



BRIEFING PAPER

Number 7813, 30 November 2016

Benefit Claimants Sanctions (Required Assessment) Bill 2016-17

By Steven Kennedy
Richard Keen

Contents:

1. Current conditionality and sanctions regimes
2. Research and reports
3. Statistics
4. Policy developments
5. National Audit Office report
6. The Bill



Contents

Summary	3
1. Current conditionality and sanctions regimes	6
1.1 The role of sanctions in “active” benefits regimes	6
1.2 JSA sanctions	7
Higher, intermediate and lower level sanctions	8
Avoiding sanctions – “good reason”	9
Challenging sanction sections	11
1.3 ESA sanctions	11
Changes from December 2012	12
Safeguards	13
1.4 Universal Credit sanctions	15
1.5 Hardship payments	16
JSA hardship payments	16
ESA hardship payments	17
UC hardship payments	17
Changes to hardship payments	18
1.6 Sanctions and devolved employment programmes in Scotland	18
2. Research and reports	20
2.1 Reports and commentaries	20
2.2 Welfare Conditionality Project first wave findings	21
3. Statistics	24
About JSA and ESA sanction statistics	24
Number of JSA and ESA sanction decisions	25
Number of JSA and ESA claimants sanctioned	25
Proportion of sanctions challenged and overturned	26
Proportion of JSA and ESA claimants sanctioned	27
Reasons for JSA and ESA sanctions	28
4. Policy developments	29
4.1 Developments since the Oakley review	29
4.2 DWP sanctions warning system trial	33
5. National Audit Office report	35
5.1 Public Accounts Committee inquiry	38
6. The Bill	39
7. Appendix	40

Summary

The [Benefit Claimants Sanctions \(Required Assessment\) Bill 2016-17](#) is a Private Member's Bill introduced by Mhairi Black MP. The Bill – “to require assessment of a benefit claimant's circumstances before the implementation of sanctions; and for connected purposes” – is due to have its Second Reading on 2 December 2016.

A benefit sanction – withdrawal of benefit or a reduction in the amount of benefit paid for a certain period – may be imposed if a claimant is deemed not to have complied with a condition for receiving the benefit in question. Benefit sanctions are not a new feature of the social security system, but there is widespread concern among welfare rights and pressure groups about the incidence and impact of sanctioning, particularly since new “conditionality” regimes for Jobseeker's Allowance and Employment and Support Allowance claimants were introduced in late 2012.

Between October 2012 – when the new JSA regime was introduced – and June 2016, just over 2 million sanctions were imposed on JSA claimants. Between December 2012 and June 2016, 82,369 sanctions were imposed on ESA claimants. Statistics on sanctions imposed on Universal Credit claimants are not yet available.

In 2013 the Coalition Government appointed an Independent Reviewer to look at the clarity of communications between Jobcentre Plus and claimants in relation to JSA conditionality and sanctions, the availability of hardship payments to those who are sanctioned, and the clarity of the review and appeals process. The [report by the Independent Reviewer](#) – Matthew Oakley – was published in July 2014 and the Government said that it accepted, either fully or in principle, all of its 17 recommendations. Some commentators have however questioned whether the Government's response fully addresses the issues raised by the Oakley review.

In March 2015 the Work and Pensions Committee published a report, [Benefit sanctions policy beyond the Oakley Review](#), which recommended, among other things, that the Government take urgent steps to implement fully the outstanding recommendations from the Oakley Report. Other recommendations included a series of evaluations to increase the evidence base around the efficacy and impacts of the new sanctions regime; better training for Jobcentre staff on the lone parent flexibilities; developing guidance to assist staff to identify vulnerable claimants and tailor conditionality according to the claimant's individual circumstances, expediting the evaluation of the JSA “claimant commitment”, including a review of the appropriate use of jobseeker directions; a small-scale pilot to test the efficacy of a more targeted approach to sanctions based on “segmentation” of claimants by their attitudes and motivations; and a review of ESA sanctioning within the Work Programme. The Committee also recommended changes to hardship provision, including making all hardship payments available from the start of sanctions periods, and putting the onus on the Department to initiate the hardship process for vulnerable claimants and those with children.

In its [response to the Committee](#) in October 2015, the Government made a series of announcements including its intention to trial a “yellow card” warning system whereby claimants would be given 14 days to provide evidence of “good reason” before imposition of a sanction; reintroducing automated JSA sanction notifications; new guidance to jobcentre plus staff to improve awareness of vulnerability and how conditionality can be varied; and changes to hardship provision including accepting in principle that payments should be available from day one, removing the necessity of a separate application process for vulnerable claimants and those with children, and

4 Benefit Claimants Sanctions (Required Assessment) Bill 2016-17

extending the definition of groups considered “at risk” for hardship purposes to include homeless people and those with mental health conditions. The Government did not however accept the Committee’s recommendation that it 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.”

The Government states that international evidence clearly shows that benefit regimes supported by conditionality reduce unemployment, and that the sanctions system in the UK is clear, fair and effective in promoting positive behaviours to help claimants back into work. It also maintains that only a small minority of claimants are affected by sanctions, and that the actions it is taking will further strengthen safeguards against inappropriate sanctioning.

A [recent study funded by the Economic and Social Research Council](#) found however that for most claimants, welfare conditionality and sanctions was a wholly negative experience, creating widespread anxiety and feelings of disempowerment. Routinely, sanctions had severely detrimental financial, material, emotional and health impacts on those subject to them, and applying conditionality appeared to cause some people to disengage from support. The study found limited evidence that conditionality brought about positive behaviour change, the common thread linking stories of successful transitions into work being the availability of appropriate individual support rather than the threat of sanctions. Other research has linked sanctioning to [food insecurity and demand for food banks](#), and to [destitution](#).

A [new report from the National Audit Office](#) recommends that the Department for Work and Pensions carries out a wide-ranging review of benefit sanctions, particularly as it introduces further changes to labour market support such as Universal Credit. The NAO believes that DWP has not used sanctions consistently, noting that sanction referral rates have risen and fallen over time in ways that cannot be explained by changes in claimant compliance. NAO concludes that management focus and local staff discretion are likely to have had a substantial influence on sanction rates.

The NAO finds that while international studies show people who receive sanctions are more likely to get work, the effect can be short-lived, lead to lower wages and increase the number of people moving off benefits into inactivity. NAO also notes that DWP has not used its own data to evaluate the impact of sanctions, and recommends that the Department do more to understand sanctions outcomes.

Mhairi Black’s Bill has been informed by an [online consultation](#) which received over 9,000 responses. The Bill – which extends to England, Wales and Scotland – would require an assessment of a benefit claimant’s circumstances to be carried out before a sanction can be imposed on them. A Code of Conduct would set out the procedures to be followed when carrying out assessments, including how consideration should be given to the claimant’s caring responsibilities, mental and physical health and well-being, and housing situation. Where a sanction is imposed, the person must be assessed to determine whether they are eligible for hardship payments.

The Bill would also require that before drawing up or reviewing a “claimant commitment” – the record of a Universal Credit recipient’s responsibilities – the person is given advice on their rights and entitlements. The Bill also requires claimant commitments to include details of the person’s caring responsibilities, health and well-being, and housing situation.

Further provisions in the Bill would mean that a “higher-level sanction” cannot be imposed on a Universal Credit claimant for certain sanctionable failures if the failure was

due to the person's mental ill health, homelessness or caring responsibilities. The Bill also provides that a sanction cannot be imposed on a person claiming any benefit where the person had "just cause" for acting in the way they did. The matters to be taken into account when deciding whether the person had just cause would be set out in primary legislation.

1. Current conditionality and sanctions regimes

1.1 The role of sanctions in “active” benefits regimes

Since their introduction in 1911, unemployment benefits have always paid subject to the claimant meeting certain conditions. Sanctions in the current form date however from the introduction of Jobseeker’s Allowance in October 1996. Since then “conditionality” has been expanded, both in terms of what is expected of claimants and by extending obligations to new claimant groups, such as lone parents and the sick or disabled. This has increased the number of situations where benefit sanctions could be incurred. More recently, the Coalition Government introduced major changes to the conditionality and sanction regimes for Jobseeker’s Allowance and Employment and Support Allowances in late 2012, in advance of the introduction of Universal Credit.

The application (or deterrent threat) of sanctions where claimants fail to meet agreed or prescribed conditions is intended to influence claimants’ behaviour positively – to encourage them to participate in activity aimed at getting them into, or closer to, work.¹ In making the case for an “active” benefits system, the current Government emphasises the importance of work in “giving families more security; boosting self-esteem; and providing hope for those who have been unemployed for years.” It also refers to a “large body of evidence showing that work is good for physical and mental wellbeing and that, where they are able, people should be encouraged and supported to remain in, or to re-enter work as soon as possible,” and to evidence showing that “children in working households have better outcomes in academic attainment, training and future employment.”² With these considerations in mind, the Government contends-

For claimants who are able to work, it is widely accepted that a conditionality system is the most effective way of offering support, and international evidence is clear that benefit regimes tied to conditionality get people into work.

The purpose of the conditionality system is to encourage claimants to meet the reasonable requirements designed to help them to seek employment or take steps to move closer to work. Individuals are supported in their journey towards employment and claimants are made aware about the consequences of not engaging with the offer of support and what is expected from them in return for financial support.

All claimants will agree a tailored Claimant Commitment or Action Plan which sets out what is expected of them, and also the

¹ Work and Pensions Committee, [Benefit sanctions policy beyond the Oakley review](#), HC 814 2014-15, 24 March 2015. Para 3

² [Benefit Sanctions: Beyond the Oakley Review: Government response](#), HC 557 2015-16, 22 October 2015, p1

consequences of failing to meet these requirements. The vast majority of claimants comply with these.

As taxpayers would expect, for the small minority of claimants who refuse to meet their agreed requirements or refuse to take up employment without good reason, a benefit reduction is applied. Any decision to temporarily reduce or halt a benefit payment is always thoroughly considered. A robust decision making process is in place to ensure that decisions are correct. Independent Decision Makers consider each case, including any evidence of good reason put forward by a claimant and claimants can ask for the decision to be reconsidered and appeal to the First-tier Tribunal.

We also take particular care with those with a mental health condition, learning disability or a condition affecting communication or cognition, who often require more support to understand the conditionality rules and the requirements placed upon them. In addition, hardship payments may be available as a safeguard to people who are subject to a benefit sanction.

Employment and Support Allowance supports those who are the most vulnerable and unable to work. Recipients are not required to apply for work and those who are assessed as not being able to undertake work-related activity have no conditionality applied. Where a claimant is assessed as being able to do some work-related activity, which will help them to move closer to employment, this is carefully applied based on the recipient's circumstances.³

1.2 JSA sanctions

If a claimant is deemed to have failed to meet a condition for Jobseeker's Allowance – eg they failed to attend an interview, were found not to be available for work, or left their job voluntarily – they may be subject to a benefit sanction, which normally means that their benefit is stopped for a period.

