations since the introduction of Unemployment Benefit in 1911.

Benefit sanctions—cessation of payments for a period where claimants fail to meet a broader range of more precise conditions—have been part of the system for at least the last four decades. The stringency of the benefit sanctions regime has increased under successive governments since the 1980s, most recently in the Welfare Reform Act 2012; claimants can be required to undertake a greater number, and greater range, of actions to find work. These more “active” benefit regimes are the norm in developed economies.

Despite the apparent mainstream political consensus, sanctions are controversial, because they withhold subsistence-level benefit payments from people who may have little or no other income. We agree that benefit conditionality is appropriate and necessary, but it is essential that any system draws on robust evidence on the efficacy and impacts of sanctions; has clear and coherent rules; has strong safeguards to protect the vulnerable; is fair and proportionate; and effectively mitigates the risks of severe financial hardship. The sanctions regime, as currently applied, does not always achieve this, despite the existence of hardship payments and efforts by Government to improve efficacy.

### *A broader independent review*

Issues which were set out in our January 2014 Report, *Jobcentre Plus in the reformed welfare system*, are not rehearsed at length in this Report; however, in the light of additional evidence received, we reiterate our recommendation that:

**The Department for Work and Pensions (DWP) establish a broad independent review of benefit conditionality and sanctions, to investigate whether sanctions are being applied appropriately, fairly and proportionately, in accordance with the relevant Regulations and guidance, across the Jobcentre Plus network.**

This review should additionally examine the clarity and coherence of the legislative framework for benefit sanctions policy, to ensure that the basis for sanctioning is clearly defined, and safeguards to protect vulnerable groups clearly set out.

### *Full implementation of the Oakley Review*

The Oakley Review of Jobseekers Allowance (JSA) sanctions in relation to Back to Work Schemes was welcome, and the steps the Government has so far taken, particularly in relation to improving the clarity of its information and communications, will go some way towards improving claimants’ understanding of their obligations and of the sanctioning process.

DWP should take the necessary steps, as soon as is practicable in the next Parliament, to fully implement the Oakley Review's broader recommendations, in particular: piloting of pre-sanction written warnings and non-financial sanctions in relation to the Work Programme; and allowing Work Programme providers a greater level of discretion, including the ability to accept claimants' obvious "good reasons" for not meeting mandatory conditions. More broadly, the Department should consider, as part of the renegotiation of Work Programme contracts, implementing a more flexible approach to the mandatory requirements placed on claimants ("mandation") in the Work Programme.

### ***Increasing the evidence base***

There is evidence that more "active" unemployment benefit policies are more effective than the alternatives; but evidence on the specific part played by financial sanctions in successful active regimes is very limited and far from clear-cut. DWP should increase the evidence base through a series of evaluations. In particular, it should test the efficacy and impacts of the longer minimum sanction periods which were introduced under the Welfare Reform Act 2012, and investigate whether the application of a longer sanction makes it more, or less, likely that the claimant moves into employment.

DWP should ensure that the relevant guidance to Jobcentre Plus (JCP) Work Coaches includes that sanctioned claimants should be offered additional, tailored support, to help them to fulfil their benefit conditions and improve their employment prospects.

### ***Setting appropriate job-seeking conditions***

The recently introduced Claimant Commitment intensifies job-searching conditionality. There is evidence that claimants are signing Claimant Commitments they know they cannot fulfil, for fear of being sanctioned if they refuse. DWP's evaluation of the Claimant Commitment, currently due to be completed in summer 2016, should be expedited, and should include assessments of whether it is genuinely involving claimants in the development of their job-searching strategy, and setting reasonable conditions for all groups of JSA claimants, including those with physical and mental ill health, learning disabilities, and caring responsibilities. The evaluation should also assess whether Jobseeker Directions are being used appropriately in the new system.

The Department should develop its guidance on vulnerability, specifically to assist JCP staff in identifying vulnerable claimants and tailoring the conditions applied to them accordingly. This guidance should then be routinely followed as part of the process for agreeing and monitoring the Claimant Commitment.

There is evidence that the setting of conditionality for single parents is not always functioning as it should. Better training for JCP staff is required on the regulatory flexibilities which apply to this group. The Department should also produce a straightforward, plain English guide to the flexibilities, for all single parent claimants.

### ***Testing a more targeted approach to strict conditionality***

Most unemployed people are well-motivated to find work. Strict conditionality is only necessary for a minority of claimants, particularly those whose lack of engagement with employment support arises mainly from their lack of motivation and attitudes towards working. DWP should draw on its own research into the attitudes and motivations of unemployed people, in order to develop and test approaches which identify, and focus on, those claimants whose attitudes it seeks to change.

### ***Coherence of the JSA sanctioning system***

There should be a greater distinction drawn, in the Department's processes, communications, and official data, between claimants who are not meeting the underlying conditions of entitlement, in particular those who are genuinely "not actively seeking employment" and may therefore be abusing the system, and those who are making significant efforts to find work but have not fully complied with the precise terms of a Claimant Commitment. At the moment both receive the same penalty.

### ***Employment and Support Allowance (ESA) sanctions***

ESA claimants have been assessed as having disabilities or long-term health conditions which affect their capacity for work. This means that the employment support they require is likely to be more intensive and/or tailored to their specific health-related employment barriers.

There is concern that the stringency of the ESA regime is not currently balanced by effective support for this group in the Work Programme. Furthermore, there is very limited evidence that financial sanctions are effective at moving claimants who are some way from the labour market closer to work, and may conversely be hindering progress already made. There is some evidence that voluntary approaches are more appropriate and effective.

The Department should review ESA sanctioning in relation to the Work Programme, accelerating development of more effective support for this group and prioritising the updating of regulations early in the next Parliament to empower Work Programme providers to be able to accept "good cause".

DWP is currently conducting pilots of alternative forms of employment support for ESA claimants. The Department should ensure that its pilots include voluntary approaches, including the Individual Placement with Support model.

### ***Mitigating the risks of severe financial hardship***

DWP has made welcome changes to discretionary hardship payments, including steps to increase claimants' awareness of their availability. However, further changes are required to ensure that hardship payments are more effective in mitigating the risks of severe financial hardship arising from sanctions. This should include making all payments available from

the first day of sanction periods, and ensuring that the hardship payment process for vulnerable claimants and those with dependent children is initiated by the Department, rather than waiting for the claimant to apply.

# 1 Introduction

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In the text of this Report, our conclusions are set out in **bold type** and our recommendations, to which the Government is required to respond, are set out in *bold italic* type.

## Benefit sanctions

1. Unemployment benefits have always been conditional. In order to receive financial support while unemployed, claimants have typically been required to demonstrate that: they are involuntarily unemployed; they have not been dismissed from a job through misconduct; and are both available for, and looking for, work. A system of disallowances, or disqualifications, where claimants fail to meet these types of underlying entitlement conditions has existed since the introduction of unemployment benefit in 1911.

2. The nature of unemployment benefit conditions—“conditionality”—has developed considerably over recent decades. Jobcentre Plus (JCP) Advisers (now known as Work Coaches) can now require claimants to demonstrate that they are taking many more steps towards finding work than was previously the case; and these steps can be more precisely defined. Claimants’ participation in a number of externally contracted Back to Work schemes, including unpaid work placements, can also be mandatory.

3. A system of benefit sanctions—cessation of benefit payments for open-ended or fixed periods—has developed alongside more stringent benefit conditions over the last four decades. The application, or deterrent threat, of sanctions where claimants fail to meet the agreed, or prescribed, conditions is intended to influence claimants’ behaviour positively: to encourage them to participate in activity aimed at getting them into work. This much more “active” system of employment support is now the norm in developed economies.

4. There has been an apparent mainstream political consensus for the development of benefit sanctions policy and the direction of travel has been maintained under successive governments since the 1980s. However, it is by nature a controversial policy area, as sanctions withhold subsistence-level unemployment benefits from people who may have little or no other income. Furthermore, the system is now applied to a wider range of unemployed claimants, including many with long-term health conditions and disabilities, and single parents with caring responsibilities for young children.<sup>1</sup>

## Background to our inquiry

5. We considered conditionality and sanctions as part of a previous inquiry into *Jobcentre Plus in the reformed welfare system*. Our January 2014 Report set out serious concerns about: the extent to which benefit sanctions were being applied; whether the rules were always clear, and being fairly and proportionately applied by JCP and its parent

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1 Joseph Rowntree Foundation, [Welfare Sanctions and Conditionality in the UK](#), September 2014

department, the Department for Work and Pensions (DWP); and the wider social impacts on claimants, particularly whether sanctions were contributing to severe financial hardship and food poverty.<sup>2</sup>

6. During our previous inquiry the Government established an independent review of Jobseekers Allowance (JSA) sanctions “validated by the Jobseekers Act 2013”. The review was carried out by Matthew Oakley, who is a member of the Social Security Advisory Committee (and was previously Head of Economics and Social Policy at Policy Exchange). The scope of the Oakley Review was limited to JSA sanctions in relation to externally contracted mandatory Back to Work schemes; it did not consider sanctions applied to claimants within the standard DWP/JCP system. The review was further limited in scope to consider issues concerned with DWP’s communications with claimants and contracted providers of the schemes, and claimants’ understanding of the sanctioning process, including their options in respect of challenging DWP’s decisions and applying for hardship payments. The Oakley Review, together with the Government’s response, was published in July 2014.<sup>3</sup> We recognise that the implementation of many of Mr Oakley’s recommendations has been extended to claimants outside the original remit of the Oakley Review.

7. Given the concerns identified in our 2013–14 inquiry, and the tightly constrained scope of the Oakley Review, our Report recommended that DWP commission a second, broader independent review of the benefit sanctions system, including all sanctions applied *within* DWP/JCP. Despite the Minister for Employment (Rt Hon Esther McVey MP) appearing to indicate during oral evidence that such a review was planned, our recommendation was rejected by the Government in its formal response to our Report.<sup>4</sup>

8. We decided to conduct a further inquiry in order to follow up some of the issues set out in our January 2014 Report, and to consider areas of benefit sanctions policy which were outside the scope of the Oakley Review, including Employment and Support Allowance (ESA) sanctions, applied to unemployed people with health conditions and disabilities. We also wanted to explore the impacts of the new sanctions regime and alternatives to the financial sanctions being applied.

9. This Report does not rehearse at length all of the issues and concerns set out in our previous Report; however, similar concerns about how the conditionality and sanctions system is being applied in some Jobcentre Plus offices and districts were reiterated by a range of witnesses. We received new evidence from the Public and Commercial Services Union (PCS), representing DWP staff involved in the benefit sanctioning process, which

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2 Work and Pensions Committee, Second Report of Session 2013–14, [The role of Jobcentre Plus in the reformed welfare system](#), HC 479 [hereafter, JCP Report]

3 Oakley, M, [Independent review of the operation of Jobseeker’s Allowance sanctions validated by the Jobseekers Act 2013](#), July 2014 [hereafter, Oakley Review]; DWP, [Government’s response to the Independent review of the operation of Jobseeker’s Allowance sanctions validated by the Jobseekers Act 2013](#), Cm 8904, July 2014 [hereafter, Government response to the Oakley Review]

4 Work and Pensions Committee, Third Special Report of Session 2013–14, [Role of Jobcentre Plus in the reformed welfare system: Government Response to the Committee’s Second Report of Session 2013–14](#), HC 1210

raised further concerns about the approach adopted in a number of individual Jobcentres, and more broadly, including whether targets for sanctions exist. There was very widespread support from witnesses for our earlier call for a broader independent review. Our starting point in this Report is therefore a reiteration that:

*We recommend that DWP commission a broad independent review of benefit conditionality and sanctions, to investigate whether sanctions are being applied appropriately, fairly and proportionately, in accordance with the relevant Regulations and guidance, across the Jobcentre Plus network. This review should be established and report as soon as is practicable in the next Parliament.*

## **This inquiry and Report**

10. We announced our terms of reference and issued a call for evidence in November 2014. We received around 160 written submissions from a range of organisations and individuals and held three oral evidence sessions, including a final session with the DWP Minister.<sup>5</sup> We are grateful to everyone who contributed to our inquiry, particularly the individual claimants who took the time to share their experiences with us.

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5 Lists of oral witnesses and written evidence are set out at the end of the report.

## 2 The Oakley Review

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11. The Oakley Review was a requirement of the Jobseekers (Back to Work Schemes) Act 2013. This was emergency legislation introduced by the Government to validate retrospectively JSA sanctions in relation to a range of mandatory schemes, which had been introduced under the Jobseeker's Allowance (Employment, Skills and Enterprise Scheme) Regulations 2011. The Court of Appeal's judgment in *Reilly and Wilson v Secretary of State for Work and Pensions* had ruled that the 2011 Regulations were unlawful because they did not provide sufficient information about the schemes, and DWP's letters to claimants did not provide sufficient information on claimants' obligations under the schemes, or the circumstances in which sanctions could be applied.<sup>6</sup>

12. Matthew Oakley was asked by the Government to review the clarity of DWP's information and communications about sanctions in relation to the nine schemes covered by the 2013 Act. In practice, around 90% of the sanctions considered by the review were related to the Work Programme, the Government's mainstream contracted employment programme, which was introduced in June 2011.<sup>7</sup>

### The JSA sanctioning process

13. Decisions on whether to sanction a claimant are not made by the JCP Work Coach (or the employment adviser working for a contracted scheme provider). Where the Work Coach/adviser believes that the claimant has not fulfilled a mandatory requirement, a "doubt" can be raised and referred to a Decision Maker (a "sanction referral"). The Decision Maker is another DWP employee, detached from the employment support process, who makes a decision on whether to apply the sanction, based on the evidence provided. Decision Makers attempt to obtain evidence from the claimant, as well as from the Work Coach/adviser, and make their decisions on the "balance of probabilities".

14. Decisions fall into one of four categories: adverse (the claimant is sanctioned); non-adverse (the claimant is not sanctioned); reserved (the claimant is no longer on benefit so cannot be sanctioned, but the sanction would have applied had they remained on benefit); or cancelled (no sanction is applied, as insufficient or incorrect information was provided, or was not provided in a timely manner, or the referral was made in error).

15. JSA sanctions should not be applied where the claimant can show "good reason" for not fulfilling the mandatory requirement in question. The relevant guidance for Decision Makers lists a number of circumstances, including illness and family bereavement, which can be considered to constitute good reason, but these are not defined in legislation.

16. If sanctioned claimants believe that they should not have been sanctioned, they can first ask the Department to review its decision. If the decision remains unchanged following a

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6 *Jobseekers (Back to Work Schemes) Bill 2012–13*, Standard Note [SN06587](#), House of Commons Library, March 2013

7 For full terms of reference, see [Oakley Review](#), p 14

review, and the claimant remains dissatisfied with the decision, the claimant can request a formal reconsideration of the decision. If, once the Department has formally reconsidered its decision and decided not to overturn it, the claimant still believes the decision was wrong, the claimant has the right to appeal to a Tribunal.<sup>8</sup>

## Overview of the Oakley Review findings

17. Matthew Oakley found that the JSA sanctioning system in relation to contracted Back to Work schemes was “not fundamentally broken”; however, he identified very significant flaws in the explanatory information about conditionality and sanctions provided to claimants by DWP, and in the Department’s letters to claimants after a sanction referral has been made. He concluded that improvements were required in a number of areas, particularly in respect of “more vulnerable” claimants who might struggle to understand their obligations or engage with the process. He made 17 recommendations for change, all of which were accepted, or “accepted in principle”, by the Government in its response to the review.<sup>9</sup>

18. Mr Oakley acknowledged in his report that some of his recommendations would be “relatively easy for the Department to implement”, whereas others might take longer, as they were likely to require legislative change and/or contractual negotiations.<sup>10</sup>

## Specific Oakley recommendations and Government action to date

### *Improving claimant letters and broader communication issues*

19. The Oakley Review stated that:

[DWP’s claimant] letters were, on the whole, found to be complex and difficult to understand. Partly as a result of the legal requirements the Department has to fulfil when it writes to claimants, regular concerns were that letters:

- Were overly long and legalistic in their tone and content;
- Lacked personalised explanations of the reason for sanction referrals;
- Were not always clear around the possibility of, and process surrounding, appeals or application for hardship payments; and
- Were particularly difficult for the most vulnerable claimants to understand—meaning that the people potentially most in need of the hardship system were the least likely to be able to access it.<sup>11</sup>

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8 For a full description of the process in relation to Back to Work schemes, see [Oakley Review](#), pp 16–20. The DWP Decision Makers’ guide is available here: [www.gov.uk/government/collections/decision-makers-guide-staff-guide](http://www.gov.uk/government/collections/decision-makers-guide-staff-guide)

9 [Government response to the Oakley Review](#)

10 [Oakley Review](#), p 11

11 *Ibid.*, p 9

A number of Mr Oakley's recommendations were aimed at improving the clarity of DWP's letters to claimants at all stages of the process, and thereby increasing claimants' understanding. He recommended that the Department review its letters; in particular that they should "give a personalised description of exactly what the sanction referral or decision relates to and include clear information about reconsideration, appeals and hardship."<sup>12</sup> He further recommended that DWP "work with experts in communication and behavioural insights to test whether variations in the style and content of letters could boost the proportion of claimants who open and engage with the letters they have been sent."<sup>13</sup>

20. In relation to broader information about the JSA sanctions system, the Oakley Review recommended that the Department publish, online and in hard copy, an "accessible guide" to benefit sanctions, including information on the reconsideration, appeals and hardship payment processes.<sup>14</sup> It also recommended DWP take specific action to identify and engage with claimants "who might require third party support to understand letters" and to help "vulnerable groups" claim hardship payments.<sup>15</sup> It further recommended that claimants' preferred channel of communication be routinely established and used.<sup>16</sup>

21. The Department told us that it was in the process of improving all sanctions-related communications; where appropriate it was applying the Oakley Review's recommendations across JSA, ESA and Universal Credit.<sup>17</sup> A new DWP Claimant Communication Unit had already been established; the Department confirmed in December 2014 that this unit was working with both internal and external experts to consider how "behavioural insights" could be applied to maximise claimants' engagement with sanctions communications.<sup>18</sup> DWP had also already published new sanctions fact-sheets for each of the out-of-work benefits, which explain in plain English how claimants can: avoid being referred for a sanction; challenge a decision; and apply for hardship payments.<sup>19</sup>

**22. We welcome DWP's acceptance of the Oakley Review's findings, and the steps that it has taken towards implementation of the Review's recommendations. In particular, we welcome changes made to improve the clarity of letters to claimants and to provide clearer information on the benefit sanctions system to claimants of all out-of-work benefits. We believe that a continued focus on the clarity of sanctions-related communications and information will go some way towards improving claimants' understanding of their obligations and the sanctioning process. But we recognise that**

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12 *Ibid.*, p 37

13 *Ibid.*, p 38

14 *Ibid.*, p 37

15 *Ibid.*, p 39; p 38

16 *Ibid.*, p 10

17 DWP ([SAN0142](#))

18 DWP, [Independent review of Jobseeker's Allowance sanctions Government response: Update on improvements to communications](#), December 2014

19 DWP ([SAN0142](#))

**communication and information is only one aspect of the sanctions regime that needs to be addressed, and does not address concerns about sanctions implementation and a target-driven culture.**

### ***Dual responsibilities of claimants on mandatory work schemes***

23. The Oakley Review identified a particular difficulty which claimants had in understanding the requirements on which their benefit payments were conditional, because they had dual obligations to both JCP and their contracted provider while taking part in mandatory schemes. Mr Oakley reported that a “recurring theme” was that claimants “regularly receive conflicting information from the Jobcentre and the Work Programme provider.” The review’s recommendation was that:

The Department should work with providers to review procedures to ensure that claimants on mandatory back to work schemes have a clear understanding of their responsibilities to both the provider and Jobcentre Plus.<sup>20</sup>

24. Chris Hayes, DWP’s Labour Market Strategy Director, told us that DWP had improved its general guidance on dual responsibilities and had published it on the GOV.UK website. There was now guidance to Work Coaches to ensure that it was explained to claimants, at the point of referral to a contracted provider, that they would have dual responsibilities to comply with both JCP conditionality and any “reasonable work-related activity that the provider asks them to undertake.”<sup>21</sup>

25. The Employment Related Services Associated (ERSA), the main trade body for contracted employment services providers (including Work Programme providers), questioned the necessity for all work-related activity in the Work Programme to be mandatory. It reported that there was a “consensus view” amongst contracted providers that “there are circumstances when mandating a jobseeker either to a particular type of provision, or to an activity within a provision, is likely to be inappropriate.” ERSA believed that this was particularly the case where the claimant had a long-term health condition. It believed that, in general, “the evidence base for the effectiveness of mandation is weak”, and that the appropriateness of claimants’ mandatory participation in the range of different activities involved in contracted employment programmes should be carefully considered in the design of future provision.<sup>22</sup> We note that the option remains for providers to exercise discretion in choosing when to make an appointment mandatory.

