

Independent review of the operation of Jobseeker's Allowance sanctions validated by the Jobseekers Act 2013

Matthew Oakley

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Print ISBN 9781474108713

Web ISBN 9781474108720

Printed in the UK by the Williams Lea Group on behalf of the Controller of Her Majesty's Stationery Office

ID 010714 07/14

Printed on paper containing 75% recycled fibre content minimum

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Foreword

Benefit sanctions provide a vital backstop in the social security system for jobseekers. They ensure that, in return for the support provided by the state, claimants are held accountable for doing all they can to take on that support and to move back into work. This is a key element of the mutual obligation that underpins both the effectiveness and fairness of the social security system.

However, it is also clear that this is a system that can go wrong and, when that happens, individuals and families can suffer unfairly. In this respect, it is easy to see the importance of communication and understanding. No matter what system of social security is in place, if it is communicated poorly, if claimants do not understand the system and their responsibilities, and if they are not empowered to challenge decisions they believe to be incorrect and seek redress, then it will not fulfil its purpose. It will be neither fair nor effective.

My Review was tasked with assessing whether the current system is functioning as it should. While I found that the system is not fundamentally broken, there are a number of areas where improvements need to be made, particularly for more vulnerable individuals.

From the start, I want to highlight that while this Review highlights areas of the system that do not work as effectively as they could, this is not a criticism of either Jobcentre Plus staff or policy makers. All of the conversations that the Review team held with Jobcentre Plus staff highlighted their dedication to trying to help claimants back into work and ensuring that the social security system was administered fairly and effectively. Policy makers the team spoke to also shared this motivation and were extremely helpful in uncovering existing problems and potential solutions.

In this respect, I hope that recommendations for improvements, outlined in Chapters 4 and 5, provide a contribution to improving the system of benefit sanctions in Great Britain. If taken up they would ensure that the Department for Work and Pensions focuses on ensuring that claimants fully understand the system of benefit sanctions and, in particular, that claimants are always made aware when they are at risk of a sanction and what they need to do if they do not think they should be. For those who are sanctioned and are in need of the system of hardship payments, my recommendations could improve access and reliability.

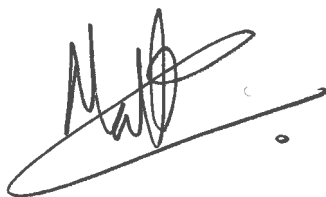
However, it is also clear that they will not prove to be a silver bullet and so I also hope that the recommendations can contribute to wider improvements in the social security system. Throughout the course of this Review, I have been aware that the remit only covers around a third of those jobseekers who are sanctioned or at risk of being sanctioned. Even for those groups I considered, the remit was tightly focused on the important issues of communication and understanding. However, a number of the recommendations have also read-across to other groups of claimants and other parts of the sanctions system.

More broadly, I spoke to many people with much wider concerns about the system of sanctions that fell outside of the remit of my Review. A number of these are summarised in the responses to the call for information that I received from organisations and individuals. Their views and concerns were wide-ranging and many are available on the Child Poverty Action Group website. Key concerns included issues around the effectiveness of the sanctioning system in improving movements into work, the proportionality of the current sanctions levels and the pace of change over the last ten years.

A number of these issues pose challenging questions over both how parts of the current system are functioning and whether future reforms might be able to make the system more transparent and supportive for claimants, whilst delivering greater likelihood of an entry into work and reduced benefit expenditure. Following this Review, I urge the Department to continue to consider how these issues can be tackled and how further reforms could help more people move more quickly into lasting jobs. Alongside the formal recommendations laid out in chapters 4 and 5 of this Review, I make a number of suggestions for broader and longer-term reforms that I hope are areas that the Department will consider as options in the future.

When considering these options it is essential that the Department has the best available evidence at its disposal and so I also hope that the Department continues to invest, both in measuring the extent of claimant understanding through qualitative and quantitative research, and in undertaking and fully evaluating pilots of new approaches. By doing so, future reforms will stand more chance of improving the speed at which benefit claimants move into work and away from state support.

Finally I would like to thank all of the organisations and individuals who contributed to this Review. I am also grateful for the invaluable support given by the Department and the open approach they have adopted as I have undertaken this Review. Particular thanks should go to Lewis Childs and Claire Henderson. Of course, all views, opinions and recommendations in this Review are entirely my own, not theirs, or those of my employer, Which? or the Social Security Advisory Committee.

A handwritten signature in black ink, appearing to read 'Matthew Oakley', with a long horizontal flourish extending to the right.

Matthew Oakley

Executive summary

The Review

This Review considers benefit sanctions for claimants of Jobseeker's Allowance (JSA) who have been sanctioned after being referred to a mandatory back to work scheme. It was tasked with assessing and making recommendations around how the process of benefit sanctions functions in these circumstances, and how well claimants understand the system. In particular, it was asked to focus on the clarity of information provided to JSA claimants about:

- The consequences of failing to take part in mandatory back to work schemes; and
- Once sanctioned, the reason for the sanction and the processes of providing good reason, appealing a decision and applying for hardship.

As well as considering published data from the Department for Work and Pensions (DWP, the Department) and reviewing existing research, the Review team undertook an extensive consultation exercise and call for information. This included speaking to claimants, staff from across the Department and from providers of back to work schemes and representatives from a large number of organisations that represent and support claimants.

The current sanctions system

The current systems of benefit conditionality and sanctions in Great Britain have developed from reforms carried out between the mid-1980s and today. However, requirements have been placed on the receipt of benefits since the early 20th Century and similar systems to those in Great Britain are advocated in, and can be found across, most of the developed world. The existence of benefit conditionality and a system of sanctions is also supported almost uniformly across the political spectrum in Great Britain.

The system of sanctions, as it applies to JSA claimants today, has a number of key features:

- Conditions of benefit receipt are explained to JSA claimants through a combination of adviser meetings and letters.
- If a claimant fails to comply with a mandatory requirement (for example, by missing a mandatory appointment in a Jobcentre Plus or failing, when required, to participate in a back to work scheme), this failure will be referred to a decision maker.
- The decision maker will make a judgement on whether a sanction is appropriate, based on the available evidence. Claimants will have the opportunity to explain why they did not comply with the requirements (to give "good reason").
- The claimant will be sent a letter to inform them of the decision. If they disagree they can ask for the decision to be reconsidered and, if they still disagree, can appeal the decision. They may also have access to hardship payments if they can show that they are at risk of financial hardship.
- For JSA claimants, sanctions result in the complete removal of their JSA award for a given period of time. Time periods vary depending on the reason for the sanction.

Sanctions covered by this Review

The vast majority of sanctions that are covered by the remit of this Review are at the lowest level of sanctions. In 2013¹ around 1,015,000 referrals were made to decision makers for potential sanctions for JSA claimants on mandatory back to work schemes. Around 917,000 (90%) of these came from the Work Programme. The claimant's money has not been stopped at this point.

Of these referrals, 291,000 (28.7%) were upheld as "sanction applied" (finding that the claimant had not complied with the requirements they had agreed to). In the remainder of cases, the decision was: to not apply a sanction (24.0%); reserved (6.7%); cancelled (40.6%).² Overall, that means that 71.3% of those referred for a sanction decision did not have their benefit stopped.

A decision to apply a sanction after referral from mandatory back to work schemes accounted for 33.4% of all JSA decisions to apply a sanction in the year to December 2013. This has increased from 23% of all such decisions in the year to December 2012.

Of those decisions to apply a sanction, a significant proportion are subsequently reviewed at the claimant's request. The proportion varies by programme. For the Work Programme in 2013, 33% of initially adverse decisions were reviewed. Of those decisions that are reviewed, depending on the programme, between 43% and 53% have the decision to apply a sanction overturned.

This means that while a large number of sanction referrals are made, a relatively small number of claimants are actually sanctioned. In 2013, for the Work Programme, once reviews and appeals have been accounted for, just 28.7% of sanction referrals ultimately resulted in a decision to apply a sanction.

Given the costs associated with running the system of decision making, reconsideration, appeals and hardship the disparity between those being referred for a sanction and those who are actually sanctioned results in a significant cost to the State.

Why communication is important

The importance of effective communication surrounding the systems of conditionality and sanctions is well established in international literature, and by previous reviews in this country. It was highlighted specifically in both the Gregg Review and the recent Litchfield Review, as well as being a recurring theme in reports from the Social Security Advisory Committee and Work and Pensions Select Committee.

In his 2008 Review, Gregg argued that an effective benefit sanctions system should:

- Increase compliance with labour market requirements, particularly attending meetings with advisers;
- Be clear and easy to understand;
- Be fair, timely, and consistent in the way it is imposed; and
- Be proportionate and not create excessive hardship.

¹ All statistics in this report come from published statistics and relate to January 2013 to December 2013 unless otherwise stated.

² Note that in the case of "reserved" the claimant left benefit between the time when a sanction was referred and a decision made, and the "cancelled" category comes from a number of circumstances. For instance, that there was a lack of evidence provided with the referral; or that the claimant had entered employment before the referral from a mandatory scheme had been made.

This Review supports these four broad principles as well as adding a fifth, that it is important that claimants who are sanctioned have easily accessible and understandable recourse to appeal, and potential redress, where they believe they have been unfairly treated and decisions are subsequently overturned in their favour.

Within these five principles it is clear that communication plays a key role. This is true for both claimants and for the Department.

These conclusions were also highlighted by a large number of respondents to the call for information for this Review. Overall, the responses highlighted that the system would unjustifiably penalise some claimants and be seen to be unfair if sanctions result from a poor understanding of the system, rather than a wilful disregard of the requirements placed on them. On the part of the Department, responses highlighted that if communication is ineffective and understanding poor, a wide range of evidence shows that compliance with the system will be lower and, overall, the system will be less effective at moving claimants from benefits into work.