Decisions on whether to sanction a claimant are not made by Jobcentre Plus Work Coaches or by advisers employed Work Programme providers, but by DWP "**Decision Makers.**" Where a 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 should attempt to obtain evidence from the claimant, as well as from the Work Coach/adviser, and make a decision on whether to apply a sanction, based on the "balance of probabilities".

A sanction should not be imposed on a person if they can show that they had "**good reason**" for behaving in the way they did. Where a sanction has been imposed, a person may be able to get reduced rate **hardship payments**, but these are not awarded automatically – the person will need to apply for them.

The new sanctions rules came into force for Jobseeker's Allowance claimants in October 2012 broadly aligned the rules for JSA sanctions with those for Universal Credit. The main changes were:

³ Ibid. pp1-2

- Three categories of sanction – “higher”, “intermediate” and “lower” – depending on the nature of the “sanctionable failure”
- different durations of sanction for first, second and third offences – fixed periods, rather than variable
- changes to the date a sanction starts

DWP has produced a factsheet for claimants, [Jobseeker's Allowance sanctions: how to keep your benefit payment](#) (updated 20 July 2016), which explains how the new regime works.

Higher, intermediate and lower level sanctions

The sanction categories are:

- **Higher level sanctions** (for example for leaving a job voluntarily) will lead to claimants losing all of their JSA for a fixed period of 13 weeks for a first failure, 26 weeks for a second failure and 156 weeks for a third and subsequent failure (within a 52 week period of their last failure)
- **Intermediate level sanctions** of 4 weeks for a first failure, rising to 13 weeks for a second or subsequent failures (within a 52 week period of their last failure) may be applied following a period of disallowance for not actively seeking employment or not being available for work
- **Lower level sanctions** (for example for failing to attend an adviser interview) will lead to claimants losing all of their JSA for a fixed period of 4 weeks for the first failure, followed by 13 weeks for subsequent failures (within a 52 week period of their last failure)

A table produced by the Department for Work and Pensions (DWP) summarises the current and previous JSA sanction regimes can be found in the Appendix to this note.⁴

Fixed period instead of variable sanctions would, the Coalition Government argued, “provide greater clarity for claimants on the consequences of not meeting requirements.”⁵ The Government also stated that three year sanctions would apply “only in the most extreme cases where claimants have serially and deliberately breached their most important requirements, and they have not changed behaviour after receiving previous sanctions.”⁶

Previously, a sanction started from the beginning of the benefit week after the Decision Maker (DM) decided to impose the sanction. However, “to ensure that claimants see the consequences of their actions or inactions sooner”, the new rules enable DMs to impose sanctions at a time closer to the offence.⁷ The new sanction period now begins:

⁴ Also available at GOV.UK – see [An overview of the new sanctions rules that came into force for Jobseeker's Allowance \(JSA\) claimants in October 2012](#), September 2013

⁵ See the [DWP Explanatory Memorandum to The Jobseeker's Allowance \(Sanctions\) \(Amendment\) Regulations 2012](#)

⁶ Ibid. para 7.5

⁷ DWP, [Jobseeker's Allowance: overview of sanctions rules](#), September 2013

- on the first day of the benefit week in which the offence occurred, if the claimant has not been paid JSA for that week; or
- on the first day of the benefit week following the date the claimant was last paid JSA

As with the previous regime, there is a right of appeal against a decision to impose a sanction (but not against the length of the sanction, which is fixed).

Avoiding sanctions – “good reason”

Under the previous JSA regime, claimants would not have a sanction imposed if they could demonstrate that they had “**good cause**” for acting as they did. What could constitute “good cause” was set out in regulations.⁸

Under the new regime, a sanction may not be imposed if a claimant has “**good reason**”. The JSA legislation was amended to provide that “good reason” was to be set out in guidance, rather than in the regulations themselves. The Government argued that not setting out particular circumstances or situations in legislation allows the Decision Maker “to take into account all reasons considered relevant when determining good reason”.⁹

The guidance is in [Chapter 34 - JSA Sanctions](#) of the DWP’s *Decision Makers’ Guide* (DMG), which explains:

Meaning of good reason

34203 Good reason is not defined in legislation. DMs should take into account all relevant information about the claimant’s circumstances and their reasons for their actions or omissions.

34205 Claimants will be given the opportunity to explain why they have not complied with requirements and it will remain the responsibility of the claimant to show good reason for the failure and provide information and evidence as appropriate to explain why they have not complied. It is the reasonableness of the claimant’s actions and behaviours that is being considered (see DMG 34221).

34206 The following guidance is to provide a framework for DMs to use when considering whether or not good reason is demonstrated and is not an exhaustive list of individual circumstances. In every case the DM should take into account all the individual facts and circumstances and consider the case on its own merits.

34204 The concepts of ‘good cause’ and ‘just cause’ were considered in case law. It includes facts which would probably have caused a reasonable person to act as the claimant did¹. This principle is equally applicable to good reason. *1 R(SB) 6/83*

⁸ See *Jobseeker’s Allowance Regulations 1996* (SI 1996/207), regulations 72 and 73; and the *Employment and Support Allowance Regulations 2008* (SI 2008/794), regulation 61 and *Employment and Support Allowance (Work-Related Activity) Regulations 2011*, regulation 8.

⁹ [DWP Explanatory Memorandum to The Jobseeker’s Allowance \(Sanctions\) \(Amendment\) Regulations 2012](#), para 7.18

The DMG outlines the “reasonableness” test as follows (original emphasis):

The ‘reasonable’ test

34221 DMs should establish facts which would probably have caused a reasonable person to act as the claimant did by establishing three key points,

- what would it be reasonable to expect someone to do in the particular circumstances, i.e. was the action or failure to act preventable?
- what did the claimant do or fail to do that was different to what was the expected action **and**
- what was the claimant’s reasons for their action or failure to act?

Note 1: A distinction must be drawn between having a good excuse and having a good reason **in law** which is not about one moment in time but about a person acting reasonably in the light of all the facts and circumstances.

Note 2: The criteria for considering good reason are not legislated for specifically (see DMG 34204). The DM should not just consider one factor but should consider the overall picture of the claimant’s individual circumstances. The consideration is whether the reasons given for the specific failure contributed to the claimant not complying with what we are expecting them to do and whether that was reasonable in the circumstances.

34222 The general rule for taking each incidence on its own merits and considering all the facts and evidence should be applied. Consideration of all the evidence should be made on

- the balance of probabilities (see the guidance at DMG 01343 et seq) and
- whether the evidence is inherently improbable (see the guidance at DMG 01392).

Note: The DM should also take into account that a claimant is expected to take care in matters to do with the claiming of and receiving benefits. Failure to take such care cannot be good reason. It is the reasonableness of the claimant’s actions and behaviours that is being considered in light of all the facts and circumstances. Also see example at DMG 34876.

The guidance gives examples of circumstances which should be treated as contributing to good reason for an action or failure, including where the claimant is a victim of domestic violence, harassment or bullying; is homeless; has a health condition or disorder; and has learning difficulties, poor literacy or numeracy. However, it emphasises-

Advisors can highlight cases during the claims process where a claimant’s personal circumstances may have influenced their behaviour and the relevant evidence the DM should consider (for example: mental health or domestic violence, homelessness etc). This may not be sufficient proof in itself of good reason but would serve as an indicator to the DM to investigate supporting evidence to justify a determination.¹⁰

And-

¹⁰ DMG Chapter 34 para 34226

This is not an exhaustive list or specific criteria that mean a claimant would have automatic good reason but examples of what may contribute to a claimants actions when considering what may be reasonable in light of all the individual facts and circumstances.¹¹

Challenging sanction sections

Sanction decisions can be challenged in the same way as other benefit decisions – ie in the first instance by requesting a **Mandatory Reconsideration** of the decision. If following a reconsideration the DWP upholds a sanction decision, the claimant may then appeal to an independent **First Tier Tribunal**.

Detailed information on the benefits sanctions rules and relevant case law can be found in the Child Poverty Action Group's annual [Welfare benefits and tax credits handbook](#).

The [Ask CPAG Online](#) service also has a section on [Benefit Sanctions](#). This gives detailed information and practical advice for claimants and specialist advisers on common problem areas including-

- Avoiding sanctions
- Dealing with hardship during sanctions
- Challenging sanctions

1.3 ESA sanctions

Employment and Support Allowance (ESA) is a benefit which is intended to cover the day to day living costs of people who have a "limited capability for work" because of a health condition or disability.¹²

Claimants with more severe functional limitations should be placed in the ESA "**Support Group**" (**SG**). ESA claimants in the SG are not required to undertake any activities to continue to receive benefit. ESA claimants not judged to have a "limited capability for work-related activity" are placed in the "**Work-Related Activity Group**" (**WRAG**). ESA claimants in the WRAG may be expected to take part in "Work-Focused Interviews" (WFIs) and undertake work-related activity.

ESA claimants in the WRAG may be required to work-related activity undertake by advisers in the DWP or as part of the Work Programme. "Work-related activity" is activity that makes it more likely that the person will get a job or remain in work. The exact activity is at the discretion of the adviser. Any requirement to undertake work-related activity must be "reasonable," taking into account the person's circumstances. A requirement as to the time at or by which a person undertakes work-related activity can be lifted if a DWP Decision Maker considers it would be unreasonable to require the person to undertake the activity at or that time. A person cannot be required to apply for a job, undertake work (as an employee or otherwise) or undergo medical treatment. All work-related activity must be recorded in an "action plan," which must be in writing and specify the activity you are required

¹¹ Ibid.

¹² See Commons Library briefing CBP-7181, [Employment and Support Allowance: An introduction](#)

to undertake. Claimants can request that their action plan is reconsidered.

ESA claimants who fail to attend and participate in Work-focused Interviews, or to undertake work-related activity when required to do so, may face a benefit sanction. For ESA claimants, this entails a reduction in the amount of benefit payable

Changes from December 2012

From 3 December 2012 a revised sanctions regime for Employment and Support Allowance (ESA) claimants who are in the Work-Related Activity Group was introduced.

Under the **pre-December 2012** regime, ESA claimants in the WRAG who failed to meet requirements were subject to an open-ended sanction which was lifted when they “re-complied” with the relevant requirement. The sanction amount was 50% of the work-related activity component, rising to 100% of the component after four weeks. The Work-Related Activity Component is currently £29.05 a week.