### ***Contracted providers’ ability to accept “good reason”***

26. The Oakley Review emphasised that a large proportion of sanction referrals made by contracted providers were subsequently cancelled or resulted in a non-adverse decision.

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20 [Oakley Review](#), p 40

21 [Q277](#)

22 ERSA ([SAN0145](#))

Only 30% of these referrals led to the claimant actually being sanctioned. The review concluded that a “key driver” of this was contracted providers’ inability to accept claimants’ good reasons for not fulfilling mandatory conditions, “even if the claimant has provided them with what would ordinarily count as good reason in Jobcentre Plus.” The review concluded that this situation was a clear waste of administrative resources, and that it often left claimants confused and feeling a “sense of injustice”. The review recommended that the situation be addressed through revised guidance and/or legislation to give providers the legal ability to accept good reason in certain circumstances.<sup>23</sup>

27. Some witnesses were concerned that the Department did not appear to have taken action to address this important issue.<sup>24</sup> Chris Hayes told us that DWP had taken some steps to avoid providers making inappropriate sanction referrals. It had issued a new form for providers to fill in each time they make a referral, in which they must tick a box to confirm that they have checked “whether the claimant is in a vulnerable condition and therefore whether they should have set the requirements they have set in the first place.” Providers were also advised to use Provider Direct, a dedicated phone line to DWP, to check that they held the correct address and other details for claimants, to avoid referrals being made in error, for example where an appointment letter had been sent to an incorrect address.

28. However, Mr Hayes told us that addressing the central issue of providers’ current inability to apply a greater level of discretion and accept good reason would require both amending Regulations and “contract renegotiation”. The Department would consider making the necessary changes in conjunction with the renegotiation of Work Programme contracts.<sup>25</sup> We had understood that referrals under the current Work Programme contracts would be made until 2016, when the contracts would be re-let.<sup>26</sup> The DWP witnesses mentioned in oral evidence that the contracts had in fact already just been “renegotiated”. DWP later confirmed that the Work Programme contracts had recently been extended for 12 months, from March 2016 to March 2017.<sup>27</sup>

***29. We accept that allowing contracted Work Programme providers formally to accept “good reason” for a claimant not fulfilling a benefit condition will require both legislative change and contractual negotiations. However, we believe that DWP should take more urgent steps to ensure that a more common-sense approach is set out in guidance. We recommend that DWP’s guidance to contracted providers makes clear that discretion can be applied where providers’ staff are confident that a claimant’s failure to meet a mandatory condition was due to extenuating circumstances beyond the claimant’s control. We further recommend that negotiations with Work Programme prime***

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23 [Oakley Review](#), pp 43– 44

24 Citizens Advice Scotland ([SAN0096](#)); Dr David Webster ([SAN0110](#)); Shaw Trust ([SAN0144](#))

25 [Q274](#)

26 See National Audit Office, [The Work Programme](#), HC 266, June 2014, Summary para 6 and para 1.11

27 [Q274](#) (see footnote 3)

*providers, ahead of the re-letting of prime contracts in 2017, prioritise the development of a more flexible approach to “mandation”.*

### **Pre-sanction written warnings and non-financial sanctions**

30. Matthew Oakley noted that a consequence of ineffective communication, and confusion around dual responsibilities, was that some claimants had a poor understanding of their obligations when initially referred to the Work Programme. This sometimes resulted in claimants with a previously good record of compliance with benefit conditionality receiving a sanction. The review recommended that DWP pilot pre-sanction written warnings and non-financial sanctions, including more regular attendance at appointments at the Jobcentre or the contracted provider, for claimants’ “first failures” in relation to the Work Programme, particularly where the claimant had a good record of compliance with JCP conditionality.<sup>28</sup>

31. This recommendation was accepted “in principle” only; it was another area in which the Government believed that legislative change was necessary. Its response to the review stated that it would “consider further the potential options and the likely timescales.”<sup>29</sup>

32. In oral evidence, Matthew Oakley’s view was that it would in fact be possible for the Government to move relatively quickly to pilot pre-sanction written warnings and non-financial sanctions in these limited circumstances, without the prior need for new legislation. He also believed that they would be “relatively easy” to pilot within Universal Credit, as the relevant Regulations allowed considerable flexibility.<sup>30</sup>

***33. We note that the Department considers that piloting of pre-sanction written warnings and non-financial sanctions for first-time Work Programme failures where the claimant has a previously good record of compliance with benefit conditionality would require legislative change. We believe that there would be considerable value in piloting these approaches urgently; we therefore urge DWP either to reconsider its position, and conduct small scale pilots prior to making legislative changes, or to bring forward the necessary secondary legislation, and conduct the pilots, as soon as is practicable in the next Parliament. We also recommend that DWP pilot pre-sanction written warnings and non-financial sanctions in relation to claimants’ first-time failures within the Jobcentre Plus conditionality system.***

### **Unintended impacts on Housing Benefit payments**

34. Benefit sanctions should only affect out-of-work benefits. The Oakley Review reported that there had been a number of instances of JSA sanctions resulting in local authorities

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28 [Oakley Review](#), p 42

29 [Government response to the Oakley Review](#), p 14

30 [Q15](#)

incorrectly ending a claim for Housing Benefit. The report did not assess the scale of this problem.<sup>31</sup>

35. In its response to the review, the Government acknowledged that Housing Benefit should not be affected by JSA sanctions, and stated that it was “taking immediate action to ensure that this does not happen.” It explained that the problem arose due to automatic IT notifications sent by DWP to local authorities whenever a JSA payment is stopped; the information is essential because in some cases where JSA payments have stopped, particularly where the claimant has entered work, the local authority will need to review the claimant’s Housing Benefit entitlement. It was not always possible within the existing notification system to distinguish between JSA payments which had stopped due to a sanction, and those which had ended for other reasons.

36. The Government proposed a short-term and a long-term solution. In the short-term, it would “ensure that wherever necessary claimants will be advised to keep their Local Authority informed to stop them inadvertently closing their Housing Benefit claim.”<sup>32</sup> Witnesses, including Matthew Oakley, believed that this short-term solution was “clearly not reliable”. The longer-term response was to implement a more reliable IT solution. It was not clear to witnesses what progress had been made with this.<sup>33</sup>

37. In oral evidence the Minister told us that the problem had been addressed. The Department had investigated around 300 potential cases, but the issue had not been found to have occurred in any of them. She also reported that DWP was manually checking for the problem “constantly”. There had only been one potential case recently. She assured us that the Department had taken the issue “very seriously indeed.”<sup>34</sup>

***38. We recommend that DWP clarify, in its response to this Report: the extent to which Housing Benefit payments have been incorrectly impacted by Jobseekers Allowance sanctions, as identified by the Oakley Review; the steps it has taken—beyond advising claimants themselves to inform their local authority when they are sanctioned—to address the issue; and whether robust systems are now in place to ensure that the issue no longer arises.***

## Witnesses’ views on the Oakley Review

39. There was very widespread support for the Oakley Review; most witnesses felt that implementation of its recommendations would go a long way towards improving DWP’s communications, and claimants’ understanding, in relation to Back to Work scheme JSA sanctions.<sup>35</sup> Witnesses also recognised that many of the Oakley recommendations,

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31 [Oakley Review](#), p 38

32 [Government response to the Oakley Review](#), pp 10–11

33 Webster, D, [JSA sanctions: A guide to the Oakley Report and the Government’s response](#), September 2014; [Qq7–10](#) [Matthew Oakley and Tony Wilson]

34 [Q273](#)

35 See, for example, Co-chairs of the All-Party Parliamentary Inquiry into Hunger in the United Kingdom ([SAN0113](#)); Crisis ([SAN0122](#)); ERSA ([SAN0145](#)); CPAG ([SAN0152](#))

particularly around more effective communications, were relevant to benefit sanctions policy more broadly and therefore had the potential to improve the wider system.<sup>36</sup>

40. Mr Oakley was satisfied that the changes already made by DWP to its claimant letters, and the publication of the new sanctions fact-sheets, were “a really positive step forward”. However, he also emphasised that:

There is of course work to be done. Some of the recommendations clearly could not be implemented immediately. Some will take renegotiation of contracts [...]. Others will take time in Parliament, either for primary or secondary legislation, and I think it is right that they take time to get those issues right [...].<sup>37</sup>

### ***Scope of the Oakley Review***

41. Matthew Oakley emphasised in his report that, while issues about communication and claimants’ understanding of the sanctioning process were clearly important, a range of organisations had raised much broader concerns, including “the effectiveness of the sanctioning system in improving movements into work, the proportionality of the current sanctions levels and the pace of change over the last ten years.” His view was that there were “wider issues that should and could be considered.”<sup>38</sup> We consider some of the broader issues in the remainder of this Report.

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36 See, for example, Co-Chairs of the All-Party Parliamentary Inquiry into Hunger in the United Kingdom ([SAN0113](#)); Crisis ([SAN0122](#))

37 [Q6](#)

38 [Q4](#)

## 3 The evidence base for sanctions policy

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### The success of “active” unemployment benefit regimes

42. DWP was adamant that “active policies work” in relation to unemployment benefit systems. It also emphasised that most developed countries attach quite strict work conditions to the receipt of unemployment benefits, and that financial sanctions “for refusing job offers or failing to participate in activities to help them into work [are] the norm.”<sup>39</sup>

43. A number of witnesses agreed that the general approach had been shown to be relatively successful.<sup>40</sup> Tony Wilson of the Centre for Economic and Social Inclusion (Inclusion) told us that there was “robust” international evidence that active, conditional unemployment benefit systems, backed up by financial sanctions, are “more effective than the alternatives.”<sup>41</sup>

### The part played by financial sanctions in successful active benefit regimes

44. However, expert and academic witnesses reported that the international evidence on the specific part played by the application, or deterrent threat, of financial sanctions in successful active regimes was more nuanced and far from clear-cut. The joint university Welfare Conditionality research project told us that the current academic evidence “does not enable one to untangle the relative impacts of the job-search conditions themselves, the sanctions regime that enforces them, and any accompanying forms of support.”<sup>42</sup> Evidence from the University of Oxford and the London School of Hygiene and Tropical Medicine (LSHTM), which undertook a comparative analysis of the social security sanctions systems applied in the EU and USA, indicates that they have variable effectiveness in getting claimants back into work, and that the UK’s system was one of the most punitive.<sup>43</sup>

45. Inclusion’s analysis was that:

There is some evidence that [sanctions] may increase the likelihood of entering employment, but it often appears to be poorer quality employment, temporary employment or unstable employment. There are very clear offsetting negative impacts, which are likely to outweigh any small, marginal positive impacts.<sup>44</sup>

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39 DWP ([SAN0142](#))

40 See, for example, [Q23](#) [Matthew Oakley]; [Q24](#) [Tony Wilson]

41 [Q24](#)

42 Welfare Conditionality: Sanctions, Support and Behaviour Change Project ([SAN0054](#))

43 Loopstra, R, Reeves A, McKee, M, and Stuckler, D, [Do punitive approaches to unemployment benefit recipients increase welfare exits and employment?](#), University of Oxford, Sociology Working Paper No. 2015–1, January 2015

44 [Q24](#) [Tony Wilson]

This is borne out by a number of academic sources, including a comprehensive review of the international evidence published by the Joseph Rowntree Foundation in 2010.<sup>45</sup>

46. While almost all witnesses accepted that a set of basic entitlement conditions, and an accompanying system of disallowances, was necessary in any unemployment benefit regime, some believed that active regimes could operate, or even be enhanced, without the application of financial sanctions to enforce the wider range of conditionality.<sup>46</sup>

47. The Public and Commercial Services Union (PCS), which represents DWP staff, believed that very stringent and wide-ranging conditionality left claimants feeling that “the smallest misdemeanour will result in them being sanctioned”. Its view was that this adversely affected the necessary relationship of trust between JCP Work Coach and claimant.<sup>47</sup>

48. However, DWP insisted that sanctions were an important and necessary part of the overall system. Chris Hayes pointed to research by the Organisation for Economic Co-operation and Development (OECD), which found that “having a credible benefit reduction leads to increased work search and an up to 50% increase of flow into employment because of that work search.”<sup>48</sup>

49. Earlier in this Parliament, after considering DWP’s plans for conditionality within Universal Credit, we came to the view that sanctions were necessary, but with important caveats about the way in which the system ought to be applied:

Sanctions are a necessary and important part of the benefits process, but there is little evidence that they strengthen work incentives on their own. The effectiveness of the new regime is likely to depend heavily on the quality of the face-to-face support provided by DWP through Jobcentre advisers. Sanctions must be used by DWP staff primarily as a deterrent and a last resort.<sup>49</sup>

However, with the emerging evidence of the application and effects of sanctions, our view is now more nuanced.

50. A range of witnesses to this inquiry emphasised the importance of balancing stricter conditionality with more intensive employment advice and support. Some believed that a proper balance was not currently being achieved.<sup>50</sup> We were concerned that support for claimants was likely to reduce or stop during a sanction period, as the claimant might stop

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45 Griggs, J, and Evans, M, [Sanctions within conditional benefit systems: A review of evidence](#), Joseph Rowntree Foundation, December 2010

46 See, for example, Dr David Webster ([SAN0110](#)) and [Q46](#); Public and Commercial Services Union ([SAN0109](#))

47 Public and Commercial Services Union ([SAN0109](#))

48 [Q189](#)

49 Work and Pensions Committee, Third Report of Session 2012–13, [Universal Credit implementation: Meeting the needs of vulnerable claimants](#), HC 576, para 183

50 Kirklees Financial Inclusion Steering Group ([SAN0065](#)); YMCA ([SAN0066](#)); Centre for Economic and Social Inclusion (Inclusion) ([SAN0143](#))

engaging with JCP or the contracted provider. The Minister insisted that sanctioned claimants received “extra support”, but she was unable to describe the types of additional help they typically receive.<sup>51</sup>

*51. We agree that benefit conditionality is appropriate and necessary but reiterate our view that it is important that conditionality is balanced by effective employment advice and support for claimants. We recommend that DWP ensure that the relevant guidance to JCP Work Coaches includes that sanctioned claimants should be offered additional, tailored support, to help them meet their benefit conditions and improve their employment prospects, including attending a specific meeting after a sanction has been applied to discuss how to improve compliance and ensure that the Claimant Commitment fairly reflects the individual’s needs and abilities.*

## Recent policy development

### ***Welfare Reform Act 2012: a clearer system of longer fixed-period sanctions***

52. Prior to the coming into force of Section 46 of the Welfare Reform Act 2012 (WRA 2012) in October 2012, JSA claimants could be sanctioned for periods of between one week and 26 weeks, as prescribed by DWP.<sup>52</sup> The Department believed that, under this system, it was “not always clear what level of sanction will be imposed for any particular failure.”<sup>53</sup>

53. The WRA 2012 more clearly set out fixed period benefit sanctions which would be applied for the range of claimant failures, and introduced a system of escalating sanction periods for repeat failures on the part of the claimant. JSA sanctions are now applied according to the seriousness of the infraction, as follows:

- Low level failures, for example missing an appointment, can result in a four week cessation of benefit payment, or 13 weeks for a repeat failure within a 52 week period;
- Intermediate failures are more general failures to actively seek work or be available for work and result in JSA claims being closed. If claimants re-apply, no benefit is payable for four weeks after a claim following a first failure and 13 weeks after a second or subsequent claim where the most recent closure of claim was within a 52 week period; and
- High level failures, including failure to accept a reasonable job offer, result in a sanction of: 13 weeks for a first failure; 26 weeks for a second failure within 52 weeks of the first; and 156 weeks (three years) for a third failure within 52 weeks of the most recent failure.<sup>54</sup>

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51 [Qq197–200](#)

52 Jobseekers Act 1995, [section 19](#)

53 DWP Impact Assessment, [Conditionality Measures in the 2011 Welfare Reform Bill](#), October 2011

54 Welfare Reform Act 2012, [sections 26–7; 46](#); For a summary of the changes see also, CPAG, [Regime change: sanctions and the law on claimants](#), October 2012 [accessed 25 February 2015]

We examine the types of claimant failures, and official data on the number of sanctions applied in each of the categories since the new rules came into force, in more detail in chapter 5.