However, while the importance of effective communication is well established, a large number of reports and reviews have highlighted problems that have previously existed in the system.

To their credit, the Department has looked to address many of the issues raised in previous reports. For instance, they have recently adopted a renewed focus on ensuring consistency in their communications with claimants. The introduction of mandatory reconsideration and their commitment to ensuring that appeals are responded to within a set time limit will both improve the system. The Department has also recently consulted on how it might improve its approach to providing information and letters in alternative formats. Alongside these specific areas, there are also wider reforms underway through the introduction of Universal Credit and the Claimant Commitment, and through changes in the way in which Jobcentre Plus operates. All of which should lead to significant improvements in clarity.

The challenge

These are all positive steps and it is reassuring that the Department is taking the communication challenge seriously. The Review team were also acutely aware of the scale of the challenge that the Department faces in communicating effectively with around five million benefit claimants and 22 million customers each year.

For those claimants under the remit of this Review, ensuring a good understanding is likely to be even more challenging. Recent estimates from one prime provider of the Work Programme suggest that one in three of their new customers have health issues, mental health problems or a learning disability. In this respect, staff in Jobcentre Plus, advisers based in providers of back to work schemes and policy makers face an unenviable task in ensuring effective communication leads to full claimant understanding.

Despite the scale of this challenge, the Review found that, for the majority of claimants on mandatory back to work schemes, the sanctions system functions adequately. Whilst, by the nature of the programmes and referral processes involved, they can be some of the hardest-to-help and most vulnerable claimants of JSA, referrals and sanctions still happen in the minority of cases. Between the introduction of the Work Programme in June 2011 and the end of December 2013, 18% (225,000) of individuals had received one or more decisions to apply a sanction for failure to participate on the Work Programme.

This suggests that the majority of claimants are fulfilling the obligations placed on them and have an adequate understanding of the broad system. In short, this is not a system that is fundamentally “broken” and, on the whole, this conclusion was also reflected in the discussions the Review team had with claimants, advisers and organisations representing and supporting claimants.

However, that is not to say that the system cannot be improved nor that the current suite of reforms and improvements will fully meet the challenge. A recent evaluation of Jobcentre Plus highlights some key problems around understanding of the system of sanctions. It outlined that, while 28% of claimants said that their benefit had been stopped or reduced, the administrative data showed that only 11% had actually received a sanction. In contrast, only half of those recorded in administrative data as having been sanctioned confirmed in the survey that their benefit had been stopped or reduced.³ The same report outlined that only 23% of claimants who said their benefit had been stopped or reduced said they had been told about hardship payments.

These are also themes that this Review has found. In particular it has found that some claimants lacked a detailed understanding of the requirements being placed on them and the processes surrounding sanctions. This was particularly found to be the case for some more vulnerable groups and claimants with specific barriers to work. If the sanctions regime and wider social security system is to be both fair and effective, it is essential that these issues are addressed.

Broad themes highlighted in the Review are summarised below, before listing the Review's main recommendations. Fuller details can be found in the main body of the Review.

Areas where communication could be improved

Letters

Clear written communication through letters is essential, given the prevalence and legal basis of this means of communicating with claimants. However, letters were, on the whole, found to be complex and difficult to understand. Partly as a result of the legal requirements the Department has to fulfil when it writes to claimants, regular concerns were that letters:

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

To address these issues the Department needs to review the content and style of its letters to claimants, and work to ensure that clear information surrounding the sanctions system is easily accessible in one place for claimants and their representatives. Particular attention should also be paid to supporting the most vulnerable claimants navigate the system and access support services.

³ DWP, (2013), Evaluation of the Jobcentre Plus Offer.

Another problem, highlighted by many respondents, was that letters could be left unopened or unread by claimants. While accepting responsibility must be placed on claimants, the Department should see doing more in this area as an opportunity to improve engagement with the system and support claimants back into work. This is particularly the case where communication through letters is likely to be ineffective (for instance where a claimant is in temporary accommodation). More broadly, the Department should also continue to work on its communication strategy to ensure that they are engaging all claimants through their preferred communication channel.

Joint conditionality requirements

As well as specific issues with written communication, the Review team also uncovered a more general concern, that some claimants have a poor understanding of what they have to do to meet their responsibilities with Jobcentre Plus whilst on a mandatory scheme. This was a particular issue for the Work Programme, where claimants could be sanctioned for not meeting their conditions of entitlement whilst undertaking activity recommended by their Work Programme adviser. To improve this situation the Department should consider how all those involved could have a better shared understanding of the responsibilities that the claimant has while they are on a mandatory scheme. In the longer-term, the Department should review whether the current model of dual requirements from Jobcentre Plus and providers could be adapted in the context of Work Programme development to improve claimant understanding. This should also consider piloting alternative forms of communication and sanctions for a small group of claimants.

Areas where improved processes could support claimants' understanding

Provider referral and good reason

A very high proportion of referrals for sanctions from mandatory back to work schemes are subsequently cancelled or judged to be non-adverse. A potentially large driver of this is that providers of mandatory schemes are unable to make legal decisions regarding good reason. This means that they have to refer all claimants who fail to attend a mandatory interview to a decision maker, even if the claimant has provided them with what would ordinarily count as good reason in Jobcentre Plus. This situation results in confusion as the claimant does not understand why they are being referred for a sanction.

To address this, the Department should ensure that providers are, in some circumstances, able to accept good reason.

The Review team also heard concerns from decision makers and Jobcentre Plus advisers that claimants either do not understand the good reason process or they do not realise the significance of it. Given the importance of claimants being able to give good reason, this is obviously concerning. Problems in this area can also lead to a costly process for the Department as claimants subsequently appeal decisions and provide good reason they could have provided earlier.

Another related problem is that claimants can be unaware of where sanctions referrals originated from and who to speak to about them. This can result in claimants' concerns and queries being passed "from pillar to post" with little hope of resolution.

The main driver of this was identified as a lack of information sharing. For example, advisers confirmed that very little information is available on Jobcentre Plus systems surrounding referrals to sanctions from providers. This meant that when claimants came to enquire about a sanction, advisers regularly had to spend a large amount of time chasing decision makers and providers for explanations.

A number of respondents from Jobcentre Plus and providers suggested that a better aligned (or joint) IT system could help this situation. However, while the Department should certainly consider this option, the costs and practical considerations around data sharing are likely to preclude immediate action in this area. In the short-term, the Department should work with providers to ensure both that administrative errors are not made when referring people for sanctions, and that Jobcentre Plus advisers are aware of when and why sanction referrals have been made from mandatory schemes. Doing so would ensure that resources, currently wasted in a needless process of referral and decision making, could be put to better use in helping claimants back in to work.

Informing claimants of decisions

A similar approach should also be taken to ensure that claimants are aware of when a decision has been made. A number of respondents expressed concerns that the first that claimants knew of adverse decisions was when they tried to get their benefit payment out of a cash point but could not. The Department should work to ensure that, as a general principle, claimants are clearly informed that they will be sanctioned before their benefits are affected. As well as providing much needed clarity for claimants, tackling this would also more explicitly link benefit reductions with the behaviour that triggered them.

Summary of recommendations

The 17 recommendations made in this Review are outlined below. Some are relatively easy for the Department to implement, however, others will be more difficult. A number could require either legislation or contractual changes for providers. Where this is the case, the Department should take them forward as parliamentary business and contractual law allows.

Improving letters

- All letters sent to claimants (including those at referral, good reason and decision notification stages of the sanctions process) should be reviewed to improve claimant understanding. They should give a personalised description of exactly what the sanction referral or decision relates to and include clear information about reconsideration, appeals and hardship.
- The Department should work with experts in communication and behavioural insights to test whether variations in the style and content of letters could boost the proportion of claimants who open and engage with the letters they have been sent.
- The Department should work with Local Authorities to improve the coordination of their approach to delivering Housing Benefit for claimants who have been sanctioned. In the short-term, all letters and communications informing claimants of the application of a sanction should advise claimants already in receipt of Housing Benefit to contact their Local Authority about their claim.

Broader communication improvements

- The Department should ensure that an accessible guide to benefit sanctions that includes information and links to details of the process of reconsideration, appeals and hardship payments is available in both hard-copy and on-line through the gov.uk website.
- The Department and providers should work together with stakeholders and advocates for groups with communication support needs to develop an approach for identifying and engaging claimants who might require third party support to understand letters sent while they are on mandatory schemes.
- After sanction decisions have been made, the Department should consider how vulnerable groups might be identified and helped to claim hardship payments and/or access support services offered through Jobcentre Plus and contracted providers.
- As recommended by the Social Security Advisory Committee, the Department should ensure that claimants' communication preferences are routinely recorded and that communications are delivered through the requested channel. This information should also be shared with providers of mandatory schemes and guidance adjusted so that they also communicate with claimants in the manner requested.

Improving claimants' understanding of conditionality requirements

- The Department should work with providers to review procedures to ensure that claimants on mandatory back to work schemes have a clear understanding of their responsibilities to both the provider and Jobcentre Plus. The Claimant Commitment should be shared with providers of the scheme so that they are able to tailor their provision to fit around Jobcentre Plus requirements and any easements that have been highlighted.
- Where claimants are being referred to the Work Programme, the Department should test whether understanding and compliance could be improved by agreeing the Claimant Commitment between Jobcentre Plus advisers and the claimant, in consultation with the adviser from the provider.
- The Department should consider whether the current model of dual requirements from Jobcentre Plus and providers could be adapted to improve claimant understanding.
- To test potential opportunities to improve claimant understanding, the Department should work with providers to pilot a new approach using warnings and non-financial sanctions following a first failure to comply with conditionality on the Work Programme.