From December 2012 the rules changed so that:

- Claimants in the WRAG who fail to comply with the conditions for receiving benefit now receive an open-ended sanction, followed by a fixed period sanction when they re-comply
- The fixed period sanction following re-compliance is one week for a first “sanctionable failure,” two weeks for a second failure within 52 weeks, and four weeks for a third or subsequent failure within a 52 week period
- The sanctionable amount increased to 100% of the prescribed amount for a single claimant (currently, £73.10 a week)
- Reduced rate “hardship payments” were introduced for ESA claimants subject to a sanction who would be in hardship unless a payment was made.

The current and previous ESA sanction regimes are summarised in the in the Appendix to this note.¹³

As with JSA sanctions, claimants have the right of appeal against the imposition of a sanction, if they can demonstrate “good cause” for their failure. Good cause is not defined prescriptively; the regulations merely state that “all the circumstances of the case including in particular the person’s physical or mental health or condition’ must be taken into account.”

An article in the February 2013 edition of the *Welfare Rights Bulletin*, “[ESA and sanctions – more hard times ahead](#)”, gives further information on the changes. The article highlighted some concerns about the new regime:

This new system of sanctions appears to be unduly punitive towards claimants who are sick and disabled, and a major worry is

¹³ Also available at GOV.UK – see [An overview of the new sanctions rules that came into force for Jobseeker’s Allowance \(JSA\) claimants in October 2012](#), September 2013

that many claimants who are vulnerable will, as now, find themselves on the receiving end of inappropriate sanctions, due to poor decision making by the DWP. The work capability assessment is an extremely tough test of incapacity for work, and those who satisfy it, having undergone what is for many the ordeal of a medical assessment, should be receiving help and support if they wish to move into employment, not the threat of punitive sanctions.

Of particular concern must be the many thousands of ESA claimants who are severely disabled but stuck in the work-related activity group, as they are waiting up to a year for their appeal to try to get in the support group to be heard. They may find themselves sanctioned for failing to comply with requirements that they are simply too ill to comply with, but are subject to, due to lamentable DWP decision making based on inadequate Atos medical reports.

Summer Budget 2015 announced that the Work-Related Activity Component (and the equivalent element in Universal Credit) would be abolished for new claims from April 2017. This will be a reduction of £29.05 a week (based on 2016-17 rates) and aligns the basic rate of ESA for claimants in the WRAG with Jobseeker's Allowance (currently £73.10 a week).¹⁴ This means that, in the absence of any further changes to the ESA sanction rules, some ESA claimants affected by the abolition of the WRAC will lose the whole of their benefit if sanctioned.

Safeguards

In advance of the new ESA "conditionality framework" taking effect, the DWP published [Employment and Support Allowance \(Sanctions\) \(Amendment\) Regulations 2012 Equality analysis](#), in November 2012. This outlined the various "safeguards to minimise adverse effects for protected groups" as follows:

Information - A mailshot detailing the changes has been produced for existing ESA claimant. For new ESA claimants the ESA40 information booklet will be updated to include information on the new sanctions regime and for those claimants who are placed in the work-related activity group, staff will explain the new sanctions regime at their New Joiners Work-Focused Interview and issue a fact sheet;

Claimants will be able to access information via a helpline which will be made available for a limited period following go-live to explain the new sanctions regime to claimants;

Personalised requirements - work-related activity requirements will continue to be tailored to the claimant's needs and circumstances and will be reasonable for the individual claimant. The new joiner's work-focused interview is also diagnostic so the adviser will find out more about the claimant's circumstances in order to determine which (if any) work-related activity requirements are appropriate. Should a claimant feel that the requirements placed on them are unreasonable, they can request that the adviser reconsiders the activity. A DWP decision maker must then consider the case, looking at evidence from both sides, and provide a written decision for the claimant;

¹⁴ See Commons Library briefing CBP-7649, [Abolition of the ESA Work-Related Activity Component](#)

Jobcentre Plus advisers have a range of tools to help them assess and identify claimants' needs such as the Customer Assessment Tool to record information eg on a claimants' capability for a specific job. The learning programme for Jobcentre Plus Advisers is also regularly updated to reflect changes in policy and ensure advisers have up to date skills to deal with claimant interactions and support them in making relevant and appropriate decisions about individual claimants. The key messages throughout the learning focus on providing a personalised, flexible service to the claimant, treating them as individuals and building strong relationships with them.

Communication and appropriate location - we will contact claimants before a work-focused interview to remind them that it is due and consider in the context of each work-focused interview whether the interview should be waived or deferred. If appropriate we will offer a more convenient location or a home visit;

Good cause - the imposition of a sanction remains subject to the claimant providing good cause for non compliance. When decision makers are deciding whether to impose a sanction they must consider all evidence and information the claimant presents for that failure, so if for example a claimant provides information about their health which is relevant to the failure then this must be considered. If good cause is shown then a sanction will not be applied;

Revisiting guidance - We are revisiting the guidance for Decision Makers on deciding good cause in order to emphasise the need to actively consider all of the claimant's circumstances. As part of this we intend to remove the provisions in legislation which set out factors which should be considered as good cause. Whilst these factors are not exhaustive, as Decision Makers can currently consider any information put forward by the claimant regarding good cause. Setting out the factors in legislation can be too prescriptive and risks a tick list approach being adopted. We therefore believe removing the factors will help to ensure that all evidence put forward by the claimant is actively considered. As now where a claimant demonstrates good cause for the failure a sanction will not be applied;

Safeguard Visits - As already mentioned Jobcentre Plus or the Work Programme provider will attempt to contact ESA claimants with a mental health condition, learning disability or condition affecting communication or cognition, or their carer or healthcare professional, before a sanction is considered. The aim is to ensure that they fully understand their responsibilities and to record good cause reasons;

Hardship payments - We are also introducing access to hardship payments for ESA claimants who are sanctioned. The objective behind the introduction of hardship payments is to support claimants in greatest need without undermining the deterrent effect of sanctions. Matters which should be taken into account when deciding whether a claimant would suffer hardship if a payment is not made include the risk that the claimant's household will not have access to essential items such as food, clothing or heating. Claimants who meet the criteria for a hardship award will receive 60% of the prescribed amount for a single claimant. Although claimants will continue to receive the WRAC (currently £28.15) and any premiums they are entitled to during the period of the sanction we will not automatically deduct

these components from the hardship award but will consider them when deciding if a claimant is in hardship. We believe that this approach will help to ensure that claimants with particular needs which need to be funded, for example special dietary needs, continue to receive the appropriate level of financial support.

Right of appeal - Claimants will also continue to be able to request further information about the decision to sanction, request reconsideration and appeal the decision.¹⁵

An article in the October 2015 issue of the Child Poverty Action Group's *Welfare Rights Bulletin*, "[Safeguarding guidance: a tool for practitioners](#)," gives further information on DWP policies and procedures to protect "vulnerable" claimants whose benefits may be stopped.¹⁶

1.4 Universal Credit sanctions

Universal Credit is replacing means-tested out-of-work benefits – including income-based JSA and income-related ESA – and tax credits. When UC is introduced, the contributory versions of JSA and ESA will continue to exist, and a single conditionality and sanctions regime will apply across all three benefits. The table below gives a summary.

Universal Credit sanctions (and sanctions under Contribution-based JSA and contributory ESA, when UC is introduced)

Level of sanction	Length of sanction		
	First failure	Second failure within a year	Third failure within a year
High level sanctions (UC and JSA only)	91 days	182 days	1,095 days
<ul style="list-style-type: none"> Failing to undertake Mandatory Work Activity Failing to apply for or to accept paid work Ceasing paid work or losing pay for specified reasons 			
Medium level sanctions (UC and JSA only)	28 days	91 days	91 days
<ul style="list-style-type: none"> Failing to be available for paid work or to take all reasonable action to get paid work 			
Low level sanctions (UC, JSA and ESA)	Until claimant complies, plus 7 days	Until claimant complies, plus 14 days	Until claimant complies, plus 28 days
<ul style="list-style-type: none"> Failing to meet a work-focused interview requirement Failing to comply with a requirement connected to a work-related requirement Failing to meet a work preparation requirement 			

¹⁵ Ibid. para 33

¹⁶ See also Corin Hammersley and Owen Stevens, [ESA Safeguarding Guidance](#), Royal Borough of Greenwich, 2 March 2016; and DWP, [Work Programme Provider Guidance Chapter 4b - Safeguarding and Vulnerability](#), updated 1 March 2016

- Failing to take a particular action to get paid work (UC and JSA only)

Lowest level sanctions (UC and ESA only)	Until claimant complies	Until claimant complies	Until claimant complies
<ul style="list-style-type: none"> • Failing to meet a work-focused interview requirement 			

As regards other aspects of UC sanctions, the position is similar to the current JSA and ESA regimes – as noted above, the changes to JSA and ESA sanctions in late 2012 were intended to bring the rules for these benefits in line with those for UC. So, for example:

- A claimant may be able to avoid a sanction if they can show that they had “good reason” for their actions
- Sanctioned claimants may qualify for hardship payments (though see below for information on how these arrangements will differ from current hardship payments)
- Sanction decisions may be challenged in the same way, ie by requesting a Mandatory Reconsideration, then appealing to a Tribunal

When a sanction is imposed, only the standard basic amounts for adults are affected, not amounts payable for other reasons (eg children, housing costs). Usually, the amount of the sanction is the same as the amount of the standard allowance used to calculate the UC award for a single person, or half the standard allowance if it is a couple claim. A lower rate of sanction (40% of these amounts) will however apply if the person:

- has been given a lowest level sanction;
- is aged 16 or 17; or
- is responsible for a child under one, is pregnant and due to give birth within 11 weeks, or has had a baby in the last 15 weeks (people in these situations have no work-related requirements).

1.5 Hardship payments

Hardship payments are reduced rate payments made to claimants of certain benefits who have been subject to a benefit sanctions. Hardship payments are not made automatically; claimants have to be aware that payments are available, how to apply for them, and what the eligibility criteria are. Different rules apply to JSA, to ESA, and to Universal Credit – see below. The Government has also announced its intention to review certain aspects of hardship provision in its response to the Work and Pensions Committee’s 2014-15 inquiry into benefit sanctions – details are given below.

JSA hardship payments

JSA claimants who have received a benefit sanction may be able to get reduced rate “hardship payments.” To qualify, a claimant needs to show that they would be left in hardship were no such payments made. A member of Jobcentre Plus staff should look at a number of

factors, including whether the individual has access to any other financial resources within their household and whether there is a substantial risk that their household would be left without essential items (eg food, heating). Access is immediate for certain claimants in a “**vulnerable group**.” For those in need who do not fall into a vulnerable group, hardship payments cannot normally begin until two weeks into a sanction.