54. Chris Hayes told us that the new system was intended to be more “credible”, in line with the OECD findings mentioned above.<sup>55</sup> The Minister emphasised that the Government’s intention was to establish a fairer and more consistent approach, in which claimants “would know what the sanction would be”.<sup>56</sup> The Department also pointed out that the WRA 2012 changes had halved the maximum sanction period for a low-level failure, from 26 to 13 weeks. It also emphasised that by the end of June 2014, by which point there had been a total of 1,444,411 adverse decisions under the new regime, only 1,767 people had received the maximum three year sanction.<sup>57</sup> This had increased to 2,048 by September 2014, by which point there had been 1,562,893 adverse decisions.<sup>58</sup>

### **Plans for “in-work conditionality”**

55. Universal Credit Regulations allow for a system of in-work conditionality, in which very low-paid claimants may be required to take steps to increase their earnings. The Department has not yet decided exactly how Universal Credit in-work conditionality will operate. It began testing different approaches in 2014, and will continue to do so this year; the necessary Regulations to allow for a range of further pilots were made in January 2015. The pilots will test approaches which focus on: additional support for claimants; the role of employers in driving pay progression; the impact of conditionality; and additional “financial levers, over and above the inherent incentives in Universal Credit”. Claimants taking part in the pilots who fail to comply with the requirements without good reason will be subject to the normal sanctions regime.<sup>59</sup>

**56. *We recommend that the Government does not proceed with in-work sanctions beyond the existing pilots until robust evidence is available from the pilots to demonstrate that in-work conditionality can be effectively applied.***

### **Evidence on the efficacy and impacts of the current regime**

57. Expert witnesses, including Matthew Oakley, were concerned that the potential for longer minimum sanction periods had been introduced without any apparent evaluation by DWP of its likely impacts on claimants. Other witnesses noted a lack of evidence that the application, or deterrent threat, of longer sanction periods is any more effective than that of shorter ones.<sup>60</sup> Steve Hughes of Policy Exchange, which has been an advocate of stringent conditionality, noted that DWP’s Impact Assessment of the new sanctions regime

55 [Qq189–90](#)

56 [Q215](#)

57 DWP (further supplementary evidence) ([SAN0163](#))

58 DWP, *Jobseeker’s Allowance and Employment and Support Allowance sanctions: decisions made to September 2014*, 18 February 2015, table 1.7

59 [The Universal Credit \(Work-Related Requirements\) In Work Pilot Scheme and Amendment Regulations 2015](#)

60 [Q21](#) [Matthew Oakley]; Oxfam GB ([SAN0088](#)); Inclusion ([SAN0143](#))

stated that “it is not possible to quantify the behavioural impacts”.<sup>61</sup> Tony Wilson described this area of policy as an “evidence-free zone”.<sup>62</sup>

58. We wanted to know what evidence the Department had considered on the likely wider impacts on claimants of minimum sanction periods of four weeks before implementing the WRA 2012 changes. The Minister could only point us to evidence for the efficacy of the overall approach.<sup>63</sup> Chris Hayes reiterated the point that it was important for any sanctions regime to be “credible”, and was satisfied that the WRA 2012 changes achieved this. He told us that the UK was around “mid-table [of OECD countries] in terms of [the severity of] its overall conditionality regime.” He noted that the three-year sanction was “not unique”, and emphasised that in Germany an indefinite sanction could be applied in certain circumstances.<sup>64</sup>

**59. There is evidence that active and conditional unemployment benefit regimes, in which financial sanctions play a part, are relatively effective, but there is very limited evidence, from the UK or overseas, on the relative impacts of the three parts of the overall approach: the benefit conditions themselves; the accompanying employment support; and the application, or deterrent threat, of financial sanctions. We accept that any sanctions regime must be “credible” if it is to influence claimant behaviour; however, it is not possible from the available evidence to come to a view on the relative efficacy and impacts of longer minimum sanction periods compared to shorter ones. We believe that it is important that the Government conduct evaluations to enhance the evidence base in this policy area, to demonstrate that the use of sanctions is not purely punitive.**

*60. We recommend that DWP evaluate, by testing different approaches, the relative impacts on movements off out-of-work benefits and into work of: benefit conditions themselves; the level of accompanying employment support; and the application, or deterrent threat, of financial sanctions. We further recommend that DWP evaluate the efficacy and impacts of four-week minimum sanction periods, as introduced following the Welfare Reform Act 2012, compared to minimum sanction periods of one week.*

## Impacts on benefit off-flow and the destinations of claimants

61. There is clear evidence that benefit sanctions tend to increase exits from benefits—known as benefit off-flow; however, the destinations of claimants who leave benefit following a sanction, and the wider social impacts, are less well understood. There are concerns that sanctions might lead to a range of unintended consequences, including

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61 [Q135](#); DWP, [Conditionality Measures in the 2011 Welfare Reform Bill: Impact Assessment](#), October 2011

62 [Q24](#)

63 [Qq182–86](#)

64 [Q190](#)

severe financial hardship and associated wider social impacts.<sup>65</sup> We consider the system in place to prevent severe hardship in chapter 7.

62. Recent research by the University of Oxford and LSHTM examined official data on sanctioning rates, employment rates, and benefit off-flow in the period 2005–2014 across 375 local authority areas in the UK. The study found no relationship between local sanctioning rates and employment rates. It found a strong relationship between sanctioning rates and off-flow, and that this relationship had become stronger since 2011 (taken to be the point at which there was an escalation in conditionality brought about by the introduction of the mandatory Back to Work schemes, followed by the WRA changes in 2012). In the period 2011–2014, the study estimated that for every 100 JSA sanctions applied there was an associated off-flow from JSA of 42.4 persons. It claims that only about 20% of those leaving benefit following a sanction reported having found employment.<sup>66</sup>

63. One of the potential weaknesses in the above study was the difficulty in tracking the outcomes of individual claimants or cohorts of claimants. We noted this issue in our January 2014 Report on JCP. Since 2011 JCP's primary key performance indicator has been off-flow from benefit at the 13th, 26th, 39th and 52nd weeks of claims. Previously JCP's performance had been measured against a range of performance indicators, including off-flows from benefit into employment. From 2009 DWP no longer *required* JCP staff to record the reason a claimant left benefit.<sup>67</sup> A reason for leaving benefit, including where the claimant entered work, is recorded in only around 55% of cases. The Oxford/LSHTM study concluded that “there is a clear need to develop better monitoring systems for tracking what happens to persons who exit unemployment benefits.”<sup>68</sup> This accords with the conclusions in our January 2014 Report.

64. The Minister strongly disputed the Oxford/LSHTM study's conclusions; she believed that the researchers had “reached a conclusion [...] they wished to come to.” She argued that official data on economic inactivity suggested that there had not been an increase in the number of people exiting benefits without finding work; she emphasised that official labour market data show that the number of economically inactive people has fallen by around 400,000 since 2010.<sup>69</sup> It is a concern that the Minister provided evidence to us on destinations of JSA, Income Support and ESA claimants from 2011, that pre-dated the new sanctions regime (NSR) introduced in 2012, in an attempt to challenge the findings of the University of Oxford/LSHTM study on the effects of the NSR on getting JSA claimants off-flow.<sup>70</sup> This was regrettable.

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65 See, for example, Joseph Rowntree Foundation, [Welfare sanctions and conditionality in the UK](#), September 2014

66 Loopstra, R, Reeves, A, McKee, M, and Stuckler, D, [Do punitive approaches to unemployment benefit recipients increase welfare exit and employment? A cross-area analysis of UK sanctioning reforms](#), University of Oxford, Sociology Work Paper No. 2015–1, January 2015

67 [JCP Report](#), paras 102–104

68 Loopstra, et al, [Do punitive approaches to unemployment benefit recipients increase welfare exit and employment? A cross-area analysis of UK sanctioning reforms](#), University of Oxford, Sociology Work Paper No. 2015–1, January 2015

69 [Q238](#)

70 See, for example, [Qq229–31](#)

### ***Tracking claimant destinations within Universal Credit***

65. Chris Hayes pointed out that the introduction of Universal Credit, because it is paid to claimants both out of work and in lower paid work, afforded considerable opportunities to improve the tracking of claimants' movements into employment and progress in work. The key to this was the utilisation of HMRC's real-time information (RTI) on PAYE income, which enables DWP to track claimants' entries into salaried employment and their earnings progress. As Universal Credit is implemented over the next few years, benefit off-flow will cease to be a coherent measure of JCP's performance. Mr Hayes told us that the Department was using three separate measures of JCP's performance under Universal Credit: movements into work from no work; sustainment in employment over a six-month period; and progress in work over a longer period.<sup>71</sup>

***66. Recently published research emphasises the importance of developing more effective systems for monitoring the destinations of claimants leaving benefit in general and, in particular, the destinations of claimants leaving benefit following a sanction. The introduction of Universal Credit affords the Department considerable opportunities to develop new and more effective systems. We recommend that DWP develop systems, using RTI data, to track shorter and longer term employment outcomes and earnings progress for sanctioned benefit claimants within Universal Credit, as part of its ongoing evaluation of the efficacy and impacts of benefit sanctions policy.***

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71 [Qq268-70](#)

## 4 Setting appropriate JSA job-searching conditions

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67. In this chapter we examine JCP's approach to agreeing appropriate job-searching conditions for JSA claimants. The standard tool for this is now the Claimant Commitment. This was designed as part of the policy development for Universal Credit, to replace Jobseekers Agreements, which were used in the JSA system, but Claimant Commitments are already being used in almost all JCP offices, ahead of Universal Credit's full implementation.<sup>72</sup>

68. The intention is that Claimant Commitments further intensify job-searching activities; DWP can require claimants to undertake up to 35 hours of job-searching activity per week.<sup>73</sup> It also gives claimants greater scope to record the steps they have taken towards finding employment, and allows Work Coaches to monitor whether claimants have taken the agreed steps. Claimant Commitments should reflect individual claimants' needs and capabilities, and involve claimants in the process of developing a job-searching strategy which is appropriate for them. They are intended to be "living documents", which are updated regularly according to changing circumstances.<sup>74</sup>

### The Claimant Commitment in practice

69. We were supportive of the introduction of the Claimant Commitment, concluding in our November 2012 Report on Universal Credit implementation that it had "the potential to help benefit claimants return to work, by making clear what job-search requirements they must fulfil." However, our Report also noted witnesses' views that the effectiveness of the system would to a large extent depend on the ability of JCP staff to identify claimants' needs and ensure that these were properly reflected in the document.<sup>75</sup> The Department's written evidence to this inquiry was very clear that:

Any requirements placed on JSA claimants should take into account any restrictions agreed within the Claimant Commitment as well as the claimant's individual circumstances and needs.<sup>76</sup>

70. Several witnesses were concerned that in practice Claimant Commitments were being formulated principally by the Work Coach, with limited input from the claimant.<sup>77</sup>

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72 ["Claimant Commitment to spell out what jobseekers must do in return for benefits"](#), DWP press release, 29 August 2013

73 [The Jobseeker's Allowance Regulations 2013 \(Regulation 9\)](#)

74 ["Claimant Commitment to spell out what jobseekers must do in return for benefits"](#), DWP press release, 29 August 2013; ["Jobseekers to start signing new Claimant Commitment today"](#), DWP press release, 14 October 2013

75 Work and Pensions Committee, Third Report of Session 2012–13, [Universal Credit implementation: Meeting the needs of vulnerable claimants](#), HC 576, paras 168–71

76 DWP ([SAN0142](#))

77 See, for example, Citizens Advice Scotland ([SAN0096](#)); One Parent Families Scotland ([SAN0146](#)); The Scottish Federation of Housing Associations and the Housing Support Enabling Unit ([SAN0140](#))

Citizens Advice Scotland (CAS) told us that it had advised a number of claimants who believed that their Claimant Commitment had not been sufficiently tailored to their personal circumstances. This included people with “very severe literacy problems” which were not adequately reflected, for example.<sup>78</sup> The PCS union told us that Claimant Commitments tended to conform to a fairly standard template. It also reported that JCP staff were “not encouraged” to include flexibilities to reflect claimants’ individual circumstances. PCS’s view was that the primary focus tended to be on increasing the number of steps claimants were required to take. Helen Flanagan, PCS’s DWP Vice President, told us that, whereas the JSA Jobseekers Agreement would typically require a claimant to apply for three jobs per week, the Claimant Commitment sometimes required the claimant to take more than 40 individual steps. She also reported that in some JCP offices the 35-hour job-search requirement was already being applied to JSA claimants, ahead of the implementation of Universal Credit.<sup>79</sup>

71. Ben Robinson of Community Links, a third sector contracted provider, believed that it was still “early days” for the Claimant Commitment. In his experience, the level of tailoring of Claimant Commitments to individual circumstances was “patchy” across the JCP network. There was also a mixed picture of Claimant Commitments being used as “living documents”, reflecting changes in circumstances over time. He agreed with the PCS union that, in general, the Claimant Commitment had increased the number of mandatory steps claimants were required to take to find work.<sup>80</sup>

72. Keith Dryburgh of CAS told us that that a number of claimants it had advised felt they had no choice but to sign the Claimant Commitment, as they believed that they would be sanctioned if they did not. His view was that Claimant Commitments which did not properly reflect claimants’ needs were “setting people up to fail.”<sup>81</sup>

73. Chris Hayes told us that the effectiveness of the Claimant Commitment would be fully evaluated by DWP, and that an evaluation report was scheduled to be published in Summer 2016.<sup>82</sup>

***74. We recommend that DWP’s evaluation of the Claimant Commitment includes an assessment of: whether claimants are fully involved in the process of developing a suitable job-searching strategy and in setting realistic and achievable targets; and whether reasonable conditions are being set for all groups of JSA claimants, including those with physical and mental health conditions, learning disabilities and caring responsibilities. We also believe that more than another year before the findings of this evaluation are published is too long a wait for an assessment of new benefit conditions affecting so many claimants. We therefore further recommend that DWP expedite its evaluation and publish initial findings as early as possible in the next Parliament, and certainly before***

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78 [Q52](#) [Keith Dryburgh]

79 [Qq138-9](#); [Q142](#)

80 [Q143](#)

81 [Q52](#)

82 [Q281](#)

*the end of 2015. We believe that there is a specific need to review whether the conditionality applied to those claiming JSA while a decision on ESA eligibility is being reconsidered or appealed should be altered to reflect this, and the individual's specific circumstances.*

## Identifying vulnerable claimants

75. As noted in chapter 2, the Oakley Review found that “vulnerable” claimants, particularly those with mental health problems and learning disabilities, were more likely to struggle to understand and fulfil their benefit conditions. He recommended that the Department “should consider how vulnerable groups might be identified and helped to claim hardship payments and/or access support services offered through Jobcentre Plus and contracted providers.”<sup>83</sup>

76. A range of witnesses believed that JCP’s systems for identifying vulnerable claimants were inconsistent, and reported that vulnerable claimants, including those with mental health problems and learning disabilities, were often subject to inappropriate conditions resulting in sanctions. Witnesses believed that more clarity and consistency was required around the definition of vulnerability.<sup>84</sup>

77. Chris Hayes reported that in the last year DWP had issued new guidance to JCP Work Coaches on identifying vulnerable claimants. This included taking account of “people’s circumstances, life changes or certain medical conditions.” He also told us that, in relation to ESA, DWP took “extra special care” before applying sanctions to claimants with certain medical conditions.<sup>85</sup> We consider ESA sanctioning separately in chapter 6.

78. The Department subsequently sent us a copy of its Vulnerability Guidance for JCP staff. In the guidance a vulnerable person is defined as: “An individual who is identified as having complex needs and/or requires additional support to enable them to access DWP benefits and use our services.” Complex needs are defined as: “difficult personal circumstances and/or life events.” The guidance lists a number of personal circumstances and life events which could be considered to indicate potential vulnerability, including: disability; ethnicity; domestic violence and abuse; care leaver; alcohol misuse; drug misuse; refugee; ex-offender; homeless; and lone parent. The guidance is clear that JCP staff can make a judgement on whether individuals in these circumstances need “additional support to enable them to access DWP benefits and use our services”, including additional support to fulfil benefit conditions; however, it also states that: “The aim is for individuals to follow the standard Customer Journeys and we need to work with them to identify how we can enable them to do this.”<sup>86</sup>

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83 [Oakley Review](#), p 38

84 See, for example, Keep Volunteering Voluntary ([SAN0131](#)); The Scottish Federation of Housing Associations and the Housing Support Enabling Unit ([SAN0140](#)); ERSA ([SAN0145](#))

85 [Q207](#)

86 DWP, *Vulnerability Guidance—Additional Support for Individuals* [not published]

79. DWP's new Vulnerability Guidance is a welcome step forward in trying to more routinely identify claimants who are vulnerable and require support to "enable them to access DWP benefits and services". However, we are concerned that, while the guidance we have seen is a good, general purpose document, which includes helpful definitions of what might constitute vulnerability, it does not give clear guidance on the level of support vulnerable groups would need in order to fulfil their benefit conditionality. There remains a danger that some vulnerable individuals are being "set up to fail".

80. *We recommend that DWP, drawing on specialist advice from health experts, develop guidance on vulnerability which is specifically intended to assist JCP staff in identifying vulnerable JSA claimants, including those with mental health problems and learning disabilities, who may face difficulties in understanding and/or complying with benefit conditionality. This guidance should include examples or case studies to illustrate how conditionality can be tailored in a range of circumstances. We further recommend that the Department amalgamate this guidance into the broader Claimant Commitment guidance, so that it becomes part of the routine process of developing appropriate and tailored JSA conditionality.*

## Jobseeker Directions

81. In addition to actions set out in Claimant Commitments, Work Coaches can require JSA claimants to take specific actions by issuing individual Jobseeker Directions (JSDs). JCP guidance states that JSDs can be used to "mandate a claimant, under risk of a sanction, to undertake a specific course of action". It explains that JSDs "would usually be considered when a claimant does not voluntarily undertake a particular action, which will improve their prospects of finding work."<sup>87</sup> JSDs were introduced in the 1990s, as part of the JSA system.