Improving communication and understanding of the sanctions process following referral

- The Department should revise guidance and/or enabling legislation so that, in some circumstances, providers of mandatory back to work schemes are able to accept good reason from claimants.
- The Department should require providers to check all potential sanctions referrals through the Provider Direct system to ensure that administrative errors have not led to ineffective communication.
- Guidance for providers should be revised to require that providers have an obligation to take proportional steps to seek good reason from claimants. All subsequent referrals for a sanction should outline the attempts that a provider has made to do this and provide accurate details of any good reason that has been given.

- Referrals for sanctions from mandatory schemes should be automatically flagged to the claimant's Jobcentre Plus adviser. Following this, advisers should attempt to explain, via the claimant's preferred method of communication or at their next fortnightly sign-on, that a referral for a sanction decision has been made. This should also be an opportunity for the claimant to give good reason.
- The Department should build on the approach it has taken for the appeals process and introduce a commitment to make decisions over sanctions referrals within a set timescale. This should include both initial sanction decisions and reconsiderations.
- The Department should revise procedures and guidance to ensure that proportionate steps are taken to inform all claimants of a sanction decision before the payment of benefit is stopped. Again, claimants' preferred method of communication should be used to convey this message.

Chapter 1: Introduction and background to the Review

This Review originates from the Jobseekers (Back to Work Schemes) Act 2013. The Act was passed after a series of legal challenges faced by the Department for Work and Pensions (DWP, the Department) culminated in a Supreme Court judgment against the Department in October 2013. The judgments resulted in the Government having to lay legislation to retrospectively validate the imposition of financial penalties on Jobseeker's Allowance (JSA) claimants referred to a mandatory back to work scheme and subsequently sanctioned for failure to engage in the scheme.

Schemes Covered by the Review

The Review covers claimants of JSA who have been sanctioned whilst participating in a mandatory back to work scheme. These schemes include:

- The Work Programme (JSA claimants only);
- Day One Support for Young People trailblazer in London;
- The Derbyshire Mandatory Youth Activity Programme;
- Full-time Training Flexibility;
- New Enterprise Allowance;
- Sector-based work academy;
- Skills Conditionality;
- Mandatory Work Activity; and
- The Community Action Programme Pilot;

Annex 1 provides a basic outline of each of these schemes.

The terms of reference

The terms of reference for the review were announced by the Government in May 2013. The Review has:

1. Reviewed the clarity of the initial information provided to JSA claimants in the notifications provided to them about the consequences of failing to take part in these back to work schemes.
2. Evaluated, where a claimant has failed to participate, how the sanctioning process then worked. This has included considering the clarity of information given to claimants to help them navigate this process and to explain that they can avoid a sanction by showing good reason, as well as information regarding their routes to apply for a review or appeal if a sanction is imposed.
3. Evaluated, where a sanction has been issued, the clarity of the information provided to claimants about why the sanction was issued, and the options they have (including application for hardship payments, and an explanation of the review and appeals process).
4. Made recommendations about how the Government can improve the information provided to claimants in relation to JSA sanctions and appeals.

About the Review

Matthew Oakley was appointed as independent reviewer in September 2013. Evidence for the Review was collected from a broad range of sources.

Visits and discussions

These included discussions with claimants who had been sanctioned, representative groups and staff in both Jobcentre Plus and providers of back to work schemes.

Over the course of the Review, formal in-depth sessions were held with four groups of claimants, six groups of Jobcentre Plus staff, five groups of Labour Market Decision Makers, four groups of representatives from providers and a group of representatives from Northern Ireland Job Centres.

The Review team also consulted with over 20 partner organisations, including representatives from Crisis, Mencap, Salvation Army, Terrance Higgins Trust, the National Council for Voluntary Organisations, Drugscope, Royal National Institute of Blind People (RNIB) and nine Citizens Advice Bureaux. This involved consulting stakeholder forums and visits to four partner organisations to speak informally to representatives, staff and clients.

Call for information

Alongside these discussions a call for information was launched so that individuals and organisations could confidentially provide information to the review via a private e-mail box. The call for information received 536 responses. Of these:

- 89 were from claimants;
- 154 were from individuals and groups representing claimants; and
- 293 were from organisations or staff involved in delivering the process.

Chapter 2: The current system of Jobseeker's Allowance sanctions

This chapter provides a brief overview of the current system of JSA sanctions before turning to highlight key statistics on the group of sanctioned claimants relevant to the terms of reference of the Review.

Jobseeker's Allowance sanctions

A failure to meet one or more of the conditions attached to the receipt of JSA could lead to disentitlement or a benefit sanction. A sanction is a complete withdrawal of the claimant's JSA award for a specified period.

A revised JSA sanctions system was introduced in October 2012. The requirements placed on claimants did not change, but the duration and level of sanctions did, with longer sanctions being possible for repeated non-engagement. The details of these sanctions are found in Part V of the Jobseeker's Allowance Regulations 1996/207 (JSA Regulations). The amendments to the JSA Regulations were made via the Jobseeker's Allowance (Sanctions) (Amendment) Regulations 2012/2568. Table 1 provides an overview of this system.

Once a claimant has been sanctioned, sanction periods begin either:

- On the first day of the benefit week in which the offence occurred where, on the date of the decision to reduce the award, the claimant has not been paid JSA since the sanctionable failure occurred; or
- In any other case, on the first day of the benefit week following the benefit week in which the claimant was last paid JSA.

Table 1: Jobseeker's Allowance: overview of revised sanctions regime

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

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 at end of disentitlement period

3 Voluntary claimants within the WRAG are not subject to the sanctions regime

Sanctions relevant to this Review

The large majority of sanctions considered under the remit of this Review are lower level sanctions applied because of a failure to participate in a mandatory back to work scheme. For example, a claimant would be sanctioned where a provider has required that they undertake a mandatory activity (for instance attending an appointment) and they fail to comply with that requirement without good reason.

Whilst participating in a back to work scheme, claimants generally also have to comply with conditions applied through Jobcentre Plus. In the majority of cases, this requires them to demonstrate both that they are available for work and actively seeking work. In practice this means that, as well as any mandatory activity specified as part of the back to work scheme, they also have to continue to attend Jobcentre Plus at intervals laid out by their Personal Adviser⁴ and comply with the conditions agreed as part of their Claimant Commitment. If they fail to comply with these requirements, they could face an intermediate or higher-level sanction.

The stages of sanctions and potential mitigations

Making decisions and allowing good reason

The decision to sanction a claimant is not made by personal advisers in Jobcentre Plus or back to work schemes. Instead, when advisers believe that a sanction should be applied because the claimant has been deemed not to be fulfilling the necessary mandatory requirements, they will refer decisions to an independent decision maker. The decision maker will then make a judgement based on the evidence provided.

Sanctions should not apply where the claimant can show “good reason” for failing to participate. Good reason is not defined in legislation, but decision makers will take into account all relevant information about the claimant's circumstances and their reasons for their actions or omissions. Typical examples might include an illness or death in the family.

When making a decision on whether to accept good reason on a sanction referral, the decision makers must make a decision based on the ‘balance of probabilities’ and they must base their decisions on evidence. As well as taking evidence from advisers and providers, an attempt is made to collect evidence from the claimant. This can be collected by telephone, letter or interview. For example, decision makers may ask to see medical evidence from a doctor or a letter to provide evidence of another appointment.

Hardship

Once sanctioned, JSA claimants can apply for hardship payments. To get these, claimants are required to prove they are at risk of financial hardship. Again, decisions over hardship payments are made by decision makers. In determining whether a claimant is eligible for hardship payments, the decision maker should, amongst other things, look at whether there is a substantial risk that the claimant will not be able to buy essential items, including food, clothing, heating and accommodation. If claimants are eligible for hardship payments, unless they are identified as being in a vulnerable group, they will typically receive 60% of their JSA personal entitlement allowance from the 15th day of the sanction period.

⁴ Note that the role of Personal Adviser recently changed to that of “Work Coach”. For consistency, this review uses the term Personal Adviser throughout.

Reconsideration and appeals

Where a decision has been made to apply a sanction, but the claimant does not agree with the decision, they can appeal. In 2013, DWP changed the appeals process by introducing mandatory reconsideration, direct lodgement and time limits for DWP responses.

- **Mandatory reconsideration:** DWP now reconsiders all decisions before an appeal to Her Majesty's Courts and Tribunals Service (HMCTS). This is known as "mandatory reconsideration". The change aims to encourage people to provide additional evidence around good reason earlier in the process so that swifter, more accurate decisions can be made.
- **Direct lodgement:** If a claimant still disagrees, appeals are then made directly to HMCTS. This is known as "direct lodgement" and brings the process for Social Security and child maintenance appeals into line with other major tribunals handled by HMCTS.
- **Time limits:** DWP has agreed with the Tribunal Procedure Committee to introduce time limits to stipulate how long DWP has to respond to an individual appeal. Their introduction will mean that DWP will have 28 calendar days to provide an appeal response in benefits cases.