A person is in a “vulnerable group” if, among other things-

- they, or they partner, are pregnant;
- they are responsible for a child under 16 or a qualifying young person;
- they are caring for a severely disabled person and would be unable to care for that person without a payment;
- their award of JSA includes a disability premium and the person would experience hardship if no payment were made;
- they are a 16-17 year old;
- they are a care leaver under 21 and satisfy certain other conditions; or
- they or their partner have a chronic health condition

JSA hardship payments are 60% of the claimant’s JSA personal allowance, or 80% if the claimant, or a member of their household, is pregnant or “seriously ill.”

ESA hardship payments

ESA claimants may apply for hardship payments from day one of a sanction. Matters which should be taken into account when deciding whether a claimant would suffer hardship if a payment is not made include the risk that the claimant’s household will not have access to essential items such as food, clothing or heating. Claimants who meet the criteria for a hardship award will receive 60% of the prescribed amount for a single claimant.¹⁷ Claimants subject to a sanction continue to receive the ESA Work Related Activity Component and any other premiums they are entitled to during the sanction period – continuing receipt of these elements will be considered when deciding whether the claimant is in hardship.

UC hardship payments

Reduced rate hardship payments are available for some people who are subject to sanctions if they would otherwise experience hardship, as is currently the case. However, while under the current system claimants subject to a benefit sanction can qualify automatically for hardship payments if they are in a “vulnerable group”, under UC there is no automatic entitlement to hardship payments and claimants must justify their need for them on an ongoing basis. Payments will only be made

¹⁷ Draft regulations presented to the [Social Security Advisory Committee at its November 2016 meeting](#) increase, from April 2017, the ESA hardship payment rate to 80% of the basic rate of ESA (i.e. the amount before additional components) if the claimant, or a member of the household, is seriously ill or pregnant.

to those who cannot meet their most basic and essential needs (eg accommodation, heating, food or hygiene). Furthermore, hardship payments will be recovered from the claimant at a later date, by deductions from their ongoing UC award (although recovery may be suspended if the claimant finds work at or above their earnings threshold, and the outstanding amount written off if the work lasts more than six months).

Changes to hardship payments

In its response to the Work and Pensions Committee's report on *Benefit sanctions policy beyond the Oakley review*, published on 22 October 2015, the Department for Work and Pensions announced its intention to review certain aspects of the hardship payments system. The announcements included:

- accepting in principle the need to make hardship payments available from day one of a sanction, by considering the extension of "vulnerability" to a broader group of individuals;
- removing the necessity of a separate application process for a hardship payments for vulnerable claimants and those with dependent children; and
- extending the definition of groups considered "at risk" for hardship purposes to include those with mental health conditions and those that are homeless.¹⁸

For further details see [Benefit Sanctions: Beyond the Oakley Review: Government Response to the Committee's Fifth Report of Session 2014-15](#).¹⁹

1.6 Sanctions and devolved employment programmes in Scotland

[Section 31 of the Scotland Act 2016](#) gives the Scottish Parliament legislative competence for employment schemes to assist those at risk of becoming long-term unemployed, and to help disabled people into work. This broadly corresponds to the support provided currently by the Work Programme (which is for both JSA and ESA claimants) and Work Choice in respect of disabled people (though Work Choice is voluntary). Benefits conditionality and sanctions, however, remain reserved matters.²⁰

The Scottish Government believes that participation in devolved employment programmes should be voluntary, and that claimants should not face possible sanctions. In a letter dated 21 November to the Convenor of the Scottish Parliament Social Security Committee, the Secretary of State for Work and Pensions, Damian Green, confirmed

¹⁸ For further developments see [Homelessness and mental health conditions to be supported by hardship fund](#), DWP press release, 16 November 2016. More general information on benefit conditionality and homeless people see section 4.1 of Commons Library briefing CBP-7698, [Rough sleepers: access to services and support \(England\)](#)

¹⁹ HC 557 2015-16, 22 October 2015

²⁰ See p21 of SPICe briefing SB 16-45, [New Social Security Powers](#), 31 May 2016

that the DWP would make referrals to devolved employment programmes on a voluntary basis, if that was what the Scottish Government wanted. Mr Green said:

In relation to your question, as I confirmed to the Committee, DWP will make referrals to devolved employment programmes on a voluntary basis if that is how the Scottish Government wish to proceed. For the avoidance of doubt, a voluntary referral means that a benefit sanction would not be applied for failure to attend or participate in the programme. DWP does however remain interested to see how the Scottish Government will achieve delivery of an effective system which both secures value for money, and provides successful outcomes for those at risk of long term unemployment, where engagement is on a purely voluntary basis. In that context, as I said to the Committee, the weight of opinion globally is that sanctions remain a key element of the mutual obligation that underpins the effectiveness and fairness of the social security system. And indeed, the same was referenced in 2015 by the Work and Pensions Committee. It is also worth noting that these claimants will still be required to meet other conditions to continue to receive benefit - meaning they will need to demonstrate that they are looking for work - so I will be interested to learn of SG's plans to ensure that employment programmes support participants to demonstrate this.²¹

²¹ [Letter from Damian Green to Sandra White MSP](#), 21 November 2016

2. Research and reports

A large number of research studies, reports and commentaries on benefits conditionality and sanctions have been published in recent years. A select bibliography is given in section 2.1 below (in chronological order).

2.1 Reports and commentaries

Julia Griggs and Martin Evans, [Conditional benefit systems: A review of evidence](#), Joseph Rowntree Foundation, December 2010.

Danielle Venn, [Eligibility Criteria for Unemployment Benefits: Quantitative Indicators for OECD and EU Countries](#), OECD Social, Employment and Migration Working Papers, No. 131, January 2012

“[Activating jobseekers: Lessons from seven OECD countries](#),” OECD Employment Outlook, July 2013, pp127-190

Scottish Government, [The potential impacts of benefit sanctions on individuals and households: Welfare Analysis](#), December 2013

Scottish Parliament Welfare Reform Committee, [Interim Report on the New Benefit Sanctions Regime: Tough Love or Tough Luck?](#), June 2014

Citizens Advice Scotland, [Sanctioned: what benefit?](#) July 2014

Beth Watts et al, [Welfare sanctions and conditionality in the UK](#), Joseph Rowntree Foundation, September 2014.

David Webster, [A guide to the Oakley report and the government's response](#), September 2014

Gingerbread, [Single parents and benefit sanctions](#), November 2014

Fawcett Society, [Where's the Benefit? An Independent Inquiry into Women and Jobseeker's Allowance](#), February 2015

Christina Beatty, Mike Foden, Lindsey McCarthy, and Kesia Reeve, [Benefit sanctions and homelessness: a scoping report](#), Crisis, March 2015

Baptist Union of Great Britain, Church Action on Poverty, The Church in Wales, Church of Scotland, Methodist Church, United Reformed Church, [Time to rethink benefit sanctions](#), March 2015

Work and Pensions Committee, [Benefit sanctions policy beyond the Oakley review](#), HC 814 2014-15, 24 March 2015. See also the [Government's response](#) issued in October 2015.

Rachel Loopstra, Aaron Reeves, David Taylor-Robinson, Ben Barr, Martin McKee and David Stuckler, “[Austerity, sanctions, and the rise of food banks in the UK](#)”, British Medical Journal, 360, 8 April 2015

R Loopstra, A Reeves, M McKee and D Stuckler, [Do punitive approaches to unemployment benefit recipients increase welfare exit and employment? A cross-area analysis of UK sanctioning reforms](#), Sociology

Working Paper 2015-01, Department of Sociology, University of Oxford, 2015

Adam Tinson, [The rise of sanctioning in Great Britain](#), New Policy Institute, June 2015

David Webster, [Briefing on the Government's response to the Work and Pensions Committee report: Benefit Sanctions Policy beyond the Oakley Review](#), 4 November 2015

Suzanne Fitzpatrick et al, [Destitution in the UK](#), Joseph Rowntree foundation, 27 April 2016

Welfare Conditionality Programme, [First wave research findings](#), 12 May 2016

David Webster, [Briefing: The DWP's JSA/ESA Sanctions Statistics Release](#), 17 August 2016

Kizzy Gandy et al, [Poverty and decision-making: How behavioural science can improve opportunity in the UK](#), Behavioural Insights Team, October 2016

David Webster, [Explaining the rise and fall of JSA and ESA sanctions 2010-16](#), October 2016

Rachel Loopstra, Jasmine Fledderjohann, Aaron Reeves and David Stuckler, [The impact of benefit sanctioning on food insecurity: a dynamic cross-area study of food bank usage in the UK](#), Sociology Working Paper 2016-03, Department of Sociology, University of Oxford, October 2016

2.2 Welfare Conditionality Project first wave findings

A major research project – [Welfare Conditionality: Sanctions, Support and Behaviour Change](#) – is currently underway involving researchers from the University of York, the University of Glasgow, the University of Sheffield, the University of Salford, Sheffield Hallam University and Heriot Wat University. The aim of the £2 million, five-year Economic and Social Research Council (ESRC)-funded project is to examine the available evidence on the efficacy and ethicality of conditional forms of welfare; consider how effective welfare conditionality is at achieving and sustaining desired forms of behavioural change; what the impacts are; how different groups fare; and to what extent welfare conditionality can be morally justified.

The two main aims of the project are to discover:

- First, how effective is conditionality in changing the behaviour of those receiving welfare benefits and services?
- Second, are there any particular circumstances in which the use of conditionality may, or may not be, justifiable?²²

In its report on benefit sanctions published on 29 November 2016, the National Audit Office states that in 2015, the Department for Work and

²² Welfare Conditionality Project, [About our research](#)

Pensions “advised its Work Programme providers not to take part in focus groups for this project, citing concerns about the scope.”²³

In May 2016 the Welfare Conditionality Project’s [First Wave Findings](#) were released. This drew on data from interviews with 52 policy stakeholders (PS), 27 focus groups (FG) conducted with practitioners and 480 qualitative longitudinal interviews with nine groups of welfare service users (WSUs) in England and Scotland.

The research found that for most claimants, welfare conditionality and sanctions was a wholly negative experience, creating widespread anxiety and feelings of disempowerment. Routinely, sanctions had severely detrimental financial, material, emotional and health impacts on those subject to them, and applying conditionality appeared to cause some people to disengage from support. The study found limited evidence that conditionality brought about positive behaviour change, the common thread linking stories of successful transitions into work being the availability of appropriate individual support rather than the threat of sanctions.