82. Helen Flanagan of PCS reported that, in some JCP offices, JSDs were being used more frequently now than they were before the introduction of the Claimant Commitment.<sup>88</sup> Official data show that the number of sanctions relating to "failure to comply with a Jobseeker Direction" has remained low as a proportion of all sanctions, and at a stable level since 2012 (around 3% of all adverse decisions, see chapter 5); however, there are large variations between JCP offices, and in some offices the application of JSDs has increased.<sup>89</sup>

83. Given that the Claimant Commitment is intended to intensify job-searching requirements, include more specific steps, and be a "living document" which can be regularly updated, we wanted to know why JSDs were still necessary, and their use increasing in some offices. Chris Hayes told us that JSDs tended to be used in "very specific circumstances", including mandating claimants to undertake a particular type of skills

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87 DWP Freedom of Information release, [FOI 626](#), 13 February 2013 [available via the What Do They Know? website, accessed 17 February 2015]

88 [Q144](#)

89 DWP Freedom of Information release, [Statistics on Jobseeker's directions issued in Leicestershire and Northamptonshire JCPs: Sept 2012 to Aug 2014](#), January 2015

training. Claimant Commitments tended to set out “general work search and availability conditions”. However, he did agree that there was scope to include more of the types of activity currently being mandated through JSDs in Claimant Commitments.<sup>90</sup>

*84. We note the concern expressed by some witnesses that use of Jobseeker Directions has increased in some JCP offices in recent years. While we appreciate that there may be circumstances in which it might be appropriate for JCP staff to mandate a JSA claimant to undertake a very specific type of work-related activity, such as particular skills training, it is not immediately clear why such activities could not invariably be included in Claimant Commitments. Intuitively we would expect there to be minimal, if any, use made of Jobseeker Directions, as the Claimant Commitment becomes more firmly established. We recommend that DWP’s evaluation of the Claimant Commitment include an assessment of the appropriate use of Jobseeker Directions and their interaction with the Claimant Commitment process.*

### Single parent protections

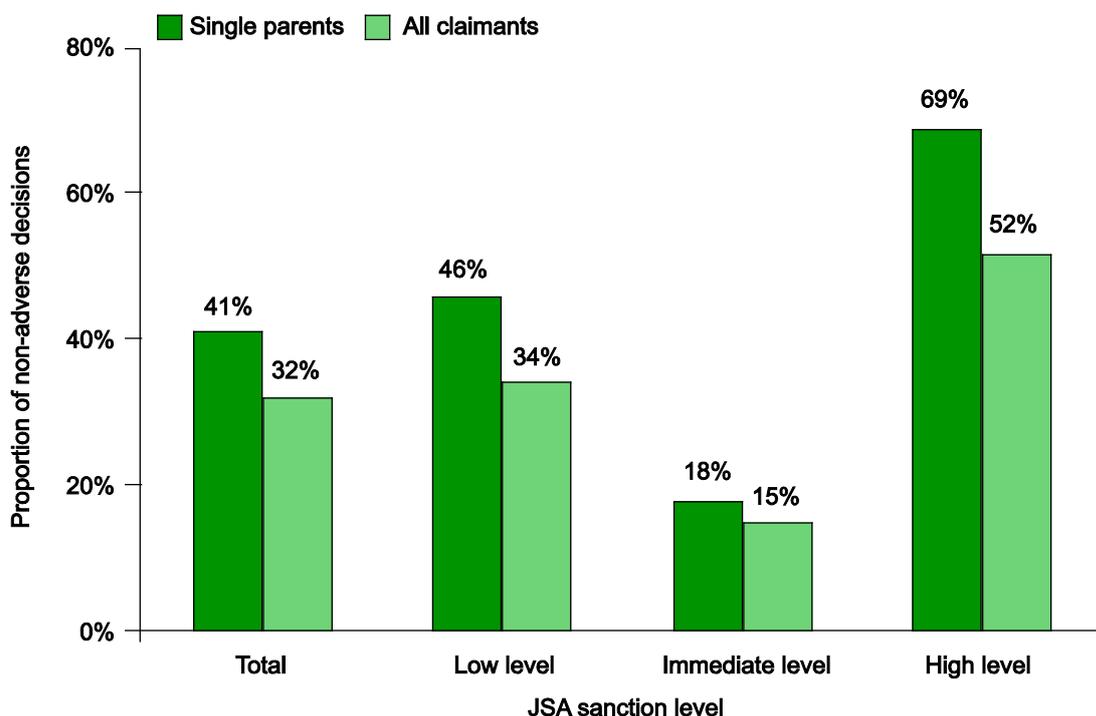
85. Gingerbread, a single parent charity, drew on official data to illustrate that single parent JSA claimants appeared to be more likely to receive a “non-adverse” sanction decision than the general JSA claimant population. Non-adverse decisions can be the result of the claimant proving “good reason” early in the process, in which case the claimant’s benefit payment is not affected. The majority of non-adverse decisions affecting single parent JSA claimants are made at this early stage, but Gingerbread noted that a significant minority are applied later, at the decision-review stage: 26% of low level sanctions; 46% of intermediate level sanctions; and 17% of high level sanctions.<sup>91</sup> In these cases the claimant’s benefit will be stopped from the point of the original decision until it is overturned at review. Claimants will be reimbursed following the review but are likely to be without their benefit payment for a number of days or weeks.

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90 [Qc282-3](#)

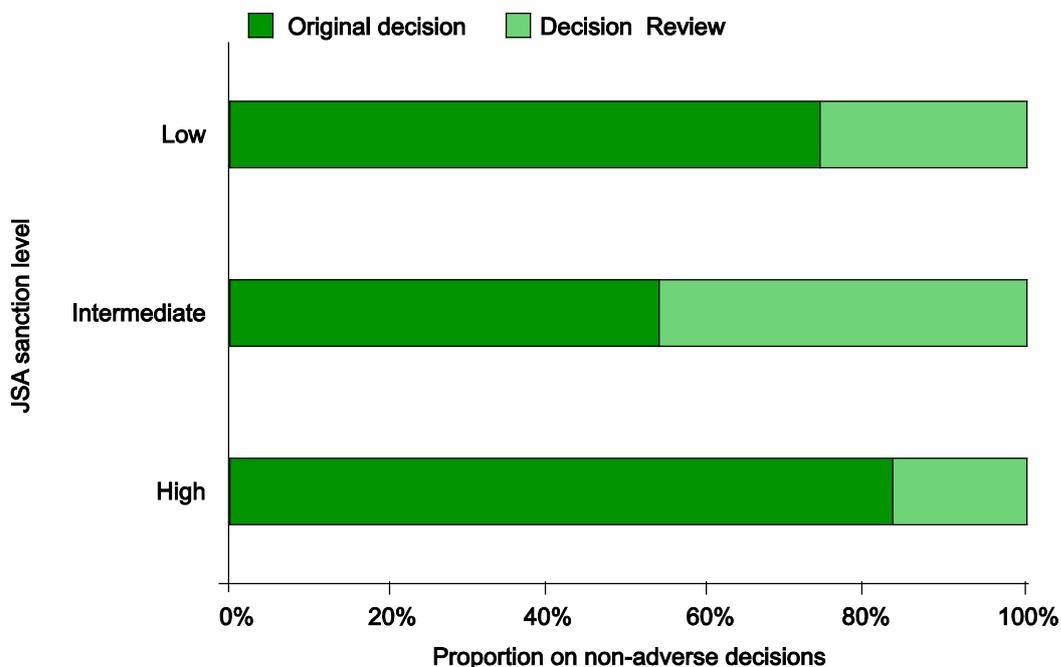
91 Gingerbread ([SAN0115](#)), figures 1 and 2

**Figure 1: Non-adverse JSA sanction decisions, October 2012–June 2014**



Source: DWP, *Jobseekers Allowance and Employment and Support Allowance sanctions: decisions made to June 2014*, November 2014

**Figure 2: Single parent non-adverse JSA sanction decisions by sanction level and “decision type”**



Source: DWP, *Jobseekers Allowance and Employment and Support Allowance sanctions: decisions made to June 2014*, November 2014

86. Gingerbread believed that the relatively high incidence of non-adverse sanction decisions in relation to single parent JSA claimants was a consequence of both claimants and Work Coaches being insufficiently aware of the flexibilities which should apply in relation to single parent conditionality. These flexibilities are defined in a set of 12 statutory safeguards, which include scope for single parents of children under the age of 13 years to restrict their working hours to the school day, and protect single parents from sanctioning where they refuse a job offer because they are unable to find suitable and affordable childcare, for example. It believed that a lack of awareness of these flexibilities was leading to inappropriate conditions and sanction referrals. It also pointed out that “only one of the 12 regulatory safeguards has been transferred in its entirety into Universal Credit”, and was therefore concerned that, under Universal Credit, “single parents will be at greater risk of incurring sanctions and less likely to find work because vital safeguards have been removed.”<sup>92</sup>

87. **There is evidence that single parent JSA claimants are more likely to receive a non-adverse JSA sanction decision than the general JSA claimant population. Whilst not necessarily causing individual financial hardship, it should be recognised that the raising of a “doubt” in itself can cause distress. Notwithstanding the fact that many do successfully offer “good reason”, there may still be some claimants who experience an adverse decision if they are not enabled and encouraged to offer “good reason”. We also note concern from those representing single parents that claimants and JCP Work Coaches may be insufficiently aware of the statutory flexibilities designed to protect single parents from inappropriate conditionality, and that this may be leading to unnecessary sanction referrals which are subsequently overturned by Decision Makers.**

88. *We recommend that DWP increase training for JCP Work Coaches on the regulatory flexibilities which should be applied to the benefit conditions of single parent JSA claimants. We also recommend that DWP produce a straightforward, plain English guide to the flexibilities, which should be given to all single parent JSA claimants. We further recommend that DWP review the regulatory flexibilities afforded to single parent Universal Credit claimants, with a view to ensuring that they are offered the same level of protection from inappropriate conditionality and sanctioning as JSA claimants.*

## Potential for a more targeted approach to conditionality and sanctions

89. There was a perception amongst witnesses that the current approach to conditionality and sanctions was based on an assumption that most unemployed claimants would not do enough to find work unless they were made to do so. This assumption was widely challenged.<sup>93</sup>

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92 Gingerbread ([SAN0115](#))

93 See, for example, [Q47](#) [Dr Webster]; Mind ([SAN0106](#)); PCS Union ([SAN0109](#)); Gingerbread ([SAN0115](#)); Keep Volunteering Voluntary ([SAN0131](#))

90. Kirsty McHugh of ERSA told us that contracted providers' experience was that strict conditionality backed up by financial sanctions was necessary in only a minority of cases, where claimants had a record of not engaging with the support on offer, and where this lack of engagement was "motivational or behavioural", and therefore susceptible to behavioural change.<sup>94</sup> She believed that it was important to distinguish these claimants from those whose lack of engagement was a consequence of vulnerabilities such as mental health problems.<sup>95</sup> A range of witnesses believed that in many such cases sanctions were likely to actively hinder a claimant's capability to look for work, because dealing with practical financial issues resulting from sanctions took up time that might otherwise be spent job-searching.<sup>96</sup>

91. In oral evidence the Minister emphasised that it was often claimants who were "most reticent at first" to engage with employment support who ultimately found that "conditionality or mandation was instrumental in getting them a job". She believed that the application, or deterrent threat, of sanctions in these cases had often been a "push in the right direction".<sup>97</sup>

92. Research published by DWP in 2011 suggests that it may be possible to categorise unemployed people into eight different groups based on their motivations and attitudes towards seeking work. The primary purpose of this research was to develop a "highly actionable segmentation tool that is driven by attitude and behaviour and underpinned by behaviour change principles", for application in DWP's communications and marketing strategies.<sup>98</sup>

***93. Employment services professionals believe that strict conditionality, backed up by financial sanctions, is necessary in only a small minority of circumstances, in particular where claimants have a history of poor engagement with employment support, and where their lack of engagement is "motivational or attitudinal". If the intention of sanctioning is to change behaviour, we believe that it is important to identify and focus on those claimants whose attitudes towards job-seeking and work the Department seeks to change. We believe that an effective targeted approach to strict conditionality, which focuses on this group of claimants, would have the benefit of protecting more determined jobseekers, and the vulnerable, from inappropriate, and potentially counter-productive, sanctions. We recommend that DWP draw on its 2011 research into the attitudes of unemployed people towards job-seeking and work, and consider whether its insights could inform a more targeted approach to benefit conditionality and sanctioning. We recommend that DWP establish a small-scale pilot to test the efficacy of a targeted approach based on segmentation of claimants by their attitudes and motivations.***

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94 ERSA ([SAN0145](#))

95 [Q33](#)

96 The Scottish Federation of Housing Associations and the Housing Support Enabling Unit ([SAN0140](#)); Derbyshire County Council ([SAN0111](#)); Newcastle upon Tyne Citizens Advice Bureau ([SAN0072](#))

97 [Q232](#)

98 DWP, [Beliefs about work: an attitudinal segmentation of out-of-work people in Great Britain](#), DWP Customer Insight Research Report 1, 2011

## 5 Categories of JSA “sanction”

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94. In oral evidence Matthew Oakley noted that the term “benefit sanction” had grown in popular usage to encompass a range of benefit-related problems, and argued that it was incumbent on DWP “to make sure it is communicating effectively with claimants who could be at risk of either sanction, disallowance or suspension”, and ensure that claimants understand the circumstances in which each might apply and how they can be avoided.<sup>99</sup>

95. Below we examine the different types of JSA sanction, the types of claimant behaviours which fall into each of the categories, and set out data on the number and proportion of sanctions applied in each category. We consider the coherence of the system. In particular, we assess whether the distinction between sanctions for failing to meet a specific condition without good reason, and suspensions of benefit payments for broader failures to meet the underlying conditions of benefit, which might include abuse of the system by claimants, is sufficiently clear in DWP’s processes and communications, and in the official data.

### The range of applicable sanctions

#### *Low level sanctions*

96. There are 11 categories of low-level JSA sanction:

- Voluntarily leaves a place on a training scheme or employment programme without good reason;
- Losing through misconduct a place on a training scheme or employment programme;
- Refusal of a place on a training scheme or employment programme without good reason;
- Neglect to avail themselves of a reasonable opportunity of a place on a training scheme or employment programme without good reason;
- Failure to attend a place on a training scheme or employment programme without good reason;
- Failure to attend or failure to participate in an Adviser interview without good reason;
- Refusal or failure to comply with a Jobseeker Direction without good reason;
- Failure to participate in a scheme for assisting person to obtain employment without good reason—Work Programme;
- Failure to participate in a scheme for assisting person to obtain employment without good reason—Skills Conditionality;

- Failure to participate in a scheme for assisting person to obtain employment without good reason—other scheme; and
- Failure to participate in a scheme for assisting person to obtain employment without good reason—Work Experience.

In the period since the introduction of the WRA 2012 changes, from 22 October 2012, to September 2014, there were 1,562,893 adverse JSA sanction decisions. Some 880,825 low level adverse decisions were made in the period. A large majority (nearly 90%) of low-level sanctions fell into just two categories: failure to attend/participate in an interview at Jobcentre Plus; or failure to participate in the Work Programme. A small minority of low-level sanctions were in two other categories: refusal or failure to comply with a Jobseeker Direction without good reason; and failure to participate in Skills Conditionality (one of the mandatory Back to Work schemes introduced in 2011). Some 99% of low level sanctions were in the four categories described above.<sup>100</sup>

**Table 1: Low level JSA adverse sanction decisions by category, 22 October 2012–September 2014**

Category	No. of adverse decisions	% of low level adverse decisions	% of all adverse decisions
Failure to participate in a scheme for assisting person to obtain employment without good reason—Work Programme	431,390	49%	28%
Failure to attend or failure to participate in an Adviser interview without good reason	357,655	41%	23%
Refusal or failure to comply with a Jobseeker's Direction without good reason	52,400	6%	3%
Failure to participate in a scheme for assisting person to obtain employment without good reason—Skills Conditionality	33,411	4%	2%

### High level sanctions

97. High level sanctions fall into five categories:

- Left employment voluntarily without good reason;
- Losing employment without good reason;
- Neglect to avail themselves of a reasonable opportunity of employment without good reason;

<sup>100</sup> DWP, [Jobseekers Allowance and Employment Support Allowance sanctions: decisions made to September 2014](#), February 2015, table 1.5

- Refusal or failure to apply for, or accept if offered, a job which an employment officer has informed him/her is vacant or about to become vacant without good reason; and
- Failure to participate in Mandatory Work Activity without good reason.

The first four of these are longstanding sanction categories. Mandatory Work Activity, 30-hour per week unpaid work placements to which claimants can be referred where Work Coaches “believe a jobseeker will benefit from experiencing the habits and routines of working life”, is another of the mandatory schemes introduced in 2011.<sup>101</sup> There were 131,685 high level sanctions applied between 22 October 2012 and September 2014. Only 114 of these were in the “Neglect to avail themselves of a reasonable opportunity of employment without good reason” category. The remainder were applied for the following reasons:<sup>102</sup>

**Table 2: High level JSA adverse sanction decisions by category, 22 October 2012–September 2014**

Category	No. of adverse decisions	% of high level adverse decisions	% of all adverse decisions
Left employment voluntarily without good reason	52,693	40%	3%
Refusal or failure to apply for, or accept if offered, a job which an employment officer has informed him/her is vacant or about to become vacant without good reason	38,624	29%	2%
Losing employment through misconduct	20,340	15%	1%
Failure to participate in Mandatory Work Activity without good reason	19,919	15%	1%

### *Intermediate level “sanctions”*

98. Intermediate level adverse decisions entail JSA claims being closed for failure to meet the basic benefit entitlement conditions of: “actively seeking employment”; or being “available for work”. Almost all (96%) of intermediate adverse decisions were in the “not actively seeking employment” category; 527,731 adverse decisions in the period to September 2014. These made up some 34% of all adverse sanction decisions—more than in any other single category across the whole system.<sup>103</sup>

101 See “[Extra push for jobseekers as mandatory work activity placements come on-stream for those who need more focus](#)”, DWP press release, 17 May 2011

102 DWP, [Jobseekers Allowance and Employment Support Allowance sanctions: decisions made to September 2014](#), February 2015, table 1.5

103 *Ibid.*

**Table 3: Intermediate level JSA sanction decisions by category, 22 October 2012–September 2014**

Category	No. of adverse decisions	% of intermediate level adverse decisions	% of all adverse decisions
Not actively seeking employment	527,731	96%	34%
Not being available for work	21,431	4%	1%

### The “not actively seeking employment” category of “sanction”

99. Witnesses were concerned that the “not actively seeking employment” category included relatively minor infringements of job-seeking conditionality, rather than, as the title of the category might suggest, a more general failure to actively seek work.<sup>104</sup> Dr David Webster, Honorary Senior Research Fellow at the University of Glasgow, believed that: “Not actively seeking work’ is a misnomer. It usually means that the claimant is actively seeking work but has not done exactly what they are told by Jobcentre Plus.”<sup>105</sup>

100. Witnesses reported that claimants who were clearly making significant efforts to find work had been sanctioned for not fulfilling the precise terms of their Claimant Commitment; for example, falling just short of completing the requisite number of steps set out.<sup>106</sup> It is not possible to discern from official data how many intermediate level adverse decisions were applied for this type of reason.