The sanctions process

Considering how these stages fit together for claimants referred to a mandatory back to work scheme demonstrates how a claimant might experience the system. An example of how the basic process should work from referral to the Work Programme is set out below.⁵

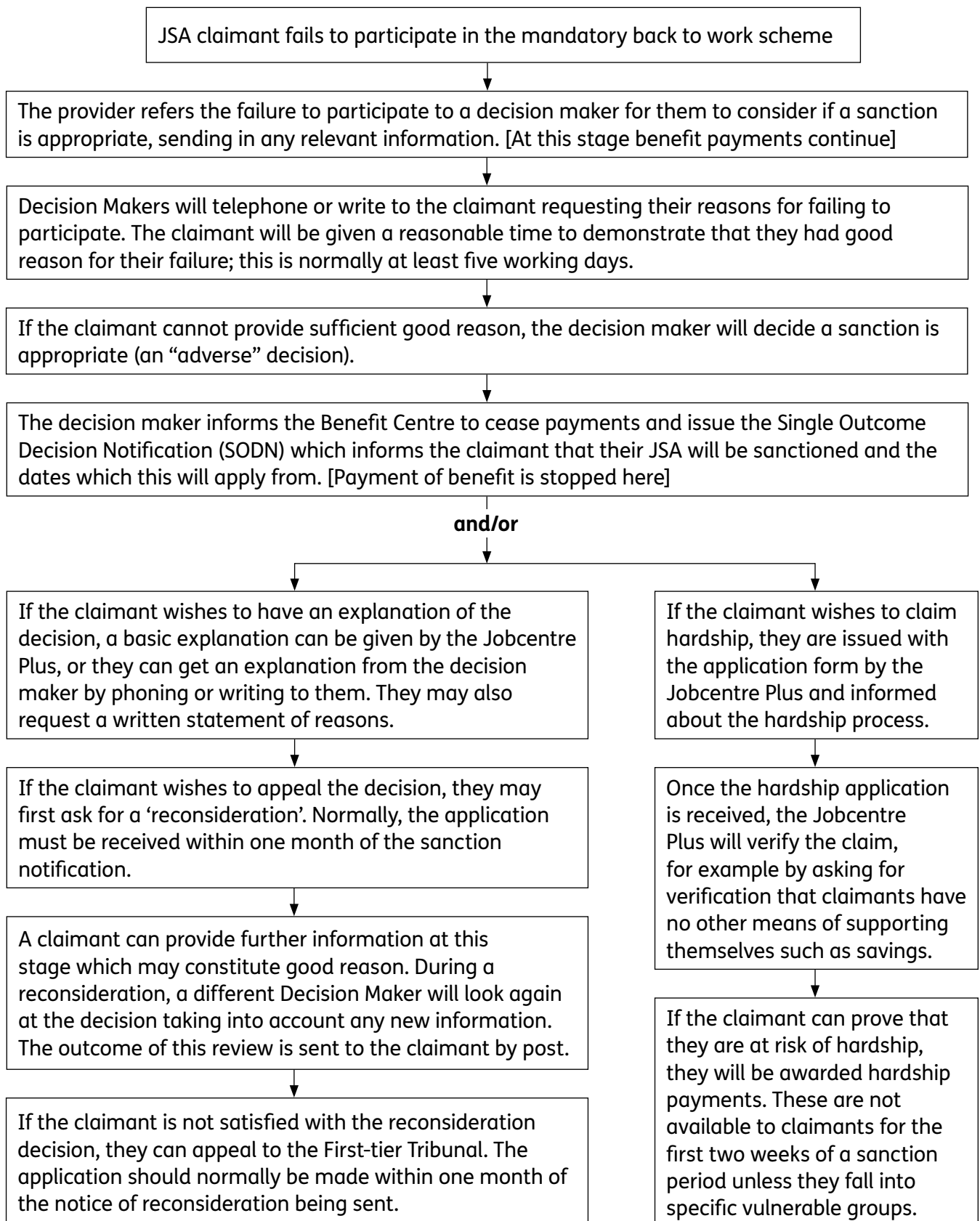
When referring a claimant, an adviser will invite the claimant to attend a Jobcentre Plus for an Adviser Interview where they will be informed that they are being referred to the Work Programme. The claimant will receive a letter, either handed to them by their adviser or sent by post, to inform them:

- That they are required to participate in the scheme and the day on which their participation will start;
- Of details of what they are required to do by way of participation in the scheme;
- That the requirement to participate in the scheme will continue until they are given notice by the Secretary of State that their participation is no longer required, or their award of JSA terminates, whichever is earlier; and
- Of the consequences of failing to participate in the scheme.

The contracted provider then writes to claimants to give details of the Work Programme, including when their participation will start and when their first appointment will be. If the claimant then fails to attend this appointment or subsequent mandated appointments, they are judged to be failing to participate in the back to work scheme. The process then continues as follows:

⁵ Note that the exact process for applying sanctions when a claimant fails to participate in a mandatory scheme varies slightly between the schemes covered by this Review, however, the broad process and principles are consistent across programmes.

Independent review of the operation of Jobseeker's Allowance sanctions
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Data on sanctions applied through this system

The most recent data relating to the sanctions regime in Great Britain were published in May 2014, covering the period to end December 2013⁶. This section outlines key figures as they relate to sanctions covered by the remit of this Review. All data used below are available at

<https://www.gov.uk/government/publications/jobseekers-allowance-and-employment-and-support-allowance-sanctions-decisions-made-to-december-2013>

Decisions to apply a sanction (adverse decisions)

In 2013, just over 291,000 sanctions referrals from mandatory schemes were upheld as “adverse” (finding that the claimant had not complied with the requirements they had agreed to). This accounts for 33.4% of all adverse JSA sanction decisions. As Table 2 shows, this has increased from 23.0% of all adverse decisions in the year to December 2012.

Table 2: Adverse JSA sanction decisions

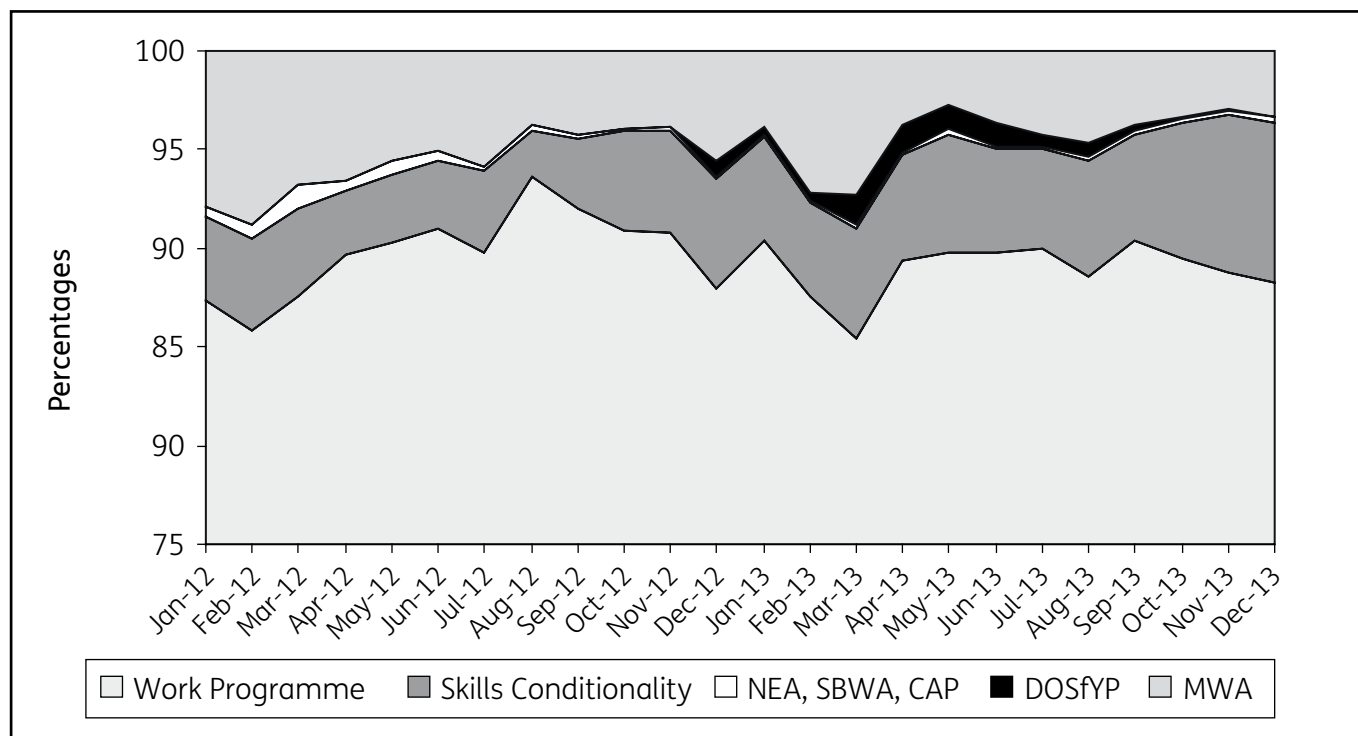
	Total JSA decisions to apply a sanction (adverse decision)	Total JSA decisions to apply a sanction (adverse decisions) from mandatory schemes	Decisions to apply a sanction (adverse decisions) from mandatory schemes as % of all JSA sanctions
2013	871,793	291,442	33.4%
2012	804,866	184,981	23.0%

It should also be noted that the monthly figures show that decisions to apply a sanction from mandatory schemes have continued to become more prominent in the overall statistics in the most recent data, with 37% of decisions to apply a sanction coming from mandatory schemes in Q4 2013.

Of these decisions to apply a sanction from mandatory schemes, the vast majority are from the Work Programme. Figure 1 shows that the Work Programme has consistently accounted for around 90% of all decisions to apply a sanction from mandatory schemes over the last two years.

⁶ This report uses data from 2013.