The [Key findings](#) were:

- Most respondents report negative experiences of conditional welfare interventions. Linking continued receipt of benefit and services to mandatory behavioural requirements under threat of sanction created widespread anxiety and feelings of disempowerment among WSUs.
- The impacts of benefit sanctions are universally reported by welfare service users as profoundly negative. Routinely, sanctions had severely detrimental financial, material, emotional and health impacts on those subject to them. There was evidence of certain individuals disengaging from services or being pushed toward ‘survival crime’.
- Harsh, disproportionate or inappropriate sanctioning created deep resentment and feelings of injustice among WSUs.
- Some social tenants with fixed-term, conditional forms of tenancy were unaware or unconcerned about this, but it was a cause of considerable anxiety for some, especially those with a disability or health problems and for families with children.
- Most WSUs reported negative experiences of support from Jobcentre Plus or the Work Programme. However, there were some examples of good practice, and of mandatory support helping people to improve their work or personal situations.
- There is limited evidence to date of welfare conditionality bringing about positive behaviour change. Evidence of it working to move people nearer to the paid labour market was rare. A minority of practitioners and WSUs did acknowledge some positive outcomes.
- The common thread linking stories of successful transitions into work, or the cessation of problematic behaviour, was not so much the threat or experience of sanction, but the availability of appropriate individual support.

²³ [HC 628 2016-17](#), para 3.8

- Poor communication meant some respondents did not understand the reasons for sanction, or the engagement with mandatory support and behavioural requirements placed on them.
- Many WSUs are broadly supportive of welfare rights being linked to specified responsibilities. They are, however, more critical of how welfare conditionality is being implemented.

More detailed information on the [First Wave Findings](#) can be found on the Project's website.

The Welfare Service Users (WSUs) will be interviewed three times in total and the research is due to be completed in 2018.

3. Statistics

Sanction statistics are available from [DWP Stat Xplore](#) for JSA from 2002 and ESA from 2008. This section analyses the number of JSA and ESA sanction decisions and the number and rate of claimants sanctioned.

About JSA and ESA sanction statistics

JSA and ESA “sanction” statistics published by DWP are for **sanction decisions**.

When a Jobcentre Plus Work Coach suspects a claimant of not having fulfilled a “mandatory requirement”, the Work Coach will **refer** the claimant to DWP “Decision Makers” (as explained in section 1.2). The DWP Decision Maker must decide whether to sanction the claimant.

There are **four ‘stages’ a decision might be made at**, depending on whether the claimant challenges the decision:

- 1- **Original decisions** – the original decision made by a DWP Decision Maker stands unchallenged; or
- 2- **Decision Review** – where the original decision is reviewed in light of new evidence from a claimant or Jobcentre staff; or
- 3- **Mandatory Reconsideration** – where the claimant formally applies for their sanction to be reviewed. Mandatory Reconsiderations were introduced in October 2013; or
- 4- **Appeal** – where the claimant formally appeals against their sanction. From October 2013, claimants cannot appeal against a sanction unless they have received a Mandatory Reconsideration from DWP.

Any sanction referral appears in DWP’s data only once. That is, the sum of original decisions, Decisions Reviews, Mandatory Reconsiderations and Appeals equals the total number of decisions made.

The Decision Maker has **four options** when deciding on a claimant’s case:

- 1- **Apply an “adverse sanction”** – that is, sanction the claimant through a reduction or withdrawal of benefit; or
- 2- **Decide not to sanction a claimant** – this is a “non-adverse” decision; or
- 3- **Reserve a decision** – this is where the Decision Maker would usually sanction the claimant, but for some reason the claimant is no longer claiming JSA or ESA; or
- 4- **Cancel the referral** – for various reasons, the Decision Maker might decide not to make a decision.

Statistics on JSA and ESA sanctions are available in **two forms**. Data is available for:

1. **The total number of adverse sanctions**, showing the number of adverse sanctions in any given month; and
2. **The total number of individuals sanctioned**, showing the number of individuals adversely sanctioned in any given month.

One claimant may receive multiple sanctions – hence, we would normally expect the total number of sanctions (1) to be larger than the total number of individuals sanctioned (2).

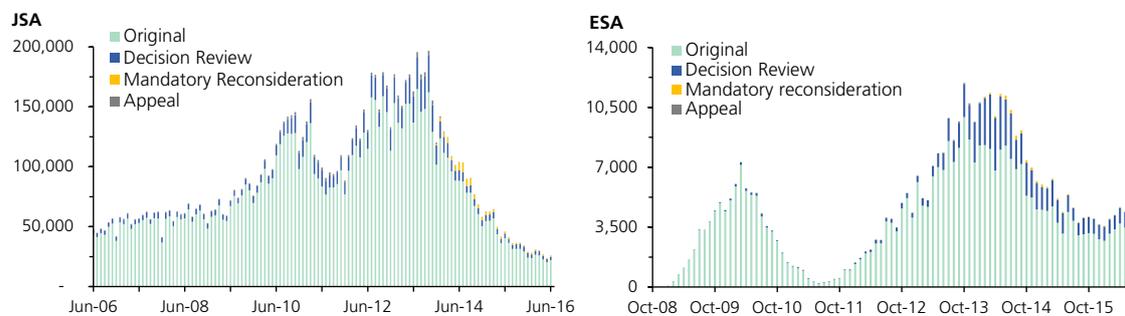
Number of JSA and ESA sanction decisions

Figure 1 shows the total number of JSA and ESA sanction decisions from, for JSA, January 2006 and, for ESA, October 2008, until June 2016.

In June 2016 there were around 25,700 JSA sanction decisions, of which 22,100 were original decisions, 2,700 were Decision Reviews, 800 Mandatory Reconsiderations and 70 Appeals. In comparison, there were around 5,100 ESA sanction decisions in June 2016, of which 4,200 were original decisions, 880 were Decision Reviews and 30 were Mandatory Reconsiderations.

Note this data is for the total number of sanction decisions – as opposed to the number of claimants in respect of whom a decision has been made (see “About JSA and ESA sanction statistics”, above).

Figure 1 - Total JSA and ESA sanction decisions



Note Data is for the total number of sanction decisions, not the total number of adverse sanctions (provided below). Data is for the total number of sanction decisions, as opposed to the total number of claimants in respect of whom a decision has been made. Statistics cover both the Old (up until October/November 2012) and New (post November 2012) Sanction Regimes.

Source [DWP Stat Xplore; JSA Sanction Decisions – all decisions made & ESA Sanction Decisions – all decisions made](#)

The monthly number of JSA sanction decisions first peaked at 156,400 decisions in March 2011, before falling to 88,600 decisions in December 2011. However, the number of decisions made per month then rose again to over 130,000 decisions a month between May 2012 and January 2014, peaking at 196,700 decisions in October 2013.

The number of ESA sanction decisions first peaked at 7,300 decisions in March 2010, before declining to just over 200 in June 2011. The number of decisions made in a month then peaked again at 11,900 in October 2013.

Number of JSA and ESA claimants sanctioned

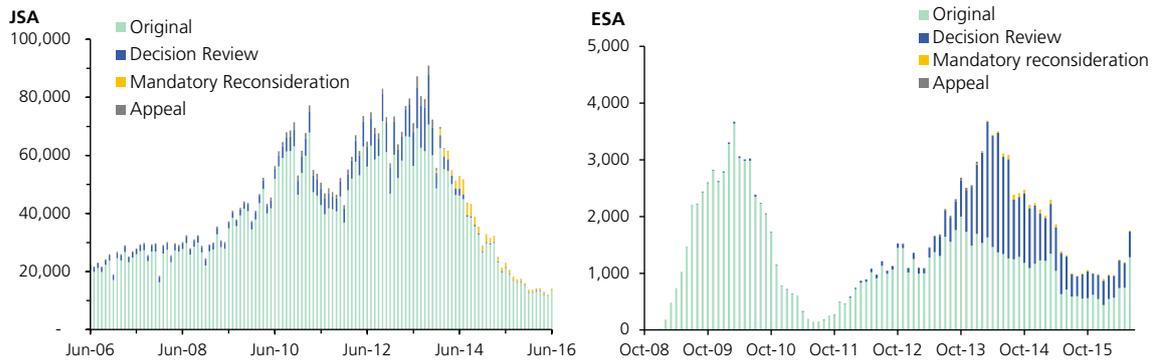
Figure 2 shows the number of adverse sanctions by month.

There were around 14,000 adverse JSA sanctions issued in June 2016. Of these, 13,200 were original sanctions, 140 were Decision Reviews, 660 were Mandatory Reconsiderations and 40 Appeals.

There were around 1,700 adverse ESA sanctions issued in June 2016. Of these, 1,300 were original sanctions, 450 were Decision Reviews and 20 were Mandatory Reconsiderations.

This data is for the number of adverse sanctions. In comparison, in June 2016 11,700 JSA claimants and 1,500 ESA claimants were adversely sanctioned.

Figure 2 - Total adverse JSA and ESA sanctions



Note Data is for the total number of adverse sanctions, as opposed to the number of claimants sanctioned. Statistics cover both the Old (up until October/November 2012) and New (post November 2012) Sanction Regimes.

Source [DWP Stat Xplore; JSA Sanction Decisions – all decisions made & ESA Sanction Decisions – all decisions made](#)

The number of adverse JSA sanctions peaked at 74,100 in November 2010, then again in October 2013 at 10,000.

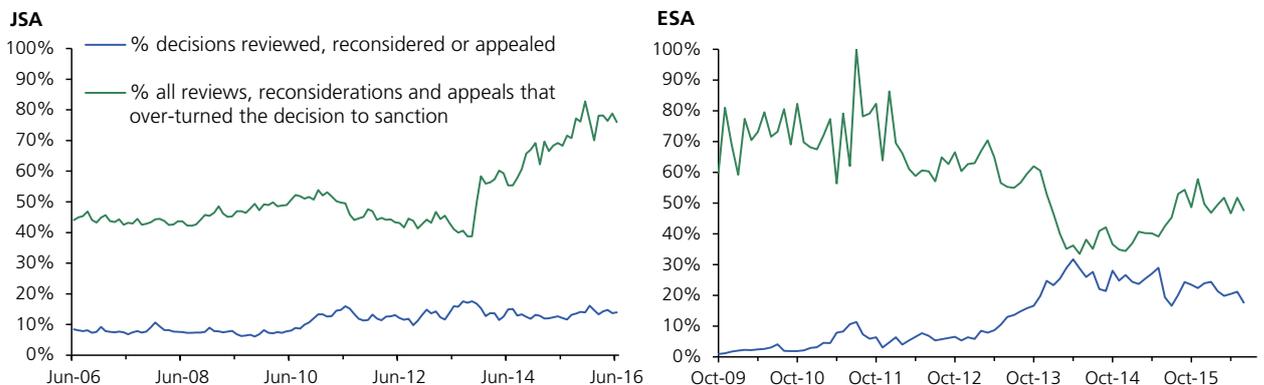
The number of adverse ESA sanctions peaked at 3,700 in March 2010, then again in March 2014 at 3,700.

Proportion of sanctions challenged and overturned

Figure 3 shows the proportion of sanction decisions challenged – be that via a Decision Review, Mandatory Reconsideration or an Appeal – and the proportion of challenges that result in the original decision to sanction being overturned.