101. *We recommend that DWP make a clear distinction—in its processes, its communications with claimants, and in the official data—between claimants who are not meeting the underlying conditions of entitlement, in particular those who are genuinely “not actively seeking employment” and may therefore be abusing the system, and those who have not fully complied with the precise terms of a Claimant Commitment. At the moment, both receive the same penalty.*

### Reported incidences of sanctions being applied before “good reason” is considered

102. A recurring issue in the evidence was that claimants reported being sanctioned before having the opportunity to present good reason and before having received an official written notification of the decision.<sup>107</sup> CAS was concerned that sanctions applied in these circumstances were indicative of a system in which the claimant is “presumed guilty”.<sup>108</sup> A number of witnesses argued that this went against natural, or administrative, justice.<sup>109</sup>

104 See, for example, Keep Volunteering Voluntary ([SAN0131](#)); Brent Citizens Advice Bureau ([SAN0120](#))

105 Dr David Webster ([SAN0110](#)), footnote 3

106 Keep Volunteering Voluntary ([SAN0131](#)); Trussell Trust ([SAN0127](#))

107 See, for example, One Parent Families Scotland ([SAN0146](#)); Kilburn Unemployed Workers Group ([SAN0095](#))

108 [Q70](#) [Keith Dryburgh]

109 See, for example, Tony Brauer ([SAN0036](#)); Newcastle upon Tyne CAB ([SAN0072](#)); CPAG ([SAN0152](#))

103. The Oakley Review reported that there were cases in which “the first that claimants knew of adverse decisions was when they tried to get their benefit payment out of a cash point but could not.” The review’s recommendation was that: “The Department should work to ensure that, as a general principle, claimants are clearly informed that they will be sanctioned before their benefits are affected.”<sup>110</sup> The recent All-Party Parliamentary Group (APPG) inquiry into Hunger in the UK made a stronger recommendation:

We recommend that the Government make clear in guidance that a sanction decision is only lawful if letters are sent, and can be proven to have been received, to the claimant explaining the reason that a sanction is being imposed (including dates, what the failure was, and why there isn’t good cause), [and] the period the sanction will apply for [...].<sup>111</sup>

Whilst we note the APPG’s rightful concern that organisational justice requires claimants to have full knowledge and understanding of the process to which they are subject, we also note warnings from other witnesses that, in areas of high transience, with significant vulnerable populations, reliance upon written communication is problematic given that postal addresses often become rapidly out-of-date.<sup>112</sup>

104. The Department provided us with a step-by-step description of the JSA sanction decision-making process which stated that “A sanction will not impact on the claimant’s benefit until good reason has been considered and the claimant has been notified of the decision.”<sup>113</sup> However, it also provided us with two separate templates for letters sent to claimants when a doubt about a JSA claim arises, and two different fact-sheets sent to claimants with the letter, depending on the circumstances of the doubt. These clearly indicated that there was a different approach where the doubt had arisen about whether the claimant was “actively seeking employment” or “available for work”. Letters sent in these circumstances stated that:

A doubt has arisen on your claim for Jobseeker’s Allowance as it appears that from <<date range>> <<text>>

- A decision will be made about how this affects your claim for Jobseeker’s Allowance.
- **Until this decision is received Jobseeker’s Allowance cannot be paid under the normal rules**<sup>114</sup> [emphasis added]

The relevant fact-sheet stated that:

If there is a doubt about whether you have been:

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110 [Oakley Review](#), p 11

111 [APPG inquiry into Hunger in the UK](#), p 40

112 See, for example, [Q25](#) [Kirsty McHugh]

113 DWP, JSA Labour Market Conditionality and Decision-Making Process [not published]

114 DWP claimant letter template (ES48) [not published]

- actively looking for work, or
- available for work

we will stop paying your benefit until we decide whether you are entitled to Jobseeker's Allowance.<sup>115</sup>

105. It therefore appeared to be the case that in these circumstances JSA payments were immediately suspended, pending a formal decision. We wanted to know whether this was in fact the case, and whether there was a process by which claimants referred to a Decision Maker for “not actively seeking employment” or not being “available for work” had an opportunity to present good reason before a decision was made and their payment could be affected.

106. Chris Hayes confirmed that there were two different processes for the “two forms of benefit reduction”. If a claimant had, for example, not attended an appointment with a Work Coach, or had failed to carry out a Jobseeker Direction, the claimant was informed in writing that a “doubt” had arisen, and was allowed five days to present good reason, before a referral was made to a Decision Maker. The claimant’s benefit payment would not be affected until a decision was made. The second circumstance was where the doubt had arisen about whether the claimant was “actively seeking employment” or “available for work”. This was typically the result of a discussion between the Work Coach and the claimant, in which the claimant had the opportunity to present good reason as to why they had “not done enough” to find work or “not done what they had said they would do” as part of their Claimant Commitment. If the Work Coach did not accept the claimant’s good reason, a sanction referral was made. By law the claimant’s JSA payment had to be suspended immediately, pending a formal decision, “because they have not met the basic conditions of the benefit.”<sup>116</sup>

107. In its response to the Oakley Review—although not prompted by the Review’s recommendations—the Government stated that it had:

Started development of a new process where advisers identify doubt about whether a claimant has been actively seeking work. This will change the longstanding system where benefit payment is suspended without a decision from a decision maker. Instead we will ensure that a decision is made before benefit payment is stopped. We expect this to take effect from July 2014.<sup>117</sup>

Chris Hayes explained that DWP had implemented a process in which it was now “aiming to clear” this type of decision within two days. In practice this meant that, due to the JSA

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115 JCP notes sheet, [About an availability or actively seeking work doubt on your Jobseeker's Allowance](#) [available via the What Do They Know? website, accessed 26 February 2015]

116 [Oq292-6](#)

117 [Government response to the Oakley Review](#), p 8

payment cycle, a claimant's benefit payment should not be affected prior to the decision being made.<sup>118</sup>

**108. We recommend that the Government confirm the steps it has taken to ensure that suspensions of JSA payments where the JCP Work Coach believes that the claimant has not been “actively seeking employment” do not occur before good reason can be considered, and a decision made, by a Decision Maker detached from the employment support process. DWP should set out the steps it has taken to address this issue, to provide assurance that the newly instituted procedure of making decisions in these circumstances within two days of referral is sufficiently robust to ensure that the decision has in fact been made, and the claimant notified, before the JSA payment is suspended. We also believe that notification should be by either written or telephone communication, depending on the claimant's preferences as previously expressed to JCP staff when signing the Claimant Commitment, or subsequent to this.**

## Legislative framework

109. Welfare rights and advice organisations have noted that, while there have been numerous amending Regulations affecting the JSA sanctioning system, the underpinning primary legislation for JSA sanctions remains section 19 of the Jobseekers Act 1995, which stipulates that claimants must be actively seeking employment and taking “reasonable steps” to find work. Dr Webster's analysis was that: “if you challenge a sanction and go to tribunal, the only matter that the judge will consider is whether you took such steps as were reasonable to help you find employment in your circumstances”.<sup>119</sup>

110. Welfare Rights organisations believed that, while the WRA 2012 had substantially reformed the system of financial penalties, including by creating a new section 19 of the 1995 Act, the categories of sanction remained largely unchanged. Some organisations believed that the potentially much more stringent and detailed conditionality often set out in Claimant Commitments was not currently well defined in legislation.<sup>120</sup>

111. Tony Wilson of Inclusion argued that the legislative framework for benefit sanctions policy ought to be reviewed in the next Parliament. He believed that, particularly given the requirement for legislative changes to fully implement the Oakley Review's recommendations, there was now a “very good opportunity to make the case for a new Act or amendments to the existing Act.”<sup>121</sup>

**112. Given the complexity of the existing legislation, there is a strong case for a review of the underpinning legislative framework for conditionality and sanctions, to ensure that the basis for sanctioning is clearly defined, and safeguards to protect vulnerable groups**

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118 [Q300](#)

119 Castlemilk Law and Money Advice Centre ([SAN0096](#)); Brent Citizens Advice Bureau ([SAN0120](#)); See also, Child Poverty Action Group (CPAG), *Regime change: sanctions and the law on claimants*, October 2012 [accessed 25 February 2015]; [Q52](#) [Dr Webster]

120 Castlemilk Law and Money Advice Centre ([SAN0096](#)); Brent Citizens Advice Bureau ([SAN0120](#))

121 [Q14](#)

*clearly set out. We recommend that the clarity and coherence of the legislative framework for benefit sanctions policy be included in the terms of reference of the full independent review which we have recommended.*

## 6 ESA sanctioning

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113. Employment and Support Allowance (ESA) is a relatively new benefit; it was introduced in 2008 as a replacement for incapacity benefits (IB), for unemployed people with long-term health conditions and disabilities. ESA claimants considered to have “limited capability for work”, but with the capability to undertake “work-related activity” and considered to have a reasonable prospect of being able to work in the future, can be placed in the ESA Work-related Activity Group (ESA WRAG). These claimants are subject to a more limited range of conditionality than JSA claimants—attendance at mandatory work-focused interviews at JCP and/or mandatory participation in the Work Programme.<sup>122</sup>

### Welfare Reform Act 2012: increased financial penalties

114. The monetary value of financial sanctions which can be applied to ESA claimants increased significantly following the WRA 2012. The Act also introduced a system of fixed-period sanctions. Under the previous system ESA WRAG claimants who failed to attend a JCP appointment, or who failed to carry out mandatory work-related activity, could be subject to an open-ended sanction. The sanction amount was 50% of the work-related activity component of their benefit (i.e. around £14 per week), increasing to 100% (£28.15 per week) of the component after four weeks. Under this regime full benefit was reinstated when the claimant recommenced compliance with the conditions.

115. Under the new rules, ESA WRAG claimants who fail to comply can receive the same open-ended sanction of their work-related activity component while they fail to comply, followed by a fixed period sanction once they start to comply again. As in the new JSA regime, ESA sanctions are now escalated for repeat failures. The fixed period sanction is one week for a first failure, two weeks for a second failure and four weeks for third and subsequent failures within a 52 week period. The fixed period sanction applies to the claimant's **entire ESA basic component (£71 per week)**.<sup>123</sup>

### Safeguards to protect ESA claimants from inappropriate conditionality

116. There are extensive safeguards set out in the relevant DWP/JCP guidance to protect ESA claimants from inappropriate conditionality and sanctions. These are designed to ensure that JCP staff take proper account of claimants’ needs and capabilities. The guidance is clear that staff “must take account of all the claimant’s circumstances, including the claimant’s physical or mental health condition.” It also emphasises that staff must make efforts to identify claimants who may have had difficulty in understanding the requirements placed on them. It states that:

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122 For a full description of the ESA assessment process, see, for example, Work and Pensions Committee, First Report of Session 2014–15, [Employment and Support Allowance and Work Capability Assessments](#), HC 302

123 [Employment and Support Allowance \(Sanctions\) \(Amendment\) Regulations 2012](#)

[...] it is particularly important to consider the welfare of claimants who have mental health conditions or learning disabilities, or conditions affecting communication/cognition, for example, stroke or autistic spectrum disorder.<sup>124</sup>

117. Where claimants fail to meet a condition, the guidance is that staff *must* establish whether the claimant had “good cause” for doing so before referring the claimant for a sanction decision. A list of circumstances in which claimants might be considered to have had good cause is set out, including where the claimant:

- Has misunderstood any requirement given to them due to any learning, language or literacy difficulties;
- Has been given misleading information by a member of staff;
- Was attending a medical or dental appointment, or accompanying a person for whom the claimant has caring responsibilities to such an appointment, and it would have been unreasonable for them to rearrange that appointment;
- Had difficulty with their normal mode of transport and there was no reasonable alternative;
- Has established customs and practices of religion, which prevented them from attending at that particular time;
- Was attending an interview for employment;
- Was pursuing an employment opportunity as a self-employed earner;
- Had an accident, sudden illness or relapse in the case of a chronic condition which prevented the claimant from attending on the day;
- Is a person with caring responsibilities and the person for whom care is provided had an accident, sudden illness or relapse in the case of a chronic condition which prevented the claimant from attending on the day/undertaking the WRA [work-related activity];
- Suffered from any disability or health condition, which prevented them from attending on the day / undertaking the WRA; or
- Was attending the funeral of a relative or close friend.<sup>125</sup>

### **Core Visit guidance**

118. Additionally, the guidance states that, where an ESA claimant fails to meet a condition and good cause cannot be established, and where the claimant is considered to be

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124 DWP, ESA Guidance for Jobcentres, chapter 8 [not published]

125 *Ibid.*

particularly vulnerable as a consequence of their health condition (defined as having a mental health condition or learning disability), arrangements *must* be made for DWP staff to visit the claimant at their home.<sup>126</sup> These visits are known as Core Visits, the aim of which, in these circumstances, is to: “ensure the claimant fully understands the requirements placed on them by Jobcentre Plus in satisfying the conditions of entitlement to benefit [before a sanction referral is made]”.<sup>127</sup>

119. Witnesses representing disability organisations acknowledged that the safeguards set out above were extensive. Paul Farmer, Chief Executive of the mental health charity, Mind, described them as “pretty good”.<sup>128</sup> However, representative organisations were concerned that a) the safeguards were not always applied; and b) that they were set out in guidance only, rather than being defined in legislation. There were several examples given in evidence in which the guidance on good cause appeared not to have been followed.<sup>129</sup> Analysis of official sanctions data by Mind demonstrated that ESA claimants with a mental health condition were significantly more likely to receive a sanction than the general ESA claimant population.<sup>130</sup> Paul Farmer reported that he was “not aware of Core Visits being applied at all”.<sup>131</sup>

120. DWP told us that it undertook around 40,000 Core Visits per year.<sup>132</sup> It was unable to tell us how many of these visits resulted in a sanction being applied.<sup>133</sup>

## The extent of ESA sanctioning

121. Witnesses were very concerned about a notable increase in ESA sanctioning since 2013.<sup>134</sup> The number of sanctions applied per month has increased steadily from around 1,000 in early 2013, reaching a peak of 3,828 in September 2014, the latest month for which official statistics are available. In the year to September 2014 there were 38,755 ESA sanctions applied; up from 18,983 in the year to September 2013.<sup>135</sup> This is to some extent related to increasing ESA WRAG caseloads, as more claimants transfer from IB to ESA; however, ESA sanctioning rates (adverse sanction decisions as a percentage of the total ESA WRAG caseload) have also increased, for example from 0.3% in May 2013 to 0.75% (after reconsiderations and appeals) in September 2014.<sup>136</sup>

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126 *Ibid.*

127 JCP Core Visit guidance [not published]

128 [Q39](#)

129 See, for example, Sheffield Citizens Advice and Law Centre ([SAN0126](#)); North Staffordshire Advice Partnership ([SAN0119](#)); Salford Financial Inclusion Practitioner’s Group ([SAN0104](#))

130 Mind ([SAN0106](#))

131 [Q31](#)

132 [Q253](#)

133 DWP (further supplementary evidence) ([SAN0163](#))

134 See, for example, Disability Rights UK ([SAN0099](#)); Inclusion ([SAN0143](#)); Mind ([SAN0106](#));

135 DWP, [Jobseekers Allowance and Employment and Support Allowance Sanctions: Decisions made to June 2014](#), table 2.1

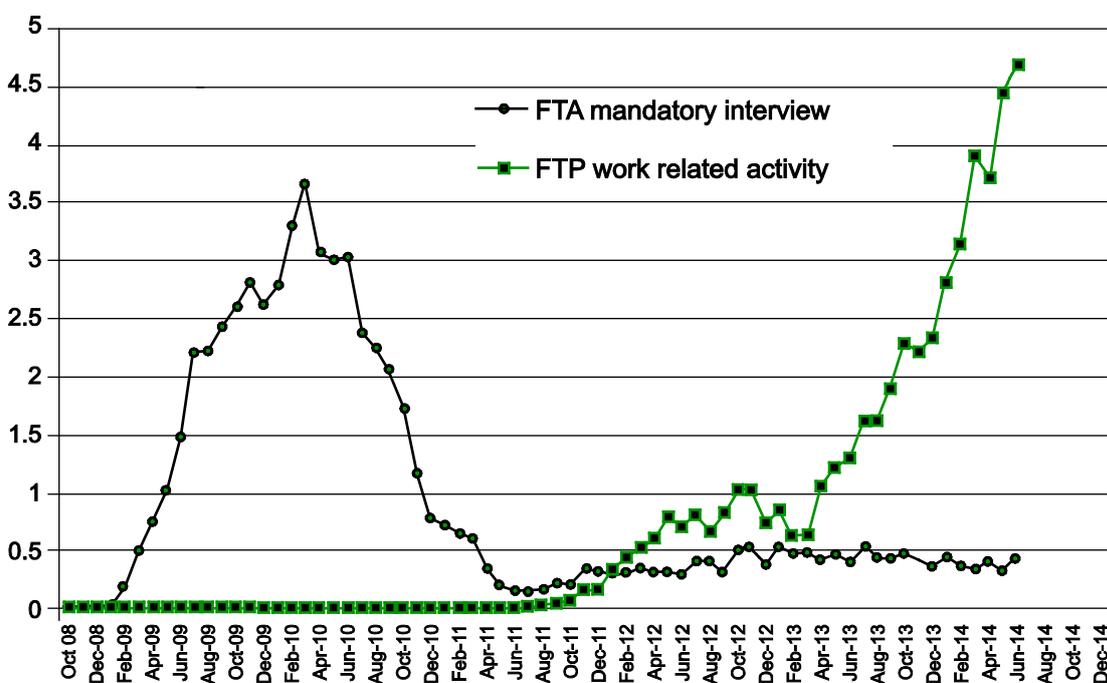
136 *Ibid.*, and [DWP tabulation tool](#) [accessed 18 February 2015]; [Webster, D., Briefing: DWP’s JSA/ESA statistical release, 18 February 2015](#)

122. In oral evidence the Minister said that “ESA sanctions are less in 2014 than they were in 2010–11”.<sup>137</sup> The Department later clarified that the Minister was referring to the average monthly ESA sanctioning rate in 2014 (0.6%) compared to that in 2010–11 (0.72%).<sup>138</sup> It should be noted that in 2010–11 ESA WRAG caseloads were much smaller, and there were almost no mandatory referrals to the Work Programme, which was launched in June 2011 to replace a range of existing programmes.<sup>139</sup> The 2010–11 period can therefore be considered atypical; it does not provide a meaningful comparator.