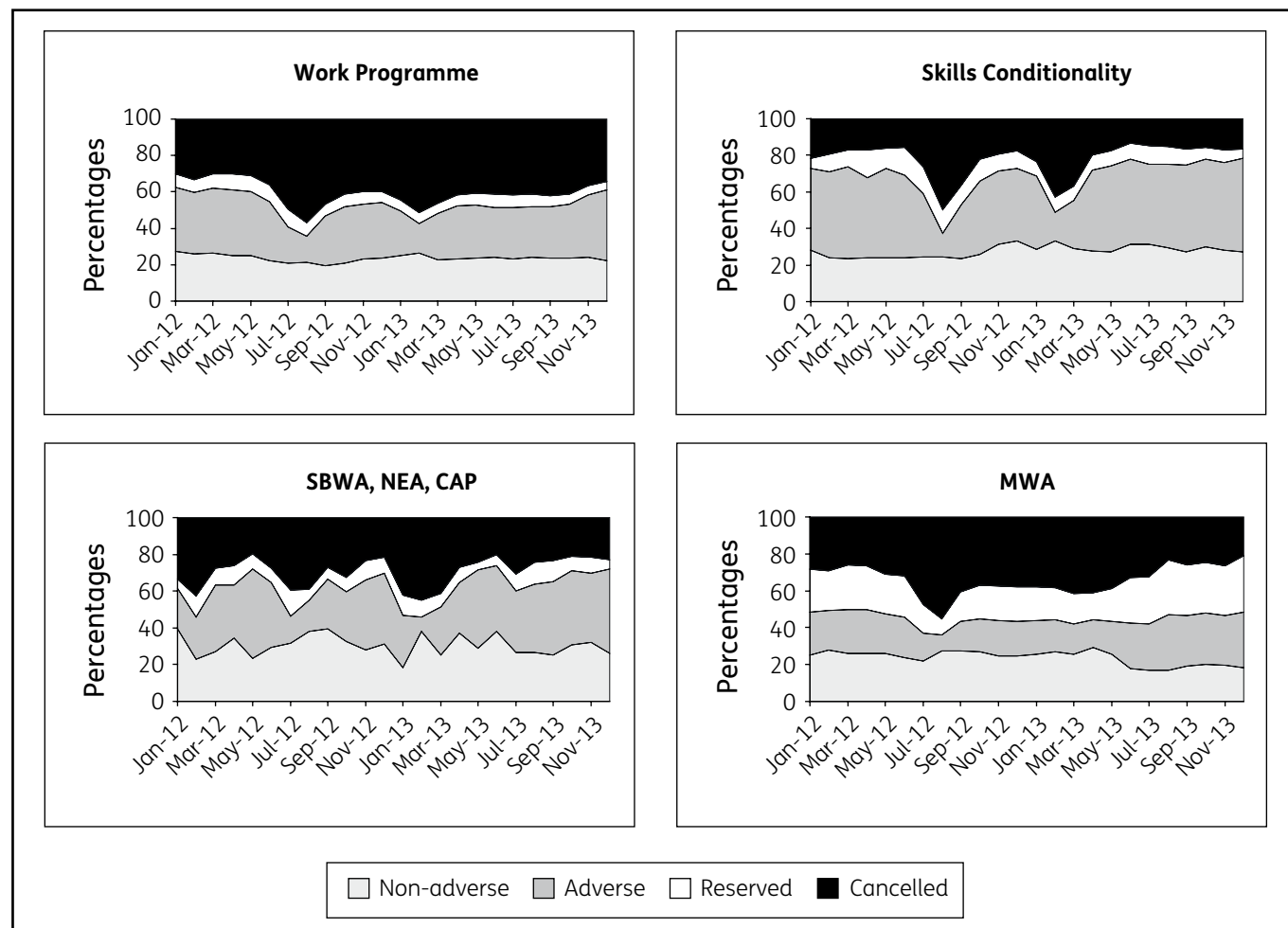
Figure 1: Decisions to apply a sanction (adverse decisions) for those on mandatory schemes, by scheme



Total referrals

While in 2013, less than 300,000 decisions to apply a sanction were made after referrals from schemes under the remit of this Review, far more referrals for sanctions were actually made. In 2013, over one million referrals for sanction decisions were made from mandatory schemes. Those that did not result in adverse decisions were split between “non-adverse” (the claimant provided good reason), “reserved” (the claimant left benefit between the time when a sanction was referred and a decision made) or “cancelled” (a number of circumstances can lead to a cancelled decision, for instance: that there was a lack of evidence provided with the referral; or that the claimant had entered employment before the referral from a mandatory scheme had been made) decisions. Figure 2 shows the proportion of total referrals resulting in each of these types of decisions, for each of the main mandatory schemes.

Figure 2: Proportion of sanction referrals given as adverse (decision to apply a sanction), non-adverse (decision not to apply a sanction), cancelled and reserved, by scheme



The quadrants of Figure 2 demonstrate that, for each programme, only a relatively small minority of sanction referrals result in a decisions to apply a sanction (adverse decision). For the largest of the programmes, the Work Programme, 28.4% of referrals for a sanction decision result in an adverse decision.

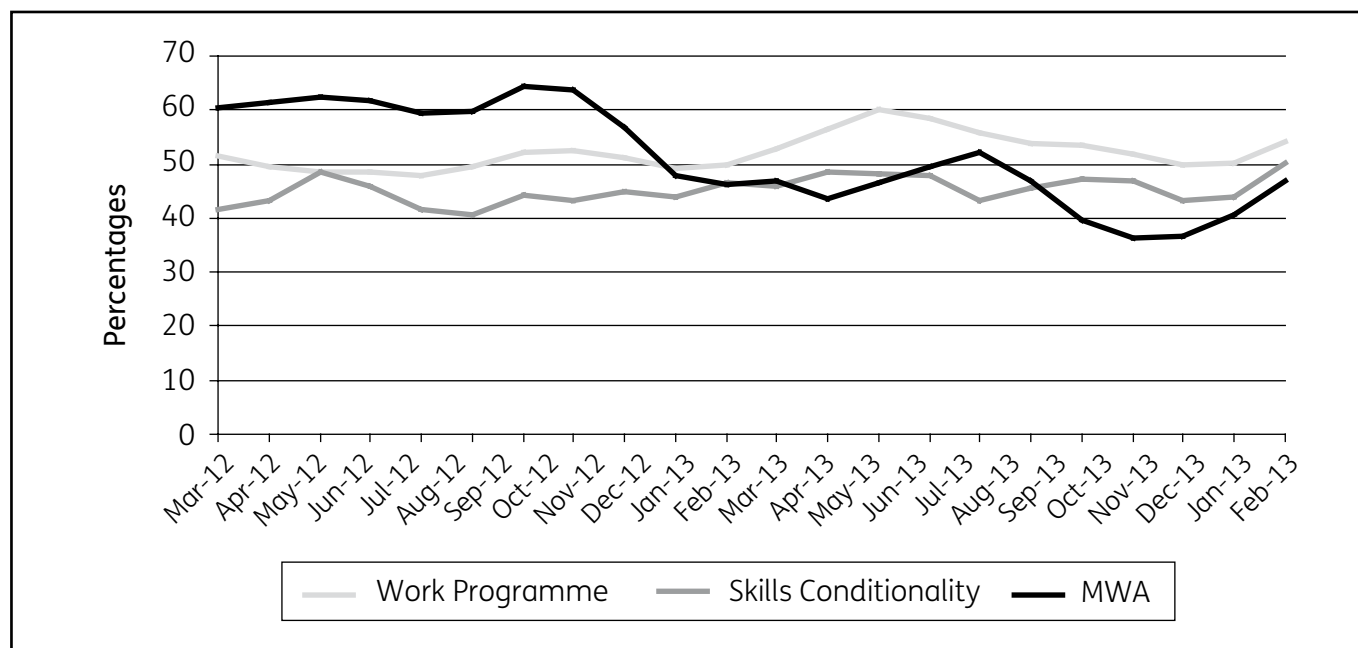
Reconsideration

As outlined above, of those decisions that are initially judged to be adverse, a number will go on to be reconsidered as the claimant does not agree with the decision. Data are not collected that track individual sanction decisions from referral through to the final decision, so it is not possible to calculate, on a month-by-month basis, the proportion of decisions to apply a sanction that are subsequently reconsidered.⁷

⁷ Simply using monthly data for number of adverse decisions and number of reconsiderations would miss the fact that claimants can request reconsideration up to a month after the original decision, meaning that individual cases might straddle two months.

However, we can see the proportion of those decisions that are reconsidered that go on to be judged as a decision not to apply a sanction (non-adverse). Figure 3 shows the proportion of reconsidered decisions that are overturned has varied between schemes and over time, but typically this falls in the range 40-60% . For 2013 as a whole, the proportion of reconsiderations that were overturned ranged from 43% (MWA) to 53% (Work Programme).

Figure 3: Proportion of reconsiderations given as a decision not to apply a sanction (non-adverse), by scheme⁸