The proportion of JSA decisions challenged has fluctuated between 6% and 18% between June 2006 and June 2016. The proportion of ESA decisions challenged fluctuated between 1% and 11% between October 2009 and May 2013. The proportion of decisions challenged per month peaked, however, at 32% in April 2014.

Figure 3 - JSA and ESA decision reviews, reconsiderations and appeals



Note Data is for the total number of sanction decisions, as opposed to the number of claimants in respect of whom a decision has been made. Statistics cover both the Old (up until October/November 2012) and New (post November 2012) Sanction Regimes. Note Mandatory Reconsiderations were introduced in November 2013.

Source [DWP Stat Xplore; JSA Sanction Decisions – all decisions made & ESA Sanction Decisions – all decisions made](#)

Figure 3 also shows the proportion of challenges that successfully overturned the original decision to sanction. The introduction of

Mandatory Reconsiderations in November 2013 had a noticeable effect on this.

The proportion of adverse JSA sanctions successfully challenged fluctuated between 39% and 54% January 2006 to November 2013. However, in December 2013 the proportion of successful challenges rose to 58% (from 49% in November 2013), to 60% in April 2014, 70% in February 2015 and 83% in November 2015.

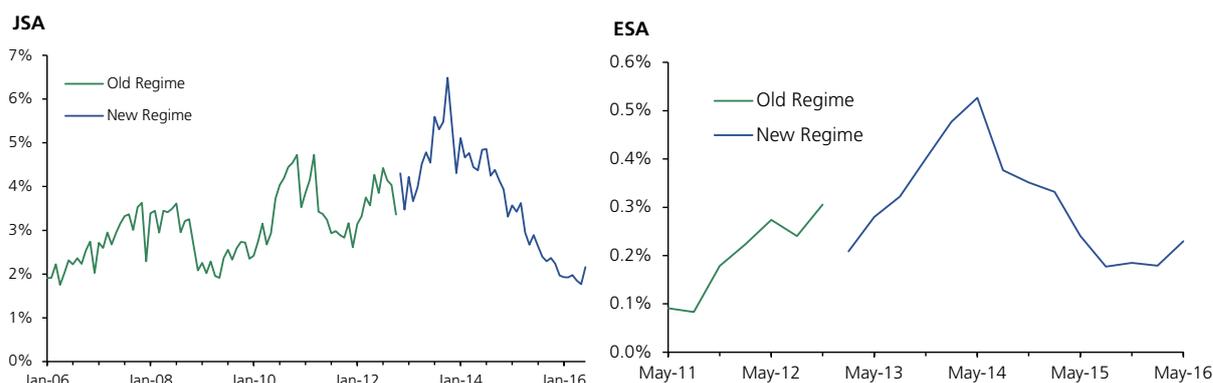
In contrast, the introduction of Mandatory Reconsiderations coincided with a fall in the proportion of ESA sanctions successfully challenged. This is likely a reflection of a simultaneous rise in the proportion of decisions challenged. Between October 2009 and November 2013 the proportion of ESA sanctions successfully challenged was frequently over 60%. The proportion fell, however, from 61% in November 2013 to 53% in December 2013, and again to 35% in March 2013. Since November 2013 the proportion of decisions successfully challenged in any given month has not risen over 54%.

Proportion of JSA and ESA claimants sanctioned

Figure 4 estimates the proportion of JSA and ESA claimants sanctioned per month. This can be estimated by dividing the number of adverse sanctions in a given month by the number of claimants in that month. Note, however, that there has been considerable debate surrounding estimates such as these – see below.

The charts show estimates by month for JSA and by quarter for ESA (as JSA caseload data is published more frequently than ESA).

Figure 4 - Estimated proportion of JSA and ESA claimants newly sanctioned by month



Notes House of Commons Library estimates based upon DWP statistical publications. Calculations show the proportion of claimants to whom an adverse sanction has been newly applied in a given month. Percentages have been calculated using the number of individuals to whom a sanction has been newly applied as the numerator and the number of claimants as the denominator

Source [DWP Stat Xplore; JSA Sanction Decisions – individuals sanctioned & ESA Sanction Decisions – individuals sanctioned](#)

The proportion of JSA claimants newly sanctioned in any given month peaked at 6.5% in October 2013, falling to around 2% in each of the first six months of 2016. The proportion of ESA claimants newly sanctioned in any given month did not, according to these estimates, rise over 1% between May 2011 and May 2016.

There has been considerable debate between academics (in particular, David Webster at the University of Glasgow), the House of Commons Work and Pensions committee, the National Audit Office and others in recent years over how to produce estimates such as these, however. See, for example, [Shiv Malik's article for the Guardian data blog](#) on this in August 2015.

In summary: DWP publishes data for the *number of individuals to whom an adverse sanction has been applied in a given month* and caseload data for the *number of JSA claimants in a given month*. Therefore, it is possible to estimate the proportion of JSA claimants to have been newly sanctioned in any given month.

Such estimates do not, however, account for sanctions issued in prior months – the effect of which might be ongoing.

Neither is it immediately possible to calculate the proportion of JSA claimants who are sanctioned over the course of a year; to do so would require a reliable figure for the total number of people to have claimed JSA in a given year (see the linked article for further discussion of this issue).

As a result, the above estimates show the proportion of claimants *newly* sanctioned in a given month. They do not show the number of claimants to whom a sanction *currently applies* in any given month.

Neither can we use the above data to estimate the proportion of claimants who are sanctioned over time. The National Audit Office's November 2016 [Benefit Sanctions](#) report (see Section 4) does, however, provide some further data: the report estimates that 24% of all JSA claimants between 2010 and 2015 were sanctioned.

Reasons for JSA and ESA sanctions

Data is also available for the reasons claimants are sanctioned.

Around 2 million sanctions have been applied to JSA claimants since 22 October 2012 and the roll out of DWP's new sanction regime.

Of these JSA sanctions:

- 32% (around 646,000) were applied as the claimant was not actively seeking employment; and
- 27% (around 545,000) were applied as the claimant failed to participate in a Work Programme without good reason; and
- 23% (around 469,000) were applied as the claimant failed to attend an Advisor interview without good reason.

Around 82,400 sanctions have been applied to ESA claimants since 3 December 2012 and the roll out of DWP's new sanction regime.

Of these ESA sanctions:

- 16% (around 14,000) were applied as the claimant failed to attend a mandatory interview; and
- 84% (around 69,000) were applied as the claimant failed to participate in a work related activity.

4. Policy developments

4.1 Developments since the Oakley review

In 2013 the Coalition Government appointed an Independent Reviewer to look at the clarity of communications between Jobcentre Plus and claimants in relation to JSA conditionality and sanctions, the availability of hardship payments to those who are sanctioned, and the clarity of the review and appeals process. The [report by the Independent Reviewer](#) – Matthew Oakley – was published in July 2014²⁴ and the Government said that it accepted, either fully or in principle, all of its 17 recommendations.²⁵ Some commentators have however questioned whether the Government's response fully addresses the issues raised by the Oakley review.²⁶

In March 2015 the Work and Pensions Committee published a report, [Benefit sanctions policy beyond the Oakley Review](#),²⁷ which recommended, among other things, that the Government take urgent steps implement fully the outstanding recommendations from the Oakley Report. Other recommendations included a series of evaluations to increase the evidence base around the efficacy and impacts of the new sanctions regime; better training for Jobcentre staff on the lone parent flexibilities; developing guidance to assist staff to identify vulnerable claimants and tailor conditionality according to the claimant's individual circumstances, expediting the evaluation of the JSA "claimant commitment", including a review of the appropriate use of jobseeker directions; a small-scale pilot to test the efficacy of a more targeted approach to sanctions based on "segmentation" of claimants by their attitudes and motivations; and a review of ESA sanctioning within the Work Programme. The Committee also recommended changes to hardship provision, including making all hardship payments available from the start of sanctions periods, and putting the onus on the Department to initiate the hardship process for vulnerable claimants and those with children.

In its [response to the Committee](#) in October 2015,²⁸ the Government made a series of announcements including its intention to trial a warning system whereby claimants would be given 14 days to provide evidence of "good reason" before imposition of a sanction; reintroducing automated JSA sanction notifications; new guidance to jobcentre plus staff to improve awareness of vulnerability and how conditionality can be varied; and changes to hardship provision

²⁴ Matthew Oakley, [Independent review of the operation of Jobseeker's Allowance sanctions validated by the Jobseekers Act 2013](#), 22 July 2014

²⁵ Department for Work and Pensions, [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

²⁶ See David Webster, [JSA Sanctions: A guide to the Oakley Report and the Government's response](#), 14 September 2014

²⁷ Work and Pensions Committee, [Benefit sanctions policy beyond the Oakley review](#), HC 814 2014-15, 24 March 2015

²⁸ [Benefit Sanctions: Beyond the Oakley Review: Government Response to the Committee's Fifth Report of Session 2014-15](#), HC 557 2015-16, 22 October 2015

including accepting in principle that payments should be available from day one, removing the necessity of a separate application process for vulnerable claimants and those with children, and extending the definition of groups considered “at risk” for hardship purposes to include homeless people and those with mental health conditions.

The Government did not however accept the Committee’s recommendation that it 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.” Nor did it accept the Committee’s recommendation that it develop systems to track the short and long-term employment outcomes and earnings progress for sanctioned benefit claimants within Universal Credit.

In a [letter of 29 October 2015 to the then Secretary of State for Work and Pensions](#), Iain Duncan Smith, the Chair of the Work and Pensions Committee, Frank Field, said that while the Committee welcomed the Government’s response and was pleased that many of its recommendations had been accepted, at least in principle, he was “particularly disappointed” that the Government had not accepted the recommendation on monitoring the destinations of sanctioned claimants. The letter continued:

Monitoring employment outcomes is surely fundamental to understanding whether the conditionality system is helping to achieve the ultimate aim of getting claimants back into work and out of poverty, yet your response states that the Department “has no plans” to do so. Given its central importance, we would appreciate a fuller explanation of this decision. We are likely to return to the related, broader issue of the usefulness of DWP statistics later in this Parliament.

In his response, the Secretary of State said that the Department was not committing to the use of “Real Time Information” (RTI) data to track outcomes for sanctioned benefit claimants since officials were currently “quality assuring” the data for Universal Credit official statistics. Mr Duncan Smith added:

As part of this quality assurance process we will carefully consider the option for including destination data. It is, however, worth noting that claimant destinations are likely to be influenced by a range of factors, not just whether an individual has been sanctioned.