### Work Programme related ESA sanctions

123. The increase since 2013 in the number and proportion of ESA claimants sanctioned is almost entirely related to claimants’ “failure to participate in work-related activity”—i.e. predominantly non-attendance at mandatory Work Programme appointments:<sup>140</sup>

**Figure 3: Reasons for ESA sanctions, monthly (thousands)**



124. Kirsty McHugh of ERSA acknowledged that the increase was predominantly a consequence of increased ESA referrals to the Work Programme. She told us that because Work Programme performance in relation to ESA claimant groups had been very low in the early years in the Work Programme, there had recently been a renewed focus on ESA claimants, including more mandatory activity, which she believed “might be leading to more sanction doubts being raised.”<sup>141</sup>

137 [Q290](#)

138 DWP (further supplementary evidence) ([SAN0163](#))

139 DWP [tabulation tool](#); DWP, [Work Programme Statistical Release](#), August 2012

140 Dr David Webster ([SAN0110](#)), figure 4 (FTA=failure to attend; FTP=failure to participate)

141 [Q35](#)

125. Other witnesses suggested that Work Programme providers were not sufficiently aware of ESA claimants' health-related needs, or were making "unreasonable demands" on them, and that this was leading to more sanctions.<sup>142</sup> A number of witnesses, including Kirsty McHugh, reported that information gathered from the ESA assessment process was not routinely shared with Work Programme providers.<sup>143</sup> This is an issue on which both we and the independent reviewers of the assessment have made recommendations for change.<sup>144</sup>

126. The Child Poverty Action Group (CPAG) was concerned that, while there was guidance setting out actions Work Programme providers should take to safeguard vulnerable claimants, appropriate protections were not defined in legislation and therefore:

Since the requirement to take safeguarding action is only in guidance and not a requirement of the law, even when such action has not been undertaken, this does not necessarily mean that a sanction can be overturned.<sup>145</sup>

### Balance between ESA conditionality and support

127. Some witnesses were concerned that the relatively poor performance of the Work Programme in relation to ESA claimants indicated that the ESA conditionality regime was not always balanced by effective employment support.<sup>146</sup> We have previously concluded that the payment-by-results model of the Work Programme is not well-suited to providing effective support for people who are furthest from the labour market, including those with long-term health conditions, and therefore require more intensive support.<sup>147</sup> Kirsty McHugh alluded to this issue when she told us that "there is not enough money in the system to meet the needs of people on ESA."<sup>148</sup>

128. It should be noted that while concerns remain about the performance of the Work Programme in relation to ex-IB and other groups of ESA claimants, the Work Programme is now meeting its contractual minimum performance expectations for new ESA claimants.<sup>149</sup> However, Disability Rights UK (DRUK) reported that in general the support available to ESA claimants on the Work Programme was insufficiently specialised. Philip Connolly of DRUK described Work Programme support for claimants with health conditions and disabilities as:

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142 Catherine Hale ([SAN0061](#)); Dr David Webster ([SAN0110](#))

143 [Q20](#) [Kirsty McHugh and Philip Connolly]; CPAG ([SAN0152](#))

144 See [An Independent review of the Work Capability Assessment—year five](#), Dr Paul Litchfield, November 2014, Chapter 2, para 28 and Chapter 5 para 8; and Work and Pensions Committee, First Report of Session 2014-15, [Employment and Support Allowance and Work Capability Assessments](#), HC 302, July 2014, para 136

145 CPAG ([SAN0152](#))

146 See, for example, Disability Rights UK ([SAN0099](#)); Inclusion ([SAN0143](#))

147 Work and Pensions Committee, First Report of Session 2013-14, [Can the Work Programme work for all user groups?](#), HC 162

148 [Q35](#)

149 [Work Programme official statistics](#)

[...] too small, too generic; it is about job-searching or CV writing. It is support that they have frequently had before that may not have made a difference to their prospects in the past, and then they are faced with sanctions.<sup>150</sup>

## Efficacy and impacts of ESA sanctions

129. Some witnesses emphasised a lack of evidence for the efficacy of sanctions in relation to people who are some distance from the labour market and therefore not expected to enter employment in the shorter term.<sup>151</sup> Furthermore, there was strong anecdotal and qualitative evidence of adverse impacts, particularly on health (see chapter 7). Inclusion reported that:

Among ESA claimants, we have found nothing but negative experiences [of sanctions]—claimants with often complex needs, severe health conditions, poor awareness and understanding of the system, and very significant impacts on finances, wellbeing and health.<sup>152</sup>

Tony Wilson of Inclusion argued that “it has got to the point where we should suspend the application of sanctions for people on ESA”, until more effective approaches to employment-related support for this group are developed.<sup>153</sup>

130. The Minister defended the Government’s approach, noting that the ESA system was intended to encourage claimants’ engagement with support designed to bring them closer to the labour market; she emphasised that ESA claimants were “not under any legal obligation to take a job, but they do have to take the steps to get into work.”<sup>154</sup> The Department’s view was that the very high level of compliance—evidenced by fewer than 1% of ESA WRAG claimants being sanctioned each month—indicated that the level of conditionality was appropriate.<sup>155</sup>

## Alternative approaches

131. Some witnesses believed that alternative, voluntary, approaches were more appropriate, and likely to be more effective, particularly for some groups of ESA claimants. There is evidence that voluntary approaches have been relatively effective in the past, for example in the New Deal for Disabled People.<sup>156</sup>

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150 [Q38](#)

151 See, for example, Mind ([SAN0106](#)); Inclusion ([SAN0143](#))

152 Inclusion ([SAN0143](#))

153 [Q36](#)

154 [Q327](#)

155 See, for example, [Q207](#) [Chris Hayes]

156 [Q40](#) (Paul Farmer); [Q46](#) [Dr Webster]; ERSA ([SAN0145](#)); See also, DWP, *New Deal for Disabled People: Third synthesis report—key findings from the evaluation*, Research Report No. 340, 2007 [available via University of York website, accessed 25 February 2015]

132. Paul Farmer advocated approaches which employed an Individual Placement and Support (IPS) model for people with more severe mental health conditions, such as depression, bi-polar disorder and schizophrenia. IPS models integrate employment services with mental health treatment services. They operate on an entirely voluntary basis. Mr Farmer reported that IPS programmes had been jointly delivered by local authorities and Mental Health Trusts to good effect—employment rates were around 20–25%.<sup>157</sup>

133. In July 2013 the Department announced pilots of new approaches to employment support for ESA WRAG claimants, to evaluate the comparative effectiveness of support delivered via: healthcare professionals; JCP; and specialist Work Programme providers. These pilots are due to run until 2016.<sup>158</sup> The Minister for Disabled People recently said that DWP was piloting “a number of innovative approaches to employment support for those with mental health conditions.”<sup>159</sup>

*134. The very large majority of ESA sanctions relate to claimants’ failures to attend or participate in the Work Programme. This reason accounts for almost all of the notable increase in ESA sanctioning which has occurred since 2013. While the performance of the Work Programme has improved significantly after a poor start, and is now meeting minimum contractual performance expectations for new ESA claimants, there remains widespread concern, including from contracted providers, that the Work Programme does not yet provide sufficiently specialised and effective support for ESA claimants who are some distance from the labour market. We therefore believe there is a risk that ESA conditionality is still not properly balanced by effective employment support. We recommend that DWP review ESA sanctioning in relation to the Work Programme, accelerating development of more effective support for this group, and prioritising the updating of regulations early in the next Parliament, to empower Work Programme providers to be able to accept “good cause”. We call upon DWP also to review the programme of Core Visits as soon as possible, to clarify what changes to conditionality and the application of sanctions occur as a consequence of such Core Visits.*

*135. There is a lack of evidence for the efficacy of financial sanctions in moving claimants with long-term health conditions and disabilities closer to employment or into work. There is some evidence that voluntary approaches are more appropriate and effective. We welcome DWP’s commitment to testing alternative approaches, particularly for ESA claimants with mental health conditions. We recommend that the Department include voluntary approaches in its pilots, including the Individual Placement with Support model. DWP should test and evaluate these new approaches, and publish its findings, prior to the re-letting of Work Programme contracts in 2017. DWP should also test alternative, non-financial models of conditionality for vulnerable groups. In particular, it should review the situation of claimants with co-morbidities, to ensure that there are no*

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157 [Q40](#)

158 “[Help for people on sickness benefits to address barriers to work](#)”, DWP press release, 8 July 2013

159 HC Deb, 26 January 2015, [col. 547](#)

*perverse unintended consequences in applying non-financial models to particular vulnerable groups of claimants.*

## 7 Mitigating the risks of severe financial hardship and associated health impacts

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136. A number of reports, including the 2008 Gregg Review of benefit conditionality for the last Labour government and the Oakley Review, have emphasised that in order to be effective any system of benefit sanctions must be proportionate and mitigate the risks of severe financial hardship.<sup>160</sup> In this chapter we examine the system currently in place to mitigate the risks of benefit sanctions leading to severe financial hardship, food poverty and associated health impacts.

### Link with food poverty

137. As noted in the introduction to this Report, we previously drew attention to largely qualitative evidence that benefit sanctions were a significant contributory factor to a recent rise in referrals to voluntary sector food aid. In January 2014 we recommended that:

[...] DWP take urgent steps to monitor the extent of financial hardship caused by benefit sanctions, including by collecting, collating and publishing data on the number of claimants "signposted" to food aid by Jobcentres and the reasons for claimants' need for assistance in these cases.<sup>161</sup>

In its response to our Report the Department stated that it would “continue to monitor sanctions policy on an on-going basis and collect customer feedback wherever appropriate”; however, it rejected our recommendation because, “The use of food banks is not exclusive to benefit claimants and Jobcentres have no part in deciding whether support is provided.”<sup>162</sup>

138. A number of more recent reports have concluded that there is likely to be a causal link between benefit sanctions and food poverty; although it should be noted that there are considerable difficulties in disentangling the impacts of sanctions from the range of benefit-related issues and, in the absence of any official statistics, much of the data on food bank use relies on self-reporting of the reasons for referrals.

139. A November 2014 joint report by CPAG, the Church of England, Oxfam GB and The Trussell Trust, which runs a national network of food banks, set out the findings of research undertaken in 2013-14. The research project examined “why people are turning to food banks, how food bank use fits with their wider coping strategies, and what might be done to reduce the need that leads to food bank use.” It consisted of in-depth interviews

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<sup>160</sup> Gregg, P, *Realising Potential: A Vision for Personalised Conditionality and Support*, 2008; [Oakley Review](#), pp 5–6

<sup>161</sup> [JCP Report](#), para 97

<sup>162</sup> Work and Pensions Committee, Third Special Report of Session 2013–14, [Role of Jobcentre Plus in the reformed welfare system: Government Response to the Committee's Second Report of Session 2013–14](#), HC 1210

with 40 food bank users at seven locations in The Trussell Trust’s network; collection of additional administrative data from over 900 food bank users, “capturing further detail on the demographic profile of food bank users and their reasons for referral”; and in-depth caseload analysis by a CPAG welfare rights adviser based at Tower Hamlets Foodbank. It reported that sanctions “featured strongly” in the in-depth interviews about participants’ given reasons for food bank use. Administrative data indicated that around 20–30% of food bank users were subject to a benefit sanction, with variations in rates across the country (19% in Tower Hamlets; 23% in Epsom and Ewell; and 28% in County Durham, for example).<sup>163</sup> The APPG on Hunger in the UK came to similar conclusions; it found that “between one sixth and one quarter of food bank referrals may result directly from the application of sanctions.”<sup>164</sup>

140. It should however be noted that the Oakley Review stated that “the existing evidence [...] suggests that claimants can lack understanding of when a sanction has been applied”. It cited an evaluation of Jobcentre Plus which found that, while 28% of claimants said that their benefit had been stopped or reduced, the administrative data showed that only 11% had actually received a sanction; and, in contrast, that only half of those recorded in administrative data as having been sanctioned confirmed in the survey that their benefit had been stopped or reduced. It also cited earlier research which highlighted “poor claimant understanding of exactly how much their usual benefit payment should be”, which resulted in claimants having difficulty in assessing when a sanction had been imposed.<sup>165</sup>

***141. We note with concern claimants’ uncertainty over whether a sanction has been applied which, as the Oakley Review highlighted, has arisen in large part because of poor communication from DWP. Such confusion can often feed through to self-reported statistics about the role benefit sanctions may play in the requirement for emergency food aid, potentially leading to false conclusions being drawn. We recommend that DWP carry out further work with the Behavioural Insights Unit to ensure that claimants understand their position within the benefits system, their underlying entitlements and, when changes to their benefit payments occur, what the reasons are for this.***

## Hardship payments

142. DWP administers a system of discretionary hardship payments, which are payable to claimants subject to a benefit sanction, where the claimant can demonstrate that they would be at risk of severe hardship—to the extent of being unable to afford essential items such as food, clothing, heating and accommodation—if no payment were made. Discretionary JSA and ESA hardship payments are non-recoverable.

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163 CPAG/Church of England/Oxfam/Trussell Trust, [Emergency Use Only: Understanding and reducing the use of food banks in the UK](#), November 2014

164 Report of the All-Party Parliamentary Inquiry into Hunger in the United Kingdom, [Feeding Britain: A strategy for zero hunger in England, Wales, Scotland and Northern Ireland](#), December 2014; See also, submission from Co-Chairs of the APPG ([SAN0113](#))

165 [Oakley Review](#), p 32

### **JSA hardship payments**

143. JSA hardship payments are 60% of the claimant's JSA personal allowance, or 80% where the claimant, or a member of their household, is pregnant or "seriously ill".<sup>166</sup> They are typically payable from the **15<sup>th</sup> day of a benefit sanction period**. Where the claimant can prove that they are at risk of severe hardship *and* that they are a member of a vulnerable group, they may receive hardship payments from day one of a sanction period. Vulnerable groups are defined as follows:

- Pregnant claimants and their partners;
- Those with responsibility for a child under the age of 16;
- Where the JSA payment includes a disability premium;
- Where the claimant, or their partner, has a chronic medical condition;
- Where the Claimant, or their partner, is caring for someone who receives: Attendance Allowance; Disability Living Allowance care component at middle or higher rate; or either rate of Personal Independence Payment daily living component;
- 16–17 year olds; and
- Those under 21 years old who were being cared for by a local authority within the last three years.

### **ESA hardship payments**

144. Where ESA claimants are subject to a sanction, and they can prove that they are at risk of severe financial hardship, as defined above, hardship payments of 60% of the ESA personal allowance are payable from day one of a sanction period.<sup>167</sup>

### **Adequacy of the hardship payment system**

145. Many witnesses were concerned that standard JSA hardship payments were not payable until day 15 of a sanction period.<sup>168</sup> Chris Mould, Chairman of the The Trussell Trust, told us that "it is very difficult to feed yourself and your family with no money over that two week period."<sup>169</sup> Some witnesses pointed out that this was particularly the case where claimants were already struggling financially, before a sanction was applied.<sup>170</sup> A number of witnesses also reported that awareness of the availability of hardship payments

166 DWP ([SAN0142](#))

167 For a full description of the hardship payment system, see CPAG, *Welfare benefit and tax credits handbook*, chapter 55

168 St Mungo's Broadway ([SAN0097](#)); CPAG ([SAN0152](#)); Sheffield Citizens Advice and Law Centre ([SAN0126](#)); Derbyshire Unemployed Workers Centres ([SAN0017](#))

169 [Q68](#)

170 See, for example, Scottish Unemployed Workers Network ([SAN0071](#)); Dr David Webster ([SAN0110](#)); Sheffield Citizens Advice and Law Centre ([SAN0126](#))

was low. Some believed that hardship payments were not widely advertised by DWP.<sup>171</sup> Witnesses also told us that the process for applying for hardship payments was onerous and might deter more vulnerable claimants from applying.<sup>172</sup> Alison Garnham of CPAG said that “in order to get one, you have to attend in person at a Jobcentre Plus office and fill in a 10-page form.”<sup>173</sup> One advice service reported that it had taken “a number of weeks” to secure a hardship payment for a homeless claimant.<sup>174</sup>

146. The Department emphasised that it had recently taken a number of actions to improve the hardship payment system, partly in response to the Oakley Review. The letter templates and examples of fact-sheets which DWP provided all mentioned the availability of hardship payments, and the fact-sheets included information on how to apply. The Department stated:

We have improved the hardship payment process so that no one is sanctioned without being told about hardship payments. We have sped up the hardship payments process across our Contact Centres, Jobcentres and Benefit Processing sites to ensure claimants receive payment within three days of representation, where appropriate. This commenced on 14 July 2014.<sup>175</sup>

### ***Hardship payments within Universal Credit***

147. DWP confirmed that hardship payments are available to sanctioned Universal Credit claimants, who “can apply [...] as soon as they receive a reduced payment”. It also confirmed that “where possible” the hardship payment is made “on the day the application is accepted.”<sup>176</sup> However, a number of witnesses were concerned that, unlike JSA and ESA hardship payments, DWP can in some circumstances recover Universal Credit hardship payments once the sanction period has ended, by deducting amounts from future benefit payments, subject to some exceptions.<sup>177</sup> Witnesses were concerned that this was likely to exacerbate claimants’ existing financial problems.<sup>178</sup>

### ***Official data on hardship payments***

148. DWP told us that the “vast majority” of claimants who apply for hardship payments receive them, but there is no up to date official data on the number of applications or payments made, or on the number or proportion of hardship payments made to vulnerable