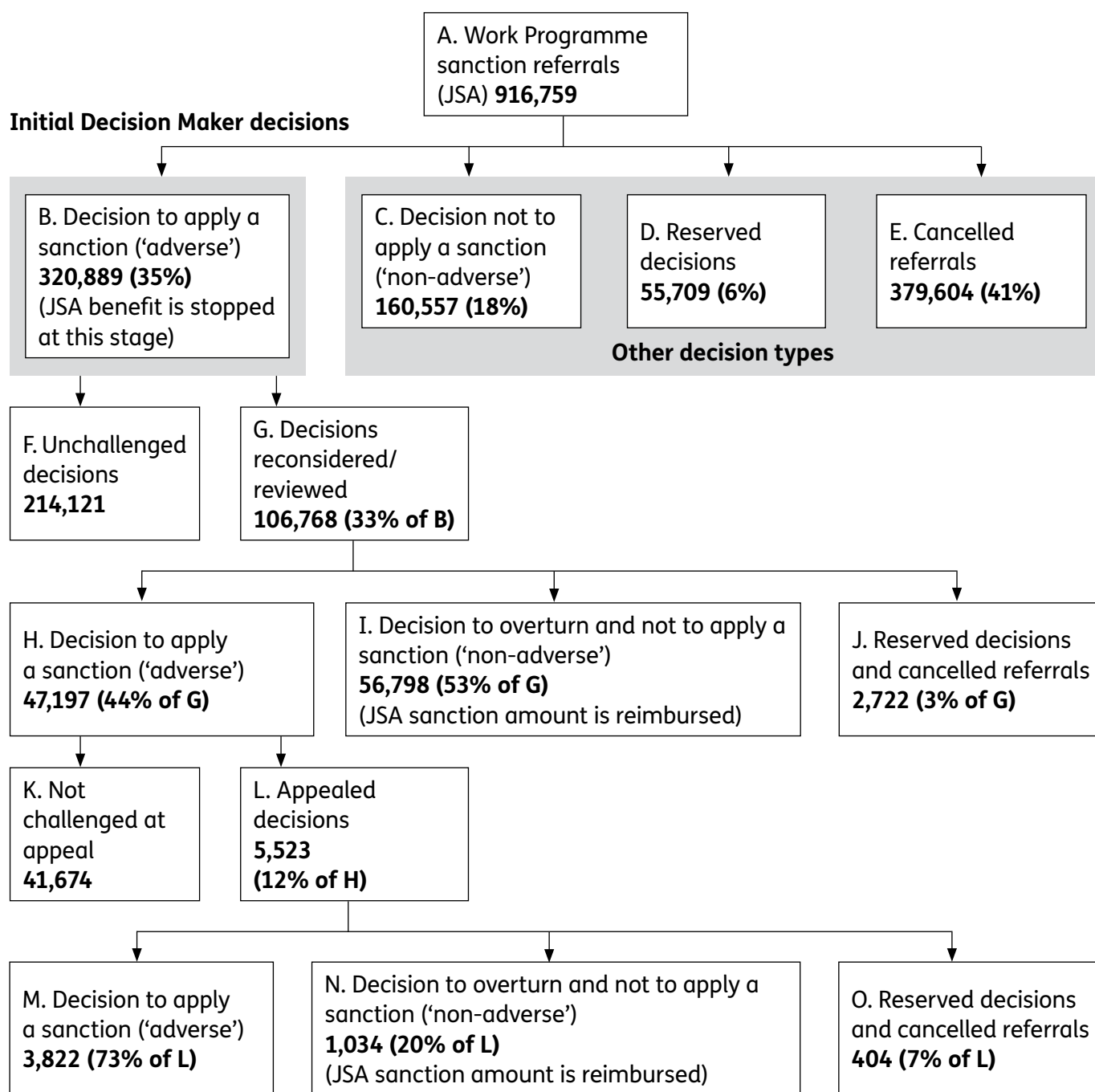
Overall decisions to apply a sanction (adverse decisions)

While it is not possible to accurately track the proportion of originally adverse decisions that are subsequently reconsidered on a month-by-month basis, we can look at longer periods to show the cumulative effect that overturning of decisions at reconsideration and appeal has on the final number of sanctions, and the proportions of decisions that are found “adverse”.

Figure 4 shows the effect of reconsiderations on the volume of decisions to apply a sanction for the Work Programme for 2013. It shows that 35% of referrals to sanction decisions from the Work Programme were initially found adverse. Following the overturning of some decisions at reconsideration and potential appeals, this proportion dropped to the final 28% figure reported earlier.

⁸ Three-month moving average.

Figure 4: Sanction decisions, reconsiderations and appeals for Work Programme referrals in 2013



Final JSA WP sanction decision outcomes, after reviews/appeals (published numbers)

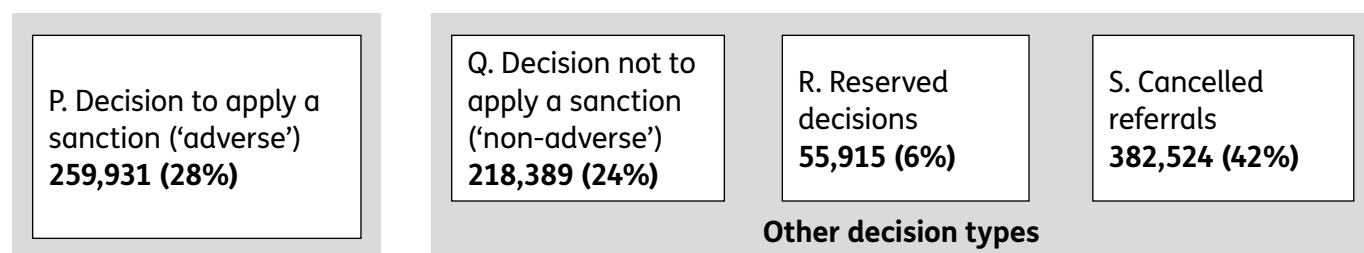


Table 3 shows the equivalent estimations for the other programmes for which sample sizes are large enough to report the data.

Table 3: Estimations of the proportion of overall referrals that result in a sanction, by scheme

	% of referrals that initially lead to adverse decisions	Proportion of initially adverse decisions being reconsidered	Proportion of reconsiderations leading to non-adverse decision	Overall referrals that are given as adverse after reconsideration/ appeal stage
Work Programme	35.0%	33.3%	53.2%	28.4%
Skills Conditionality	47.6%	21.1%	46.6%	42.6%
Mandatory Work Activity	29.8%	42.3%	43.4%	24.0%

Regional variation

Tables 4 to 6 provide regional estimates of these figures by programme.

Table 4: Regional breakdown – Skills Conditionality

	% of referrals that initially lead to adverse decisions	Proportion of initially adverse decisions being reconsidered	Proportion of reconsiderations leading to non-adverse decision	Overall referrals that are given as adverse after reconsideration stage
Central England	43.6%	23.4%	50.5%	38.2%
London and the Home Counties	47.2%	22.7%	47.6%	41.7%
North East	47.5%	19.3%	45.3%	43.0%
North West	54.2%	21.8%	47.2%	48.4%
Scotland	Too small a sample			
Southern England	45.2%	17.3%	39.1%	41.7%
Wales	49.5%	18.4%	37.4%	45.6%

Table 5: Regional breakdown – Work Programme

	% of referrals that initially lead to adverse decisions	Proportion of initially adverse decisions being reconsidered	Proportion of reconsiderations leading to non-adverse decision	Overall referrals that are given as adverse after reconsideration stage
Central England	35.1%	33.6%	56.0%	28.1%
London and the Home Counties	34.3%	34.1%	53.1%	27.7%
North East	37.9%	32.0%	51.9%	31.1%
North West	35.5%	33.4%	52.0%	28.7%
Scotland	35.5%	36.4%	53.3%	28.2%
Southern England	32.6%	30.0%	50.0%	27.3%
Wales	37.2%	32.2%	55.7%	30.0%

Table 6: Regional breakdown – Mandatory Work Activity

	% of referrals that initially lead to adverse decisions	Proportion of initially adverse decisions being reconsidered	Proportion of reconsiderations leading to non-adverse decision	Overall referrals that are given as adverse after reconsideration stage
Central England	31.4%	42.1%	39.3%	25.9%
London and the Home Counties	31.5%	42.1%	45.3%	25.1%
North East	33.1%	37.1%	38.4%	27.8%
North West	25.8%	42.0%	49.6%	20.2%
Scotland	31.6%	43.1%	39.2%	25.6%
Southern England	29.1%	47.1%	45.5%	22.4%
Wales	25.9%	43.7%	46.1%	20.4%

Chapter 3: Sanctions and the importance of communication and understanding

Chapter 2 outlined the system of benefit sanctions as it should apply to claimants on mandatory back to work schemes. It highlighted that, in 2013, some 291,000 claimants have had their benefit sanctioned as a result of a failure to comply with requirements of these schemes. This Review was tasked with assessing the extent to which these sanctioned claimants were aware of how they could have avoided these sanctions and whether, once they had been sanctioned, the processes and communication in the system were effective in ensuring claimant understanding around good reason, appeals and the system of hardship.

Before turning to assess these issues, this chapter provides the broader context for the remit of this Review in terms of the place of sanctions within the social security system. It also details why communication and understanding are important elements of providing a fair and effective system of social security, and outlines previous evidence of the extent to which claimants understand the system of benefit sanctions.

Conditionality and the remit of the review

The requirement for claimants of benefits to fulfil certain conditions in return for their benefit (conditionality) has existed as part of Great Britain's unemployment benefit system since at least 1911. However, reforms since the 1980s have set the context for the social security system as we know it today. The introduction of JSA in 1996 was a key point in the transition to today's system. Reforms since then have tended to increase the requirements placed on benefit claimants in an attempt to move them closer to the labour market and increase the likelihood that they will move back to work. Great Britain is not alone in this sense: the existence of conditionality and recent moves to increase the requirements placed on benefit claimants are also common across international benefit systems.⁹

The system of benefit sanctions plays an integral part of this broader system of benefit conditionality. A large body of UK-based and international evidence from governments, academia and organisations such as the Organisation for Economic Co-operation and Development (OECD), demonstrates that requirements placed on the receipt of benefit, backed up by the credible threat of sanctions, are an essential element of a social security system. This has meant that, in Great Britain, the existence of a conditionality regime, backed up by benefit sanctions, has gained widespread support from across large parts of the political spectrum. Under the previous Government, the Gregg Review (2008) highlighted that "...sanctions have to be present within the system, to underpin the obligations in the benefit system and as a backdrop for those failing to engage".

However, as Gregg also outlined, sanctions should act as a last resort and be structured such that they clearly change behaviour in order to improve the chances of benefit claimants finding employment. In this respect, while international evidence clearly outlines that conditionality can be effective in both reducing the number of benefit claimants and limiting average spells of unemployment, there are also legitimate concerns surrounding the potential unintended consequences of sanctions. In particular, reports in the USA point towards a body of disadvantaged families who are dislocated from both the world of work and support from the state.¹⁰

⁹ Griggs and Evans (2010).

¹⁰ Blank and Kovac, (2008).

In the UK, there is concern that benefit sanctions are one part of a system that can create stigma around the act of claiming benefits and, in doing so, put off eligible individuals from claiming (Turn2Us, 2012; Griggs and Evans, 2010). There is also a relatively small, but vocal, lobby that argues against the need for sanctions at all.