Further information on how the Government proposed to take forward some of the commitments made in its response to the Committee is given in the following correspondence from October-December 2015:

- [Letter from Iain Duncan Smith to Frank Field on Government response to sanctions report](#), 22 October 2015
- [Letter from the Chair of the Work and Pensions Committee to the Rt Hon Iain Duncan Smith MP regarding DWP’s response to the sanctions report](#), 29 October 2015

- [Letter from The Rt Hon Iain Duncan Smith to Frank Field regarding the report Benefit sanctions policy beyond the Oakley Review](#), 18 November 2015
- [Letter from The Rt Hon Iain Duncan Smith to Frank Field regarding the report Benefit sanctions policy beyond the Oakley Review](#), 18 December 2015

Some commentators however questioned whether the measures announced by the Government were an adequate response to the issues raised in the Committee's report. In a press release issued on 22 October 2015, the [Employment Related Services Association \(ERSA\)](#), while welcoming the statement from the Secretary of State for Work and Pensions on benefit sanctions, warned that further changes were needed to system:

In particular, ERSA has welcomed the piloting of a 14 day delay for claimants and extending the definition of 'at risk' groups for hardship purposes to include those with mental health conditions and who are homeless. However, ERSA has also warned that, although the ability for Jobcentre Plus to sanction jobseekers should not be abandoned entirely, the changes being proposed by the Secretary of State were unlikely to go far enough.

In addition to today's changes, ERSA is calling for:

1. An 'early warning' system which could be used at first offence rather than imposing a sanction.
2. The development of a far more robust evidence base about the effectiveness of sanctions and benefits conditionality generally on jobseekers.
3. Frontline employment providers of the Work Programme and other programmes to be given more discretion about when they should report jobseekers to Jobcentre Plus for potential sanctioning.
4. Greater clarity across the system about which jobseekers classed as 'vulnerable' and should be exempt from sanctions altogether.
5. The better sharing of information about jobseeker circumstances, including the results of Work Capability Assessments, as lack of information can lead to inappropriate sanctioning.
6. An automatic review of jobseeker circumstances when repeat sanctions fail to have an effect.

At present, Jobcentre Plus can issue benefit sanctions, thus removing benefit entitlement for a specified period from jobseekers who fail to comply with agreed activities, such as meetings with advisers or skills programmes. Providers of the Work Programme and other programmes are obliged to refer some jobseekers to Jobcentre Plus when there has not been compliance with agreed activities.²⁹

In a commentary published on 4 November 2015, [Dr David Webster](#), an Honorary Senior Research Fellow in Urban Studies at the University of Glasgow and a fierce critic of the Government's benefits sanctions policy, said that the Government's response to the Committee

²⁹ [ERSA welcomes potential changes to benefit system, but warns they don't go far enough](#), press release, 22 October 2015

published on 22 October 2015 “does not acknowledge any of the fundamental problems of the sanctions system identified by the Work & Pensions Committee.” He added:

It repeats unjustified claims that sanctions only affect a small minority of claimants, that there are effective safeguards against wrongful sanctions, and that the UK system can be justified by reference to international evidence. It asserts at least ten times that the ‘Claimant Commitment’ ensures that requirements on claimants are reasonable, when the DWP’s own research findings show that around half of claimants in each case state that their ‘Commitment’ contains actions which do not take account of their personal circumstances, do not genuinely increase their chances of finding work, or are not achievable.

The government has refused those Committee recommendations which would have thrown further light on the problems of the system, namely: a comprehensive independent review, specific review of ESA sanctioning, exploration of alternatives to financial sanctions (other than possibly for ESA rather than JSA claimants), evaluation of the lengthening of sanctions in 2012, early evaluation of the Claimant Commitment, monitoring of destinations of sanctioned claimants, and reform of the legislative framework.

The government has also refused the recommendation that all claimants should be allowed to apply for a hardship payment from day one of a sanction, and has given up on attempts to prevent wrongful cancellation of Housing Benefit for the one third of penalised JSA claimants who are ‘disentitled’.

The only guaranteed improvement to the system is the restoration of automated sanction notifications, which should almost entirely resolve the problem of the two thirds of penalised JSA claimants who are sanctioned but not ‘disentitled’ having their money stopped before they are informed. Further improvements which are being considered include allowing mentally ill and homeless people to apply for hardship payments from day one; automatic hardship application for ‘vulnerable’ claimants; a 14-day pause for representations before a sanction is applied; and possible resolution in future Work Programme contracts of the problem of contractors having to make obviously unreasonable referrals for sanction.

There are also a range of issues where the government says that it is improving guidance to DWP staff, or changing methods of working. The test of whether these improve the system will be whether there is any abatement in the stream of complaints from the voluntary sector about inappropriate sanctions. The government’s response published on 22 October 2015 does not acknowledge any of the fundamental problems of the sanctions system identified by the Work & Pensions Committee. It repeats unjustified claims that sanctions only affect a small minority of claimants, that there are effective safeguards against wrongful sanctions, and that the UK system can be justified by reference to international evidence. It asserts at least ten times that the ‘Claimant Commitment’ ensures that requirements on claimants are reasonable, when the DWP’s own research findings show that around half of claimants in each case state that their ‘Commitment’ contains actions which do not take account of their personal circumstances, do not genuinely increase their chances of finding work, or are not achievable.

The government has refused those Committee recommendations which would have thrown further light on the problems of the system, namely: a comprehensive independent review, specific review of ESA sanctioning, exploration of alternatives to financial sanctions (other than possibly for ESA rather than JSA claimants), evaluation of the lengthening of sanctions in 2012, early evaluation of the Claimant Commitment, monitoring of destinations of sanctioned claimants, and reform of the legislative framework.

The government has also refused the recommendation that all claimants should be allowed to apply for a hardship payment from day one of a sanction, and has given up on attempts to prevent wrongful cancellation of Housing Benefit for the one third of penalised JSA claimants who are 'disentitled'.

The only guaranteed improvement to the system is the restoration of automated sanction notifications, which should almost entirely resolve the problem of the two thirds of penalised JSA claimants who are sanctioned but not 'disentitled' having their money stopped before they are informed. Further improvements which are being considered include allowing mentally ill and homeless people to apply for hardship payments from day one; automatic hardship application for 'vulnerable' claimants; a 14-day pause for representations before a sanction is applied; and possible resolution in future Work Programme contracts of the problem of contractors having to make obviously unreasonable referrals for sanction.

There are also a range of issues where the government says that it is improving guidance to DWP staff, or changing methods of working. The test of whether these improve the system will be whether there is any abatement in the stream of complaints from the voluntary sector about inappropriate sanctions.³⁰

4.2 DWP sanctions warning system trial

In its response to the Work and Pensions Committee, the Government announced its intention undertake a trial which would involve claimants being given a warning of the intention to impose a sanction on them and a period of 14 days to provide evidence of "good reason" before the sanction decision is made. The "sanctions warning system" trial – sometimes referred to misleadingly as the "yellow card" trial – would begin in Scotland in March 2016.

A parliamentary written answer on 18 November 2016 stated:

The Jobseeker's Allowance Sanctions Early Warning Trial in Scotland ran until September 2016 and involved approximately 6,500 claimants. Data was collected throughout the trial period to assess the extent to which the warning trial affected sanction decisions.

Qualitative interviews are currently being undertaken with a sample of these claimants to gain an understanding of how the new process affected claimant behaviour. The trial has now finished and a full evaluation is being undertaken.

³⁰ David Webster, [House of Commons Work and Pensions Committee report: Benefit Sanctions Policy beyond the Oakley Review: Briefing on the Government's response](#), 4 November 2015

34 Benefit Claimants Sanctions (Required Assessment) Bill 2016-17

The interim report will be published at the end of the year and the final report around April 2017. Findings from the trial will inform any decisions on future roll-out.³¹

No further information on outcomes from the trial are available.

³¹ PQ 52337 [on Social Security Benefits: Disqualification], 18 November 2016

5. National Audit Office report

In March 2016 the National Audit Office announced that it was undertaking a study to examine whether the Department for Work and Pensions was achieving value for money from its administration of benefit sanctions - including how benefit sanctions fit with the intended aims and outcomes of DWP's wider working age employment policy, whether sanctions are being implemented in line with policy and whether use of sanctions is leading to the intended outcomes for claimants.

The NAO's report, [Benefit sanctions](#), was published on 30 November 2016.³² The report considers whether the DWP is achieving "value for money" in its administration of sanctions. NAO states that in order to demonstrate value for money b, DWP must show it has:

- set clear aims for its use of sanctions, made design choices based on evidence, and considered risks for consistency and outcomes;
- used sanctions in a way that ensures its decisions are consistent, accurate and timely; and
- evaluated outcomes for claimants and public spending to help inform the future design and administration of sanctions.³³

The NAO's key findings in relation to these three areas are (original emphasis; paragraph and figure references are to the relevant sections of the report):

Designing sanctions

10 How people respond to sanctions is uncertain. The Department expects most claimants will not be sanctioned and that the deterrence effect of sanctions will encourage them to comply with conditions. However, the Department has limited evidence on how people respond to the possibility of receiving a sanction, or how large this deterrent effect is in practice. Direct effects on people who receive sanctions will also be important; we found 24% of Jobseeker's Allowance claimants receive a sanction at some point (paragraphs 1.8 to 1.10 and Figures 4 and 5).

11 The previous government increased the scope and severity of sanctions. The 2012 reforms expanded the range of claimants subject to conditions and increased the maximum length of Jobseeker's Allowance sanctions from 26 to 156 weeks. When it made the changes the Department recognised that they would affect claimants' behaviour in ways that were difficult to predict (paragraphs 1.11 to 1.13 and Figure 6).

12 The Department's changes to employment support have introduced risks for its use of sanctions. The Department has changed its employment support and approach to sanctions in response to identified problems. For example it has put more emphasis on one-to-one relationships between staff and claimants to encourage more appropriate conditions. Changes introduce new risks. While greater flexibility for jobcentre staff to tailor

³² HC 628 2016-17

³³ Ibid. p7

conditions can make them more appropriate, it also increases the risk of inconsistency in how sanctions are used (paragraphs 1.14 to 1.18 and Figure 7).

Using sanctions

13 The rate at which people are referred for a sanction decision has varied over time. Jobcentres' monthly sanction referral rate for Jobseeker's Allowance claimants rose to 10.7% in March 2011 then fell to 3.1% in December 2015. There are many possible reasons for the rise and fall in referrals but they cannot be explained fully by changes in claimant compliance. It is likely that management focus and local work coach discretion have had a substantial influence on changing referral rates (paragraphs 2.4 to 2.6, Figure 10, and Appendix Three).

14 Use of sanctions varies substantially between jobcentres and between providers. Until it knows the causes of variation between jobcentres the Department cannot tell if it is within acceptable limits. We found that some Work Programme providers make more than twice as many sanction referrals as other providers supporting similar people in the same area (paragraphs 2.7, 2.12 and Figures 11 and 12).