171 Shaw Trust ([SAN0144](#)); Derbyshire County Council ([SAN0111](#)); Preston Learning Disabilities Forum ([SAN0094](#)); Portsmouth Citizens Advice Bureau ([SAN0083](#)); Newcastle City Council ([SAN0079](#)); Scottish Unemployed Workers Network ([SAN0071](#))

172 Single Homeless Project ([SAN0112](#)); Preston Learning Disabilities Forum ([SAN0094](#)); Mencap ([SAN0037](#))

173 [Q101](#)

174 Caritas Social Action Network ([SAN0091](#))

175 DWP ([SAN0142](#))

176 DWP (further supplementary evidence) ([SAN0163](#))

177 See Citizens Advice, [Universal Credit hardship payments](#) [accessed 27 February 2015]

178 Gingerbread ([SAN0115](#)); Derbyshire County Council ([SAN0111](#)); Boycott Workfare ([SAN0087](#))

claimants, from day one of a sanction period.<sup>179</sup> In response to a recent Parliamentary Question about the number of hardship payments made to sanctioned benefit claimants, the Department set out figures for 2010-11, which showed that 64,000 payments were granted.<sup>180</sup> The Department told us that it was not able to provide more recent statistics, as it was currently “validating the figures”. It was not able to confirm when more up to date information would be published.<sup>181</sup> After our inquiry had concluded the Minister stated that DWP intends to publish updated figures in May 2015.<sup>182</sup>

**149. The improvements DWP has made to its systems and communications should ensure that all claimants are aware of the potential availability of hardship payments, and have sped up the hardship payment application and decision-making process. Despite this some people who would qualify are still not applying for a variety of reasons. Furthermore, there is widespread concern that DWP’s system of discretionary hardship payments does not prevent severe financial hardship in all cases, often because JSA hardship payments are not typically available until the 15th day of a sanction period. We believe that changes to the system are required to ensure that the risks of severe financial hardship are more comprehensively mitigated. There should also be signposting for, and access to, welfare advice support.**

*150. We recommend that DWP make hardship payments available from day one of a sanction period in all cases, including JSA. We further recommend that, where the claimant has dependent children or is a member of a vulnerable group, the hardship payment decision-making process be instigated by DWP Decision Makers, and coordinated with the decision on the sanction referral itself, regardless of whether the claimant has proactively applied for a hardship payment. The fact that in January 2015 the most recent data on hardship payments were from 2010–11, and those data were only made available in response to a Parliamentary Question, is highly regrettable, particularly given that this has been a period of significant change in the sanctions regime. It should not take four years to gather and validate such data. We therefore also recommend that DWP publish, on at least an annual basis, official data on the number of applications for hardship payments made by sanctioned claimants; the number of hardship payments made; and the number which were made on day one of a sanction period.*

## **Adverse health impacts of sanctioning**

151. Dr Kayleigh Garthwaite described findings from the University of Durham’s recent ethnographic study of food bank users in Stockton-On-Tees. The study found that people using food banks were “likely to be living with already fairly long-term financial problems [...]” Where people in these situations were sanctioned, “these problems are aggravated

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179 DWP ([SAN0142](#))

180 Written Answer ([220640](#)), 21 January 2015

181 [Qq259–63](#)

182 Written Answer ([226126](#)), 6 March 2015

further”. A number of people in this situation in Stockton were “going without sufficient food [...] to maintain their health.” Dr Garthwaite emphasised that there was evidence that both physical and mental health were adversely affected by benefit sanctions.<sup>183</sup>

### **DWP “peer reviews” of benefit-related deaths**

152. Concern has been expressed in the media and elsewhere, linking sanctions and other benefit-related problems to the deaths of a number of claimants.<sup>184</sup> It has previously been reported that DWP has carried out “60 peer reviews following the death of a customer” since February 2012.<sup>185</sup> DWP guidance states that “peer reviews”—internal reviews of “whether [DWP’s] local and national standards have been followed or need to be revised/improved”—must be carried out where “suicide is associated with DWP activity”. Peer reviews may also be conducted where complaints have been made about DWP’s treatment of vulnerable claimants, or those with complex needs.<sup>186</sup>

153. DWP confirmed that it had conducted 49 peer reviews of cases involving the death of a claimant, but the Minister was not able to specify in how many a benefit sanction was involved. It was recently reported that 40 of the 49 cases involved a suicide.<sup>187</sup> Chris Hayes said:

[...] we would look very carefully at any case of this severity to make sure that all the procedures were followed. Directly relating sanctions to someone’s death is quite a big leap of logic, because these cases are people who are in very severe and vulnerable conditions and the circumstances have a number of causes. We need to make sure we have systems to protect vulnerable people, both in terms of providing hardship [payments], where that is appropriate, but also in terms of setting the right sorts of conditions and providing the right sort of care [...].<sup>188</sup>

He told us that DWP had found “no particular case” in which a “benefit sanction alone” had directly led to the death of a benefit claimant.<sup>189</sup> A recent DWP Freedom of Information response stated that 33 of the 49 peer review cases resulted in recommendations for consideration at either national or local level.<sup>190</sup>

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183 Dr Kayleigh Garthwaite and Professor Clare Bamba, University of Durham ([SAN0011](#)); [Qq 122–5](#) [Dr Garthwaite]

184 See for example, *The Guardian*, [3 August 2014](#); *New Statesman*, [4 February 2015](#). One written submission also dealt specifically with these issues: Gill Thompson ([SAN0047](#)).

185 See, for example, *Disability News Service*, [14 November 2014](#)

186 DWP Freedom of Information release, [VTR18](#), 19 February 2015 [available via the What Do They Know? website, Accessed 27 February 2015]

187 Channel 4 *Dispatches* TV programme, 2 March 2015

188 [Q244](#)

189 [Q255](#)

190 DWP Freedom of Information response, [VTR 18](#), 19 February 2015 [available via the What Do They Know? website, accessed 24 February 2015]

154. *It is right that the Department investigates all deaths of claimants resulting from suicide, and other deaths of vulnerable claimants with complex needs, through a system of “peer reviews”. We fully appreciate that in such cases there are likely to be multiple and complex factors involved. We understand that DWP has undertaken 49 peer reviews since February 2012, and that in 33 cases these resulted in recommendations for consideration at either national or local level. We ask that the Department set out the number of peer review cases where the claimant was subject to a benefit sanction at the time of death and the results of any such reviews in terms of policy changes. In addition, DWP should seek to establish a body modelled on the Independent Police Complaints Commission, to conduct reviews, at the request of relatives, or automatically where no living relative remains, in all instances where an individual on an out-of-work working-age benefit dies whilst in receipt of that benefit. Such a model, operated within the purview of the Parliamentary and Health Service Ombudsman, should ensure that the role of all publicly-funded agencies involved in the provision of services or benefits to the individual is scrutinised, so that a learning document can be produced setting out how policy, and the service delivery pathway, can be improved at every stage.*

## Conclusions and recommendations

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In this list, conclusions are set out in plain type and recommendations, to which the Government is required to respond, are set out in *italic type*.

### Call for an independent review

1. *We recommend that DWP commission a broad independent review of benefit conditionality and sanctions, to investigate whether sanctions are being applied appropriately, fairly and proportionately, in accordance with the relevant Regulations and guidance, across the Jobcentre Plus network. This review should be established and report as soon as is practicable in the next Parliament. (Paragraph 9)*

### Information and communications

2. We welcome DWP's acceptance of the Oakley Review's findings, and the steps that it has taken towards implementation of the Review's recommendations. In particular, we welcome changes made to improve the clarity of letters to claimants and to provide clearer information on the benefit sanctions system to claimants of all out-of-work benefits. We believe that a continued focus on the clarity of sanctions-related communications and information will go some way towards improving claimants' understanding of their obligations and the sanctioning process. But we recognise that communication and information is only one aspect of the sanctions regime that needs to be addressed, and does not address concerns about sanctions implementation and a target-driven culture. (Paragraph 22)

### Providers' ability to accept "good reason"

3. *We accept that allowing contracted Work Programme providers formally to accept "good reason" for a claimant not fulfilling a benefit condition will require both legislative change and contractual negotiations. However, we believe that DWP should take more urgent steps to ensure that a more common-sense approach is set out in guidance. We recommend that DWP's guidance to contracted providers makes clear that discretion can be applied where providers' staff are confident that a claimant's failure to meet a mandatory condition was due to extenuating circumstances beyond the claimant's control. We further recommend that negotiations with Work Programme prime providers, ahead of the re-letting of prime contracts in 2017, prioritise the development of a more flexible approach to "mandation". (Paragraph 29)*

### Pre-sanction written warnings and non-financial sanctions

4. *We note that the Department considers that piloting of pre-sanction written warnings and non-financial sanctions for first-time Work Programme failures where the claimant has a previously good record of compliance with benefit conditionality would require legislative change. We believe that there would be considerable value in piloting these approaches urgently; we therefore urge DWP either to reconsider its position, and conduct small scale pilots prior to making legislative changes, or to bring forward the*

*necessary secondary legislation, and conduct the pilots, as soon as is practicable in the next Parliament. We also recommend that DWP pilot pre-sanction written warnings and non-financial sanctions in relation to claimants' first-time failures within the Jobcentre Plus conditionality system. (Paragraph 33)*

### Impact of sanctions on Housing Benefit

5. *We recommend that DWP clarify, in its response to this Report: the extent to which Housing Benefit payments have been incorrectly impacted by Jobseekers Allowance sanctions, as identified by the Oakley Review; the steps it has taken—beyond advising claimants themselves to inform their local authority when they are sanctioned—to address the issue; and whether robust systems are now in place to ensure that the issue no longer arises. (Paragraph 38)*

### Helping claimants to comply

6. *We agree that benefit conditionality is appropriate and necessary but reiterate our view that it is important that conditionality is balanced by effective employment advice and support for claimants. We recommend that DWP ensure that the relevant guidance to JCP Work Coaches includes that sanctioned claimants should be offered additional, tailored support, to help them meet their benefit conditions and improve their employment prospects, including attending a specific meeting after a sanction has been applied to discuss how to improve compliance and ensure that the Claimant Commitment fairly reflects the individual's needs and abilities. (Paragraph 51)*

### In-work conditionality

7. *We recommend that the Government does not proceed with in-work sanctions beyond the existing pilots until robust evidence is available from the pilots to demonstrate that in-work conditionality can be effectively applied. (Paragraph 56)*

### Evaluating the Welfare Reform Act 2012 changes

8. *There is evidence that active and conditional unemployment benefit regimes, in which financial sanctions play a part, are relatively effective, but there is very limited evidence, from the UK or overseas, on the relative impacts of the three parts of the overall approach: the benefit conditions themselves; the accompanying employment support; and the application, or deterrent threat, of financial sanctions. We accept that any sanctions regime must be “credible” if it is to influence claimant behaviour; however, it is not possible from the available evidence to come to a view on the relative efficacy and impacts of longer minimum sanction periods compared to shorter ones. We believe that it is important that the Government conduct evaluations to enhance the evidence base in this policy area, to demonstrate that the use of sanctions is not purely punitive. (Paragraph 59)*
9. *We recommend that DWP evaluate, by testing different approaches, the relative impacts on movements off out-of-work benefits and into work of: benefit conditions themselves; the level of accompanying employment support; and the application, or deterrent threat, of financial sanctions. We further recommend that DWP evaluate the*

*efficacy and impacts of four-week minimum sanction periods, as introduced following the Welfare Reform Act 2012, compared to minimum sanction periods of one week. (Paragraph 60)*

### Monitoring the destinations of sanctioned claimants

10. *Recently published research emphasises the importance of developing more effective systems for monitoring the destinations of claimants leaving benefit in general and, in particular, the destinations of claimants leaving benefit following a sanction. The introduction of Universal Credit affords the Department considerable opportunities to develop new and more effective systems. We recommend that DWP develop systems, using RTI data, to track shorter and longer term employment outcomes and earnings progress for sanctioned benefit claimants within Universal Credit, as part of its ongoing evaluation of the efficacy and impacts of benefit sanctions policy. (Paragraph 66)*

### Setting appropriate JSA job-searching conditions

11. *We recommend that DWP's evaluation of the Claimant Commitment includes an assessment of: whether claimants are fully involved in the process of developing a suitable job-searching strategy and in setting realistic and achievable targets; and whether reasonable conditions are being set for all groups of JSA claimants, including those with physical and mental health conditions, learning disabilities and caring responsibilities. We also believe that more than another year before the findings of this evaluation are published is too long a wait for an assessment of new benefit conditions affecting so many claimants. We therefore further recommend that DWP expedite its evaluation and publish initial findings as early as possible in the next Parliament, and certainly before the end of 2015. We believe that there is a specific need to review whether the conditionality applied to those claiming JSA while a decision on ESA eligibility is being reconsidered or appealed should be altered to reflect this, and the individual's specific circumstances. (Paragraph 74)*
12. *DWP's new Vulnerability Guidance is a welcome step forward in trying to more routinely identify claimants who are vulnerable and require support to "enable them to access DWP benefits and services". However, we are concerned that, while the guidance we have seen is a good, general purpose document, which includes helpful definitions of what might constitute vulnerability, it does not give clear guidance on the level of support vulnerable groups would need in order to fulfil their benefit conditionality. There remains a danger that some vulnerable individuals are being "set up to fail". (Paragraph 79)*
13. *We recommend that DWP, drawing on specialist advice from health experts, develop guidance on vulnerability which is specifically intended to assist JCP staff in identifying vulnerable JSA claimants, including those with mental health problems and learning disabilities, who may face difficulties in understanding and/or complying with benefit conditionality. This guidance should include examples or case studies to illustrate how conditionality can be tailored in a range of circumstances. We further recommend that the Department amalgamate this guidance into the broader Claimant Commitment*

*guidance, so that it becomes part of the routine process of developing appropriate and tailored JSA conditionality. (Paragraph 80)*

### Use of Jobseeker Directions

14. *We note the concern expressed by some witnesses that use of Jobseeker Directions has increased in some JCP offices in recent years. While we appreciate that there may be circumstances in which it might be appropriate for JCP staff to mandate a JSA claimant to undertake a very specific type of work-related activity, such as particular skills training, it is not immediately clear why such activities could not invariably be included in Claimant Commitments. Intuitively we would expect there to be minimal, if any, use made of Jobseeker Directions, as the Claimant Commitment becomes more firmly established. We recommend that DWP's evaluation of the Claimant Commitment include an assessment of the appropriate use of Jobseeker Directions and their interaction with the Claimant Commitment process. (Paragraph 84)*

### Single parent conditionality

15. *There is evidence that single parent JSA claimants are more likely to receive a non-adverse JSA sanction decision than the general JSA claimant population. Whilst not necessarily causing individual financial hardship, it should be recognised that the raising of a "doubt" in itself can cause distress. Notwithstanding the fact that many do successfully offer "good reason", there may still be some claimants who experience an adverse decision if they are not enabled and encouraged to offer "good reason". We also note concern from those representing single parents that claimants and JCP Work Coaches may be insufficiently aware of the statutory flexibilities designed to protect single parents from inappropriate conditionality, and that this may be leading to unnecessary sanction referrals which are subsequently overturned by Decision Makers. (Paragraph 87)*
16. *We recommend that DWP increase training for JCP Work Coaches on the regulatory flexibilities which should be applied to the benefit conditions of single parent JSA claimants. We also recommend that DWP produce a straightforward, plain English guide to the flexibilities, which should be given to all single parent JSA claimants. We further recommend that DWP review the regulatory flexibilities afforded to single parent Universal Credit claimants, with a view to ensuring that they are offered the same level of protection from inappropriate conditionality and sanctioning as JSA claimants. (Paragraph 88)*

### Testing a more targeted approach to conditionality and sanctioning

17. *Employment services professionals believe that strict conditionality, backed up by financial sanctions, is necessary in only a small minority of circumstances, in particular where claimants have a history of poor engagement with employment support, and where their lack of engagement is "motivational or attitudinal". If the intention of sanctioning is to change behaviour, we believe that it is important to identify and focus on those claimants whose attitudes towards job-seeking and work the Department seeks to change. We believe that an effective targeted approach to strict*

*conditionality, which focuses on this group of claimants, would have the benefit of protecting more determined jobseekers, and the vulnerable, from inappropriate, and potentially counter-productive, sanctions. We recommend that DWP draw on its 2011 research into the attitudes of unemployed people towards job-seeking and work, and consider whether its insights could inform a more targeted approach to benefit conditionality and sanctioning. We recommend that DWP establish a small-scale pilot to test the efficacy of a targeted approach based on segmentation of claimants by their attitudes and motivations. (Paragraph 93)*

### Categories of JSA “sanction”

18. *We recommend that DWP make a clear distinction—in its processes, its communications with claimants, and in the official data—between claimants who are not meeting the underlying conditions of entitlement, in particular those who are genuinely “not actively seeking employment” and may therefore be abusing the system, and those who have not fully complied with the precise terms of a Claimant Commitment. At the moment, both receive the same penalty. (Paragraph 101)*
19. *We recommend that the Government confirm the steps it has taken to ensure that suspensions of JSA payments where the JCP Work Coach believes that the claimant has not been “actively seeking employment” do not occur before good reason can be considered, and a decision made, by a Decision Maker detached from the employment support process. DWP should set out the steps it has taken to address this issue, to provide assurance that the newly instituted procedure of making decisions in these circumstances within two days of referral is sufficiently robust to ensure that the decision has in fact been made, and the claimant notified, before the JSA payment is suspended. We also believe that notification should be by either written or telephone communication, depending on the claimant’s preferences as previously expressed to JCP staff when signing the Claimant Commitment, or subsequent to this. (Paragraph 108)*

### Review of the legislative framework for sanctioning

20. *Given the complexity of the existing legislation, there is a strong case for a review of the underpinning legislative framework for conditionality and sanctions, to ensure that the basis for sanctioning is clearly defined, and safeguards to protect vulnerable groups clearly set out. We recommend that the clarity and coherence of the legislative framework for benefit sanctions policy be included in the terms of reference of the full independent review which we have recommended. (Paragraph 112)*