With these concerns in mind, it is unsurprising that this remains a controversial area of social security policy. This was highlighted by a number of respondents to the call for information for this Review who focused their attention on features of the sanctions regime and, indeed, the broader social security system that were outside the formal remit of the Review. These broader views, opinions and evidence were also uncovered in stakeholder meetings and by the work of the Review team. While relatively few people argued that the receipt of benefit should be unconditional, or that benefit sanctions should not exist at all, suggestions for areas in which the remit might be extended to cover, included:

- Sanctions that apply to other groups of benefit claimants (for example through Jobcentre Plus or for those claiming Employment and Support Allowance);
- The effectiveness and proportionality of the sanctions regime; and
- The management practices of the Department and the quality of both sanctions decisions and employment support.¹¹

These are clearly all areas that impact on the effectiveness of the social security system and the sanctions system more specifically. However, as with all reviews, a line must be drawn and most respondents to the call for information and stakeholders that the Review team spoke to acknowledged that the remit covered a vital part of the social security system.

Why communication and understanding are important

In his 2008 Review, Gregg argued that an effective benefit sanctions system should:

- Increase compliance with labour market requirements, particularly attending meetings with advisers;
- Be clear and easy to understand;
- Be fair, timely, and consistent in the way it is imposed; and
- Be proportionate and not create excessive hardship.

This Review supports these four broad principles, as well as adding a fifth that it is important that claimants who are sanctioned have easily accessible and understandable recourse to appeal, and potential redress where they believe they have been unfairly treated and decisions are subsequently overturned in their favour.

Within these five principles it is clear that communication plays a key role. This is true for both claimants and the Department.

For the Department, it is clear that affecting behaviour change through the sanctions system requires that claimants fully understand what is required of them and also the implications of failures to comply with the requirements.

¹¹ A selection of responses from a range of organisations can be found on the Child Poverty Action Group website: <http://www.cpag.org.uk/content/oakley-sanctions-review-responses-other-organisations>

A 2010 report summarised that:

‘...sanctions are designed to promote or prevent particular behaviours or actions, encouraging compliance with, or participation in, activities or programmes deemed to be in the best interests of claimants. This means that in order to operate effectively claimants must understand the behavioural conditions of entitlement and the penalties for breaching them.’¹²

Broader academic literature also confirms the importance of claimants’ understanding of the system, the consequences they face, and the courses of action available to them.¹³ For example, research by Lee et al. found that there was a:

‘...greater likelihood of working and leaving welfare among those with greater knowledge of current welfare policy. Efforts to enhance recipients’ understanding of the welfare rules may lead to increased compliance with the stated goals of reform.’¹⁴

These themes are also echoed in international evidence. For example, US research of Temporary Assistance for Needy Families (TANF) customers found that:

‘Efforts to promote compliance, including providing clear information on sanctions, may encourage families to take appropriate steps to achieve self-sufficiency, and reduce the number who lose benefits due to sanctions....’¹⁵

As well as being vital to delivering policy goals, communication and understanding have a key role to play in ensuring that the system of benefit sanctions is seen to be fair. If communication is poor and claimants are being sanctioned because of a lack of understanding, it is likely that claimants will feel unfairly treated and that they will not trust the social security system. In both cases, claimants are then less likely to engage actively with the system.

Along these lines, in his 2013 review of the Work Capability Assessment, Dr Paul Litchfield argued that it is not enough for a system to be fair: it must also be seen as fair by those using it.¹⁶ He argued that:

‘...research evidence shows that the extent to which people are treated with respect and consideration as well as how well they are informed determines, in part, how they assess the quality of the service they receive. The evidence also shows that people are unlikely to trust an organisation if decision making is not clearly justified and honestly explained to them.’¹⁷

In the context of sanctions, this makes good communication from the Department and claimant understanding two vital parts of ensuring that the social system treats people fairly, provides effective support to those that it should and that it is effective in delivering the Government’s goals of reducing unemployment and improving social justice.

The scale of the challenge

While the importance of communication and understanding is clear, as many previous reports from both the UK and abroad have outlined, ensuring that communication is effective so that all claimants of benefits have an appropriate level of understanding, is a formidable task.¹⁸

12 Griggs and Evans (2010). p7.

13 For example, see: Dorsett (2008); Goodwin (2008); Joyce and Whiting (2006); Legard et al. (1998); Lee et al. (2004); Peters and Joyce (2006); Smith (1998); Van de berg (2004).

14 Lee et al. (2004).

15 Pavetti, Derr, and Hesketh (2003). p20.

16 Litchfield (2013). p45.

17 Litchfield (2013). p38.

18 For example, see, NAO (2006 and 2009); House of Commons (2007); SSAC (2013); Kalil et al. (2002), Pavetti, Derr and Hesketh (2003).

DWP deals with around five million benefit claims and 22 million customers each year.¹⁹ Each of these will have different needs, circumstances and preferred modes of communication. Some will be unable to read or write; have limited understanding of English; or have a learning disability. Many will be experiencing extremely challenging circumstances in their lives. Communicating effectively with this diverse range of claimants in a wide number of circumstances, in a manner that is both comprehensible and upholds requirements set out in legislation is a sizeable challenge.

For those claimants under the remit of this Review, ensuring a good understanding is likely to be even more challenging. Recent estimates from one prime provider of the Work Programme suggest that one in three of their new customers have health issues, mental health problems or a learning disability. Estimates from another provider put the proportion of claimants on the Work Programme who have no, low or basic skills at nearly 50%.²⁰

In this respect, staff in Jobcentre Plus, advisers based in providers of back to work schemes and policy makers face an unenviable task in ensuring that effective communication leads to full claimant understanding.

Previous evidence of claimants' understanding of the sanctions regime

Given the scale of the challenge it is, perhaps, unsurprising that there is a wealth of previous evidence that outlines the difficulties the Department has with communicating effectively and that this can sometimes lead to poor levels of claimant understanding. A 2013 publication from the Social Security Advisory Committee, *Communications in the Benefit System*, provides a comprehensive summary of many of the issues involved across the social security system. It also makes a number of recommendations for how communications could be improved.²¹

Understanding requirements

Focusing more specifically on sanctions, the Gregg Review (2008) found that the system was not as 'clear and crisp' as it could be and made recommendations for how it could be improved. There are also a number of reports from DWP on this issue. A 2006 review of JSA sanctions found that 76% of the claimants surveyed were aware that their benefit would be reduced or stopped if they did not agree to certain conditions. However, that left some 24% without that understanding. It also highlighted that, while a large majority did understand the broad concept, they were often unfamiliar with specific details of the regime. Key gaps in knowledge included the length of the sanction and the amount or type of benefit to be affected. Claimants also struggled to name, unprompted, factors that might lead to a sanction referral such as 'not actively seeking work' and 'leaving a job voluntarily without good reason'.²² Along these same lines, a more recent report found that, when asked about what might lead to a sanction, 63% said inadequate attendance or participation, 10% were unable to answer.²³

19 SSAC (2013).

20 <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmworpen/479/479vw03.htm>

21 SSAC (2013).

22 Peters and Joyce (2006).

23 DWP (2013).

Looking across the available evidence, one review summarises succinctly that:

'British evidence indicates that although most claimants are aware of sanctions and understand the principles behind them, they have little knowledge of the details of the sanctioning system.'²⁴

As previously outlined, this lack of understanding over the requirements being placed on claimants can have significant implications. For the Department, a lack of understanding suggests that the sanctions system will not be as effective as it could be in changing behaviour. For claimants, there is a risk that they will be sanctioned because of a lack of understanding, rather than a wilful decision to not comply with the rules. This point was highlighted in a 2010 report that suggested:

'...qualitative research with claimants offers little indication of deliberate non-attendance or non-engagement with services or in programmes; failure to attend or participate was more often a product of poor information and non-intentional behaviour such as forgetfulness.'²⁵

This point was also confirmed in responses to the call for information of this Review, with one response suggesting that:

'If communication is not exceptionally clear, the risk for these individuals is sanctioning through lack of knowledge of the new system.'²⁶

The existing evidence also suggests that some groups seem to have particular problems with understanding. For instance, a 2006 report found that around 20% of the claimant population who speak other languages, those with literacy needs or those with some level of learning difficulty, lacked clarity on the basic conditions for receiving JSA.²⁷ Disadvantaged claimants facing multiple barriers to work were also found to be at higher risk of sanctions.²⁸

Understanding when and why a sanction has been applied

As well as suggesting poor levels of understanding of the requirements being placed on them, the existing evidence also suggests that claimants can lack understanding of when a sanction has been applied. A recent evaluation of Jobcentre Plus found that this was a significant problem. It outlined that, while 28% of claimants said that their benefit had been stopped or reduced, the administrative data showed that only 11% had actually received a sanction. In contrast, only half of those recorded in administrative data as having been sanctioned confirmed in the survey that their benefit had been stopped or reduced.²⁹

Previous research also supports this point. In particular, a number of reports have highlighted poor claimant understanding of exactly how much their usual benefit payment should be. As a result, claimants were found to have difficulty in assessing when a sanction had been imposed. For example, in one study, few of the lone parents who had been sanctioned identified themselves as experiencing a sanction and some were adamant that they had not been sanctioned. Instead they believed that they had been subject to a benefit adjustment or a direct payment taken at source. Those who already had deductions for Social Fund loans, previous non-payment of bills or another source of income sometimes went for long periods before becoming aware of the sanction.³⁰

24 Griggs and Evans (2010).

25 Griggs and Evans (2010).

26 West Dunbartonshire CAB (2014).

27 Peters and Joyce (2006).

28 Griggs and Evans (2010).

29 DWP (2013).

30 Dorsett (2008); Goodwin (2008) and see also Mitchell and Woodfield (2007).

Where claimants do understand that a sanction has been applied, existing evidence also suggests that some claimants lack an understanding of why it has been applied.³¹ A recent report by Manchester Citizens Advice Bureaux found that almost a quarter of sanctioned claimants they had spoken to did not know why they had been sanctioned and that some 40% of sanctioned claimants said that they had not received a letter informing them of the sanction.³²

Other reports have also highlighted problems in this area. For instance, in 2003, the National Audit Office noted that while sanction letters may list the reasons for a decision, they do not explain the decision with respect to a claimant's specific situation.³³ Their subsequent 2009 report found that communications are 'hampered' by system generated letters, which are long, complex and difficult for customers to understand.³⁴

In a more recent report, the Social Security Advisory Committee outlined concerns over the functioning of the current system and argued that more needed to be done to ensure that claimants '...know that a sanction may be imposed, how to provide good cause for non-compliance and how to reverse a sanction – everyone should know if a sanction has been imposed, why and for how long.'³⁵

Understanding the next steps

This lack of understanding is also not confined to understanding of requirements and the application of sanctions. Only 23% of claimants who told the 2013 DWP study that their benefit had been stopped or reduced said they had been told about hardship payments. The process for applying was considered a challenging experience.³⁶ A separate study suggests that there are also very low levels of claimant awareness concerning the details of the sanction appeal process.³⁷

Conclusion

This short review of the existing evidence shows that communication and claimant understanding are essential parts of a fair and effective sanctions system. However, it also highlights the challenges that delivery agencies face in communicating complex messages to a diverse mix of claimants with wide ranging needs.