15 The Department has taken steps to reduce wasteful activity. Decision makers cancel referrals that cannot be processed due to errors. In 2012, 40% of Work Programme referrals contained information about claimants that did not match the Department's. By March 2016, the Department had reduced errors to 22% by improving communication with providers (paragraphs 2.16, 2.17 and Figure 14).

16 The process for administering sanctions means many are overturned. Sanctioned claimants can ask the Department to review its decision. In 2015, 26% of all sanctioned Work Programme participants had their decision overturned, compared to 11% of jobcentre sanctions. The Department overturns more Work Programme sanctions because its evidence gathering process is weaker than for claimants referred by jobcentres. It has not considered why many Work Programme participants do not provide evidence, but is exploring ways to gather information from all claimants earlier in the process (paragraphs 2.20 to 2.24 and Figure 16).

17 The Department is meeting its target timescales for most sanction decisions but is missing its Universal Credit targets. In August 2016, 42% of decisions about Universal Credit sanctions took longer than 28 working days. The backlog of referrals awaiting decisions has grown during 2016. Decision-makers for other benefits decide on 90% of referrals within five working days (paragraphs 2.25 to 2.27 and Figures 18 and 19).

18 International evidence suggests that sanctions increase movement from benefits into employment. Studies show people who receive sanctions are more likely to get work, but the effect can be short-lived, lead to lower wages and increase the number of people moving off benefits into inactivity. Evidence on deterrence effects of sanctions is more limited but has similar findings (paragraphs 3.2 to 3.4 and Figure 21).

19 The Department has not used its own data to evaluate the impact of sanctions in the UK. It has administrative data on individual benefit histories, sanctions and employment, and data

on local sanction rates and performance. The Department could use this data to evaluate the impacts of sanctions. We undertook new preliminary analysis looking at how Work Programme participants responded to sanctions, and the relative sizes of employment effects and negative outcomes such as inactivity and lower earnings. Our results need further investigation but they show the Department should do more to understand these sanctions outcomes (paragraphs 3.9 to 3.11).

20 The Department has not supported wider work to improve understanding of sanction outcomes. Although the Department has commissioned independent reviews about aspects of sanctions and taken steps to improve processes, it has rejected calls for a wider review (paragraphs 3.7 and 3.8).

21 The Department does not track the costs and benefits of sanctions. Potential benefits include increased and faster entry into employment leading to lower benefit spending and higher tax revenues. Possible wider costs include the direct impact on people who get sanctioned, such as financial hardship or depression. Supporting them may lead to higher public spending in areas such as local authority funded welfare support. The Department does not know these wider costs and benefits (paragraphs 3.14 to 3.20 and Figure 23).

In relation to the costs and benefits to government, the NAO report states that while DWP does not track the costs and benefits of sanctions, it estimates that it spends £30-£50 million a year applying sanctions, and around £200 million monitoring the conditions it sets for claimants. Against this, NAO estimates that DWP withheld £132 million from claimants due to sanctions in 2015, and paid them £35 million in hardship payments. The overall impact of sanctions on wider public spending is however unknown.³⁴

The NAO's overall conclusion on value for money is that DWP "had not used sanctions consistently." It notes:

Referral rates vary substantially across jobcentres and providers, and have risen and fallen over time in ways that cannot be explained by changes in claimant compliance. While the Department is correcting errors earlier, it needs to do more to show that the quality of referrals and sanction decisions has improved. Our review of the available evidence suggests the Department's use of sanctions is linked as much to management priorities and local staff discretion as it is to claimants' behaviour.³⁵

The NAO states that while it is encouraging the Department has taken steps to improve its approach to sanctions in response to identified problems like high error rates, it "needs to do more than react to problems." It adds:

Sanctions have costs, for people who receive them and for the government. With little evidence for its design choices the Department must use its data to assure itself that sanctions work as it intends. It cannot simply rely on international evidence suggesting that broadly some form of sanction has an effect. Until

³⁴ See paras 3.14-3.20 of the NAO report

³⁵ Ibid., Summary para 22

the Department can show greater consistency in its use of sanctions and demonstrate that their effectiveness is proportionate to their costs we cannot conclude that the Department is achieving value for money.³⁶

The NAO recommends that, as the Department for Work and Pensions introduces further changes to labour market support, it carries out a “wide-ranging review of sanctions.” In particular, it recommends:

a The Department should support better understanding of the impact of sanctions. It should use its data – including real time information on earnings – to track the direct and indirect impact of sanctions on the likelihood, duration and quality of employment, including for those with barriers to work. It should adopt an open and collaborative approach to working with academic researchers and third-party organisations.

b The Department should assess the wider cost of sanctions to central and local government. It should track how sanctions affect demand for publicly funded services.

c The Department should use information to continuously improve its approach to sanctions. The Department has mechanisms for learning and improvement. It should expand its use of feedback from each stage of the sanctions process to fix recurring problems that lead to unnecessary referrals and overturned decisions.

d The Department should improve both internal management information and published statistics about sanction processes, variation and trends. It should demonstrate that it has satisfied the UK Statistics Authority that it has met all recommendations on its published statistics.

e The Department should model future demand for Universal Credit decisions. A large decision backlog already exists. The Department needs to understand likely growth in demand and decision-makers’ capacity to meet it.

f The Department should explore ways to reduce variation in referrals from providers. The Department needs to better manage variation as it develops new programmes such as the Work and Health Programme.

5.1 Public Accounts Committee inquiry

On 10 November – prior to the publication of the NAO’s report – the House of Commons Public Accounts Committee announced that this was undertaking an [inquiry into benefit sanctions](#). The deadline to submit written evidence to the inquiry is Tuesday 6 December.

³⁶ Ibid., Summary para 23

6. The Bill

Mhairi Black's Bill has been informed by an [online consultation](#), which received over 9,000 responses. The Bill is supported by Chris Law, Dennis Skinner, Liz Saville Roberts, Caroline Lucas, Ian Blackford, Carolyn Harris, Angela Crawley and Andrew Percy.

The [Benefit Claimants Sanctions \(Required Assessment\) Bill 2016-17](#) – which extends to England, Wales and Scotland – would require an assessment of a benefit claimant's circumstances to be carried out before a sanction can be imposed on them (**clause 1**). A Code of Conduct would set out the procedures to be followed when carrying out assessments, including how consideration should be given to the claimant's caring responsibilities, mental and physical health and well-being, and housing situation (**clause 2**). Where a sanction is imposed, the person must be assessed to determine whether they are eligible for hardship payments (**clause 1(2)** and **clause 7**).

The Bill would also require that before drawing up or reviewing a "claimant commitment" – the record of a Universal Credit recipient's responsibilities – the person is given advice on their rights and entitlements. The Bill also requires claimant commitments to include details of the person's caring responsibilities, health and well-being, and housing situation (**clause 3**).

Further provisions in the Bill would mean that a "higher-level sanction" cannot be imposed on a Universal Credit claimant for certain sanctionable failures if the failure was due to the person's mental ill health, homelessness or caring responsibilities (**clause 4**). The Bill also provides that a sanction cannot be imposed on a person claiming any benefit where the person had "just cause" for acting in the way they did (**clause 5**). The matters to be taken into account when deciding whether the person had just cause would be set out in primary legislation.

Clause 6 applies where an assessment under clause 1 has been carried out (see above). The clause provides that before signing a claimant commitment, before a sanction is imposed or, if requested following a sanction, a claimant must be provided in writing with advice on the terms and condition of a claimant commitment, potential financial sanctions and access to hardship payments.

Clause 8 provides that the Secretary of State must satisfy himself or herself that adequate guidance and training has been provided to staff to implement the provisions in the Bill.

Further information on the Bill can be found in the accompanying [Explanatory Notes](#) published on 30 November.³⁷

³⁷ [Bill 11-EN 2016-17](#)

7. Appendix

Department for Work and Pensions, [Jobseeker's Allowance: overview of revised sanctions regime](#) (also includes ESA sanctions), September 2013

		Revised sanction regime from October 2012:					
Sanction Level	Applicable to:	Description	Previous sanction regime	1 st failure	2 nd failure	3 rd failure	
Higher Level	JSA claimants	Failure to comply with the most important jobseeking requirements	Variable 1 to 26 weeks except MWA Fixed 13 weeks	13 weeks	26 weeks <i>if within 52¹ weeks but not within two weeks of previous failure</i>	156 weeks <i>if within 52 weeks – but not within two weeks - of previous failure that resulted in 26 or 156 week sanction</i>	
Intermediate Level	JSA claimants	Failure to be available for work	Disentitlement but no sanction ²	Disentitlement then up to 4 weeks loss of benefit	Disentitlement then up to 13 weeks loss of benefit <i>if within 52 weeks – but not two weeks -of previous entitlement ceasing</i>		
	JSA claimants	Failure to attend/participate in an adviser interview/training scheme	Fixed 1, 2, 4 or 26 weeks	4 weeks		13 weeks <i>if within 52 weeks – but not two weeks - of previous failure which resulted in a 4 or 13 week sanction</i>	
Lower Level	ESA claimants in the Work Related Activity Group (WRAG)	Failure to attend/participate in an mandatory interviews or failure to undertake Work Related Activity	Open-ended 50% of Work-Related Activity Component (WRAC) for first 4 weeks, then 100% of WRAC	100% of the prescribed ESA amount open-ended until re-engagement followed by a fixed period of	1 week	2 weeks <i>if within 52 weeks – but not two weeks - of previous failure</i>	4 weeks <i>if within 52 weeks – but not two weeks - of previous failure which resulted in a 2 or 4 week sanction</i>

¹ The 52 week rolling period begins from the date the sanctionable failure took place and not the date the sanction is applied.

² Individuals able to reclaim JSA after small number of waiting days.

About the Library

The House of Commons Library research service provides MPs and their staff with the impartial briefing and evidence base they need to do their work in scrutinising Government, proposing legislation, and supporting constituents.

As well as providing MPs with a confidential service we publish open briefing papers, which are available on the Parliament website.

Every effort is made to ensure that the information contained in these publicly available research briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

If you have any comments on our briefings please email papers@parliament.uk. Authors are available to discuss the content of this briefing only with Members and their staff.

If you have any general questions about the work of the House of Commons you can email hcenquiries@parliament.uk.

Disclaimer

This information is provided to Members of Parliament in support of their parliamentary duties. It is a general briefing only and should not be relied on as a substitute for specific advice. The House of Commons or the author(s) shall not be liable for any errors or omissions, or for any loss or damage of any kind arising from its use, and may remove, vary or amend any information at any time without prior notice.

The House of Commons accepts no responsibility for any references or links to, or the content of, information maintained by third parties. This information is provided subject to the [conditions of the Open Parliament Licence](#).