### ESA sanctioning

21. *The very large majority of ESA sanctions relate to claimants’ failures to attend or participate in the Work Programme. This reason accounts for almost all of the notable increase in ESA sanctioning which has occurred since 2013. While the performance of the Work Programme has improved significantly after a poor start, and is now meeting minimum contractual performance expectations for new ESA claimants, there remains*

widespread concern, including from contracted providers, that the Work Programme does not yet provide sufficiently specialised and effective support for ESA claimants who are some distance from the labour market. We therefore believe there is a risk that ESA conditionality is still not properly balanced by effective employment support. We recommend that DWP review ESA sanctioning in relation to the Work Programme, accelerating development of more effective support for this group, and prioritising the updating of regulations early in the next Parliament, to empower Work Programme providers to be able to accept “good cause”. We call upon DWP also to review the programme of Core Visits as soon as possible, to clarify what changes to conditionality and the application of sanctions occur as a consequence of such Core Visits. (Paragraph 134)

22. *There is a lack of evidence for the efficacy of financial sanctions in moving claimants with long-term health conditions and disabilities closer to employment or into work. There is some evidence that voluntary approaches are more appropriate and effective. We welcome DWP’s commitment to testing alternative approaches, particularly for ESA claimants with mental health conditions. We recommend that the Department include voluntary approaches in its pilots, including the Individual Placement with Support model. DWP should test and evaluate these new approaches, and publish its findings, prior to the re-letting of Work Programme contracts in 2017. DWP should also test alternative, non-financial models of conditionality for vulnerable groups. In particular, it should review the situation of claimants with co-morbidities, to ensure that there are no perverse unintended consequences in applying non-financial models to particular vulnerable groups of claimants. (Paragraph 135)*

### Further improving communication with claimants

23. *We note with concern claimants’ uncertainty over whether a sanction has been applied which, as the Oakley Review highlighted, has arisen in large part because of poor communication from DWP. Such confusion can often feed through to self-reported statistics about the role benefit sanctions may play in the requirement for emergency food aid, potentially leading to false conclusions being drawn. We recommend that DWP carry out further work with the Behavioural Insights Unit to ensure that claimants understand their position within the benefits system, their underlying entitlements and, when changes to their benefit payments occur, what the reasons are for this. (Paragraph 141)*

### Hardship payments

24. *The improvements DWP has made to its systems and communications should ensure that all claimants are aware of the potential availability of hardship payments, and have sped up the hardship payment application and decision-making process. Despite this some people who would qualify are still not applying for a variety of reasons. Furthermore, there is widespread concern that DWP’s system of discretionary hardship payments does not prevent severe financial hardship in all cases, often because JSA hardship payments are not typically available until the 15th day of a sanction period. We believe that changes to the system are required to*

ensure that the risks of severe financial hardship are more comprehensively mitigated. There should also be signposting for, and access to, welfare advice support. (Paragraph 149)

25. *We recommend that DWP make hardship payments available from day one of a sanction period in all cases, including JSA. We further recommend that, where the claimant has dependent children or is a member of a vulnerable group, the hardship payment decision-making process be instigated by DWP Decision Makers, and coordinated with the decision on the sanction referral itself, regardless of whether the claimant has proactively applied for a hardship payment. The fact that in January 2015 the most recent data on hardship payments were from 2010–11, and those data were only made available in response to a Parliamentary Question, is highly regrettable, particularly given that this has been a period of significant change in the sanctions regime. It should not take four years to gather and validate such data. We therefore also recommend that DWP publish, on at least an annual basis, official data on the number of applications for hardship payments made by sanctioned claimants; the number of hardship payments made; and the number which were made on day one of a sanction period.* (Paragraph 150)

### Investigating deaths of benefit claimants

26. *It is right that the Department investigates all deaths of claimants resulting from suicide, and other deaths of vulnerable claimants with complex needs, through a system of “peer reviews”. We fully appreciate that in such cases there are likely to be multiple and complex factors involved. We understand that DWP has undertaken 49 peer reviews since February 2012, and that in 33 cases these resulted in recommendations for consideration at either national or local level. We ask that the Department set out the number of peer review cases where the claimant was subject to a benefit sanction at the time of death and the results of any such reviews in terms of policy changes. In addition, DWP should seek to establish a body modelled on the Independent Police Complaints Commission, to conduct reviews, at the request of relatives, or automatically where no living relative remains, in all instances where an individual on an out-of-work working-age benefit dies whilst in receipt of that benefit. Such a model, operated within the purview of the Parliamentary and Health Service Ombudsman, should ensure that the role of all publicly-funded agencies involved in the provision of services or benefits to the individual is scrutinised, so that a learning document can be produced setting out how policy, and the service delivery pathway, can be improved at every stage.* (Paragraph 154)

# Formal Minutes

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**Wednesday 18 March 2015**

Members present:

Dame Anne Begg, in the Chair

Debbie Abrahams  
Sheila Gilmore  
Glenda Jackson  
Paul Maynard

Nigel Mills  
Anne Marie Morris  
Teresa Pearce

Draft report (*Benefit sanctions policy beyond the Oakley Review*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 154 read and agreed to.

Summary agreed to.

*Resolved*, That the Report be the Fifth Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[The Committee adjourned.]

## Witnesses

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The following witnesses gave evidence. Transcripts can be viewed on the Committee's inquiry page at [www.parliament.uk/workpencom](http://www.parliament.uk/workpencom).

### Wednesday 7 January 2015

*Question number*

**Tony Wilson**, Policy Director, Centre for Economic and Social Inclusion, **Philip J Connolly**, Policy and Communications Manager, Disability Rights UK, **Kirsty McHugh**, Chief Executive, Employment Related Services Association, **Paul Farmer**, Chief Executive Officer, Mind, and **Matthew Oakley**, recent independent reviewer of JSA sanctions

[Q1-41](#)

**Keith Dryburgh**, Policy Manager, Citizens Advice Scotland, **Professor Peter Dwyer**, Professor of Social Policy, University of York, and Principal Investigator, Welfare Conditionality: Sanctions, Support and Behaviour Change project, **Nikki Hart**, Blackpool Food Partnership Co-ordinator, Methodist Action North West, **Chris Mould**, Chairman, The Trussell Trust, and **Dr David Webster**, Honorary Senior Research Fellow, University of Glasgow

[Q42-83](#)

### Wednesday 21 January 2015

**Alison Garnham**, Chief Executive, Child Poverty Action Group, **Lois Race**, Service Manager, Welfare Benefits Information and Advice Team and Derbyshire Discretionary Fund, Derbyshire County Council, **Dr Kayleigh Garthwaite**, Durham University, and **Fiona Weir**, Chief Executive Officer, Gingerbread

[Q84-129](#)

**Ben Robinson**, Head of Policy, Community Links, **Steve Hughes**, Head of Economic and Social Policy, Policy Exchange, **Mark Serwotka**, General Secretary, and **Helen Flanagan**, Vice-President DWP, Public and Commercial Services Union, and **Professor David Stuckler**, University of Oxford

[Q130-180](#)

### Wednesday 4 February 2015

**Rt Hon Esther McVey MP**, Minister for Employment, and **Chris Hayes**, Director, Labour Market Strategy, Department for Work and Pensions

[Q181-330](#)

## Published written evidence

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The following written evidence was received and can be viewed on the Committee's inquiry web page at [www.parliament.uk/workpencom](http://www.parliament.uk/workpencom). SAN numbers are generated by the evidence processing system and so may not be complete.

- 1 Advice York ([SAN0108](#))
- 2 Andrea Carey Fuller ([SAN0105](#))
- 3 Andrew Smith ([SAN0116](#))
- 4 Andrew Stevens ([SAN0046](#))
- 5 Anne Dube ([SAN0057](#))
- 6 Bernice June Gaze ([SAN0075](#))
- 7 Boycott Workfare ([SAN0087](#))
- 8 Brent Citizens Advice Bureau ([SAN0120](#))
- 9 Camden Citizens Advice Bureaux Service ([SAN0040](#))
- 10 Caritas Social Action Network ([SAN0091](#))
- 11 Carole Blaire ([SAN0070](#))
- 12 Castlemilk Law and Money Advice Centre ([SAN0086](#))
- 13 Catherine Hale ([SAN0061](#))
- 14 Centre For Economic and Social Inclusion ([SAN0143](#))
- 15 Chesterfield Citizens Advice Bureau ([SAN0092](#))
- 16 Child Poverty Action Group ([SAN0152](#))
- 17 Children in Scotland ([SAN0148](#))
- 18 Church Action on Poverty ([SAN0080](#))
- 19 Citizens Advice Scotland ([SAN0096](#))
- 20 Clive Durdle ([SAN0001](#))
- 21 Community Housing Cymru Group ([SAN0093](#))
- 22 Communitylinks ([SAN0102](#))
- 23 Crisis ([SAN0122](#))
- 24 Department for Work and Pensions ([SAN0142](#), [SAN0157](#) & [SAN0163](#))
- 25 Derbyshire County Council ([SAN0111](#))
- 26 Derbyshire Unemployed Workers' Centres ([SAN0017](#))
- 27 Disability Rights UK ([SAN0099](#))
- 28 Dr David Webster ([SAN0110](#))
- 29 Dr Kayleigh Garthwaite and Professor Clare Bambra, Durham University ([SAN0011](#))
- 30 Drugscope and Homeless Link ([SAN0100](#))
- 31 Employment Related Services Association ([SAN0145](#))
- 32 Enable Scotland ([SAN0081](#))
- 33 Epilepsy Society ([SAN0058](#))
- 34 Equity ([SAN0103](#))
- 35 Falkirk Council ([SAN0101](#))
- 36 Francis Corrigan ([SAN0133](#))
- 37 Gary Thompson ([SAN0048](#))
- 38 Gill Thompson ([SAN0047](#))
- 39 Gingerbread ([SAN0115](#))

- 40 Gipton Supported Independent Living ([SAN0013](#))
- 41 Glasgow Community Justice Authority ([SAN0085](#))
- 42 Glenn Mcdougall ([SAN0029](#))
- 43 Ian Wright ([SAN0007](#))
- 44 Joan Grant ([SAN0134](#))
- 45 John Longden ([SAN0012](#))
- 46 Keep Volunteering Voluntary ([SAN0131](#))
- 47 Kilburn Unemployed Workers Group ([SAN0095](#))
- 48 Kirklees Financial Inclusion Steering Group ([SAN0065](#))
- 49 Mark Sage, Assistant Tackling Poverty Co-ordinator at Portsmouth City Council ([SAN0149](#))
- 50 Mark Waters ([SAN0028](#))
- 51 Mencap ([SAN0037](#))
- 52 Methodist Action North West ([SAN0139](#))
- 53 Methodist Church and the United Reformed Church ([SAN0158](#))
- 54 Mind ([SAN0106](#))
- 55 Mr Jerry Lonsdale ([SAN0125](#))
- 56 Mr K G Robertson-Turner ([SAN0056](#))
- 57 New Policy Institute ([SAN0156](#))
- 58 Newcastle upon Tyne Citizens Advice Bureau ([SAN0072](#))
- 59 North Staffordshire Advice Partnership ([SAN0119](#))
- 60 Nottingham City Council, Advice Nottingham, Nottingham Community and Voluntary Service and the Diocese of Nottingham and Southwell ([SAN0064](#))
- 61 One Parent Families Scotland ([SAN0146](#))
- 62 Oxfam ([SAN0088](#))
- 63 Oxfordshire Welfare Rights ([SAN0010](#))
- 64 Partnership response from Newcastle upon Tyne (Coordinated By Newcastle City Council) ([SAN0079](#))
- 65 Pat's Petition and Carerwatch ([SAN0008](#))
- 66 Peabody ([SAN0006](#))
- 67 Peter Milnes ([SAN0084](#))
- 68 Philip Batley ([SAN0160](#))
- 69 Portsmouth Citizens Advice Bureau ([SAN0083](#))
- 70 Preston Learning Disabilities Forum ([SAN0094](#))
- 71 Public and Commercial Services Union ([SAN0109](#), [SAN0161](#) & [SAN0164](#))
- 72 Rights Advice Scotland ([SAN0049](#))
- 73 Rossendale Citizens Advice Bureau ([SAN0060](#))
- 74 Rt Hon Frank Field MP and Rt Revd Tim Thornton, Co-Chairs, All-Party Parliamentary Inquiry into Hunger in the United Kingdom ([SAN0113](#))
- 75 Salford Financial Inclusion Practitioner's Group ([SAN0104](#))
- 76 Scotlandtherapy ([SAN0019](#))
- 77 Scottish Federation of Housing Associations and the Housing Support Enabling Unit ([SAN0140](#))
- 78 Scottish Unemployed Workers' Network ([SAN0071](#))
- 79 Shaw Trust ([SAN0144](#))
- 80 Sheffield Citizens Advice and Law Centre ([SAN0126](#))

- 81 Simon Moriarty ([SAN0034](#))
- 82 Single Homeless Project ([SAN0112](#))
- 83 Single Parent Action Network ([SAN0090](#))
- 84 Sonya Whitfield ([SAN0077](#))
- 85 Southway Housing Trust ([SAN0059](#))
- 86 St Mungo's Broadway ([SAN0097](#))
- 87 Stephen White ([SAN0067](#))
- 88 Steve Gwilliam ([SAN0004](#))
- 89 Tamara Eileen Galloway ([SAN0076](#))
- 90 The Fawcett Society ([SAN0124](#))
- 91 The Highland Council ([SAN0107](#))
- 92 The Riverside Group Ltd ([SAN0044](#))
- 93 The Salvation Army ([SAN0082](#))
- 94 The Trussell Trust ([SAN0127](#))
- 95 Theresa Curtis ([SAN0027](#))
- 96 Tony Brauer ([SAN0036](#))
- 97 Trevor Stanski ([SAN0117](#))
- 98 V Protheroe ([SAN0138](#))
- 99 Welfare Conditionality: Sanctions, Support and Behaviour Change Project ([SAN0054](#))
- 100 YMCA England ([SAN0066](#))

# List of Reports from the Committee during the current Parliament

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All publications from the Committee are available on the Committee's website at [www.parliament.uk/workpencom](http://www.parliament.uk/workpencom).

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

## Session 2014–15

First Report	Employment and Support Allowance and Work Capability Assessments	HC 302 (Cm 8967)
Second Report	Improving Access to Work for disabled people	HC 481
Third Report	Appointment of the Pensions Ombudsman and the Pension Protection Fund Ombudsman	HC 963
Fourth Report	Progress with automatic enrolment and pension reforms	HC 668
First Special Report	Monitoring the performance of the Department for Work and Pensions in 2012-13: Government Response to the Committee's Third Report of Session 2013–14	HC 394
Second Special Report	Universal Credit implementation: monitoring DWP's performance in 2012–13: Government Response to the Committee's Fifth Report of Session 2013–14	HC 426
Third Special Report	Fraud and error in the benefits system: Government Response to the Committee's Sixth Report of Session 2013–14	HC 627

## Session 2013–14

First Report	Can the Work Programme work for all user groups?	HC 162 (HC 627)
Second Report	The role of Jobcentre Plus in the reformed welfare system	HC 479 (HC 1210)
Third Report	Monitoring the performance of the Department for Work and Pensions in 2012–13	HC 1153 (HC (14-15)394)
Fourth Report	Support for housing costs in the reformed welfare system	HC 720
Fifth Report	Universal Credit implementation: monitoring DWP's performance in 2012–13	HC 1209 HC (14-15)426)
Sixth Report	Fraud and error in the benefits system	HC 1082 (HC (14-15)627)
First Special Report	Improving governance and best practice in workplace pensions: Government Response to the Committee's Sixth Report of Session 2012–13	HC 485
Second Special Report	Can the Work Programme work for all user groups? Government Response to the Committee's First Report of Session 2013-14	HC 627

Third Special Report	Role of Jobcentre Plus in the reformed welfare system: Government Response to the Committee's Second Report of Session 2013–14	HC 1210
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### Session 2012–13

First Report	Appointment of the Chair of the Social Security Advisory Committee	HC 297
Second Report	Youth Unemployment and the Youth Contract	HC 151 (HC 844)
Third Report	Universal Credit implementation: meeting the needs of vulnerable claimants	HC 576 (Cm 8537)
Fourth Report	Lifting the restrictions on NEST	HC 950
Fifth Report	The Single-tier State Pension: Part 1 of the draft Pensions Bill	HC 1000 (Cm 8620)
Sixth Report	Improving governance and best practice in workplace pensions	HC 768 (HC 485)
First Special Report	Government support towards the additional living costs of working-age disabled people	HC 105
Second Special Report	Automatic enrolment in workplace pensions and the National Employment Savings Trust: Government Response to the Committee's Eighth Report of Session 2010–12	HC 154
Third Special Report	Youth Unemployment and the Youth Contract: Government Response to the Committee's Second Report of Session 2012–13	HC 844

### Session 2010–12

First Report	Youth Unemployment and the Future Jobs Fund	HC 472 (HC 844)
Second Report	Changes to Housing Benefit announced in the June 2010 Budget	HC 469 (HC 845)
Third Report	Appointment of the Chair of the Social Security Advisory Committee	HC 904
Fourth Report	Work Programme: providers and contracting arrangements	HC 718 (HC 1438)
Fifth Report	The Government's proposed child maintenance reforms	HC 1047 (HC 1727)
Sixth Report	The role of incapacity benefit reassessment in helping claimants into employment	HC 1015 (HC 1641)
Seventh Report	Government support towards the additional living cost of working-age disabled people	HC 1493
Eighth Report	Automatic enrolment in workplace pensions and the National Employment Savings Trust	HC 1494
First Special Report	The Child Maintenance and Enforcement Commission	HC 507
Second Special Report	Management and Administration of Contracted Employment Programmes	HC 508
Third Special Report	Local Housing Allowance: Government Response to the Committee's Fifth Report of Session 2009-10	HC 509

Fourth Special Report	Changes to Housing Benefit announced in the June 2010 Budget: Government Response to the Committee's Second Report of Session 2010–12	HC 845
Fifth Special Report	Youth Unemployment and the Future Jobs Fund: Government Response to the Committee's First Report of Session 2010-12	HC 844
Sixth Special Report	Work Programme: providers and contracting arrangements: Government Response to the Committee's Fourth Report of Session 2010-12	HC 1438
Seventh Special Report	The role of incapacity benefit reassessment in helping claimants into employment: Government Response to the Committee's Sixth Report of Session 2010–12	HC 1641
Eighth Special Report	The Government's proposed child maintenance reforms: Government Response to the Committee's Fifth Report of Session 2010–12	HC 1727