With this in mind, it is unsurprising that there have been areas where communication and understanding have broken down in the past. To its credit, the Department is aware of these challenges and has begun to take steps to address perceived and real shortcomings in this area. For example, a recent recommendation from the Social Security Advisory Committee suggesting that the Department establishes a central team for claimant communications has been taken up and efforts have been made to improve and clarify the Department's communications. Reforms to introduce mandatory reconsideration and time limits for the Department to respond to appeals should also improve the system. A very recent consultation has sought views on how the Department might improve the provision of alternative formats of written communications.

31 SSAC (2013).

32 Citizens Advice Bureau (2013).

33 National Audit Office (2003).

34 National Audit Office (2009).

35 Social Security Advisory Committee (2012).

36 DWP (2013).

37 Griggs and Evans (2010).

Independent review of the operation of Jobseeker's Allowance sanctions validated by the Jobseekers Act 2013

This Review assesses the extent to which previous failings have been addressed with these reforms and asks whether more needs to be done to improve the system. The following chapters outline that despite the progress that has been made, for a minority of claimants, poor communication and gaps in claimant understanding could lead to the sanctions system being both ineffective at changing behaviour and unfair to those claimants that it is impacting upon.

The next chapter outlines recommendations for how communication could be improved to ensure that claimants better understand both the requirements placed on them and the process of sanctions. The final chapter makes recommendations for how processes might be improved to ensure that claimants are kept informed of the process and decisions as they are made.

Chapter 4: Improving communication and claimants' understanding

General understanding of the system

From the outset it is vital to recognise that the vast majority of JSA claimants fulfil the requirements placed on them whilst in receipt of benefits, move back to work and are not sanctioned. This fact suggests that this is not a system that is fundamentally “broken” and, for many claimants, the Department is communicating adequately.

This is also true for those claimants who are referred to mandatory back to work schemes. Whilst, by the nature of the programmes and referral processes involved, they can be some of the hardest-to-help and most vulnerable claimants of JSA, as previous chapters have outlined, referrals and sanctions still happen in the minority of cases. This suggests that the majority of claimants are fulfilling the obligations placed on them and have an adequate understanding of the broad system.

This conclusion was also drawn from people the Review team spoke to and from respondents to the call for information. These suggested that claimants are generally made aware of the mandatory nature of the back to work schemes that they are referred to and what they are required to do.

Adviser views

Staff spoken to in Jobcentre Plus, and programme providers, understood the importance of making claimants aware of their responsibilities and the consequences of non-attendance or non-participation. On the whole, they tended to believe that claimants understood the general principle of mandation and sanctions but, echoing previous research, were often less sure of the detail.

Advisers were adamant that they do all they can to try to help claimants understand and explained the value of building a relationship with claimants to help them navigate the system. However, a number of advisers also highlighted that it was, at times, difficult to ensure that these ambitions actually resulted in full claimant understanding.

Many advisers also highlighted the difficulties of communicating with particular groups of claimants. In particular, many advisers identified a “vulnerable” group who tended to be sanctioned more than the others because they struggled to navigate the system. This concern for the vulnerable claimants was consistent throughout the visits. For these groups, particular difficulties were highlighted around the length of time it could take to ensure some claimants fully understood what was required of them and in conveying that a “sanction” could entail the loss of benefit for a prolonged period of time.

This was often the case for claimants with a limited understanding of English or with learning disabilities. Combined with time pressures and a heavy caseload, this could mean that some claimants did not gain a full understanding of the sanction process.

Claimants and representatives

The majority of claimants that were consulted as part of the Review confirmed that they broadly understood the process. However, a number of claimants who responded to the call for information said that they were not informed about the potential for sanctions nor given any information about what may happen if they did not undertake mandatory activities. We also found that, similar to the findings highlighted in Chapter 3, claimants had a relatively poor understanding of the reasons for which they could be sanctioned. This was also confirmed by a number of organisations responding to the call for information. For instance one argued:

‘Rather than being fully aware or conversely entirely ignorant of the expectations of them and the penalties for failing to meet them, our experience is that whilst most individuals may have a general understanding that they are potentially open to sanction for not following instructions, they are less clear about the specific requirements and penalties.’³⁸

Overall, the evidence from advisers, claimants and organisations suggests that, while broad understanding is typically adequate, there are areas where the system is less effective in ensuring claimant understanding. The following sections outline specific areas where improvements to the Department's communications and processes could be made in order to build on the base level of understanding that is already present.

Letters

Style and content

Clear communication through letters is essential given the prevalence and legal basis of this means of communicating with claimants. However, problems in this area have been a theme of a number of previous reviews.³⁹

This is again a theme that this Review found to be a problem. Actual and sample letters that the Review team saw were hard to understand (even for those working in the area), unclear as to why someone was being sanctioned and confusingly laid out. Use of phrases such as “a doubt about your benefit” and even “sanction” itself are not conducive to clear and transparent communication, and helping claimants to understand the situation they are in. One claimant respondent to the call for information outlined that they:

‘...had never even heard of the word sanction within Jobcentre Plus until it happened to me.’

A particular example of a letter that many respondents found confusing was the Single Outcome Decision Notification (SODN), which notifies claimants of the outcome of the sanction referral. This was considered as an area which could be improved.

Responses to the call for information also highlighted similar issues, arguing that letters are often confusing and that they are not always explained to claimants where they are having difficulty comprehending them. They also argued that a lack of clarity and personalisation means that claimants are unable to learn how to avoid the situation in future. One response outlined that:

³⁸ Homelesslink/Drugscope response.

³⁹ National Audit Office (2003 and 2009); Social Security Advisory Committee (2012).

'...it is common for claimants to receive a letter indicating that 'a doubt has arisen with your claim' and that 'your benefit may be suspended while we consider a sanction'. This vague-sounding letter is clearly unsatisfactory...'⁴⁰

Given the importance of communication around a potential loss of benefits, it is essential that this form of communication is improved. Particular improvements need to be made to ensure that legal language does not get in the way of clear communication. While it is accepted that letters sent to claimants must fulfil legal requirements as stipulated in legislation, this cannot be an insurmountable barrier to clear, transparent and accessible communication.

As well as the style and language used in letters, a common concern of many respondents was a lack of availability of, and consistency in, the provision of details of the reconsideration and appeals process, and information regarding the potential availability of hardship payments. Many claimants reported that the process was complicated and confusing, and representative organisations expressed concerns that not all letters relating to sanctions included all the relevant information.

To ensure that improvements are made to the letters that the Department uses during the process of sanctioning:

Recommendation

All letters sent to claimants (including those at referral, good reason and decision notification stages of the sanctions process) should be reviewed to improve claimant understanding. They should give a personalised description of exactly what the sanction referral or decision relates to and include clear information about reconsideration, appeals and hardship.

Improving claimant understanding of the reason behind a sanction is one of the biggest challenges that Department will face, so this explanation should not be a broad description of the failure, for example, a failure to be actively seeking or available for work. Instead it should outline specific details, like that the claimant failed to attend an appointment on a specified date. Stakeholders and advocate groups should also be directly consulted on how improvements could be made whilst still maintaining the legal basis of the letters.

Another concern raised by respondents was that, while much of this information does exist in various leaflets and guides from the Department, it is not easily accessible anywhere as a single source of information for claimants and advocates. A search of the gov.uk website and the specific pages for JSA, Jobcentre Plus and employment schemes, shows that this resource either does not currently exist or that it is extremely hard to find.

To ensure that the sanctions system is more transparent and understandable for claimants and their representatives:

Recommendation

The Department should ensure that an accessible guide to benefit sanctions that includes information and links to details of the process of reconsideration, appeals and hardship payments is available in both hard-copy and on-line through the gov.uk website.

⁴⁰ Extract from Child Poverty Action Group response.

A more specific concern surrounding the hardship system was that only those claimants that asked about help in Jobcentre Plus were told about the hardship system. Advisers, decision makers and advocate groups argued that this means that groups with poorer understanding of the system are less likely to gain access. Since, on the whole, more vulnerable claimants are those with the poorest understanding of the system, this suggests that some of those most in need are also those least able to access hardship. To tackle this:

Recommendation

After sanction decisions have been made, the Department should consider how vulnerable groups might be identified, helped to claim hardship payments and/or access support services offered through Jobcentre Plus and contracted providers.

Opening letters

As well as the fact that letters can be hard to understand, a number of respondents outlined that claimants might fail to open or read letters they have been sent. While it is accepted that responsibility must be conferred on claimants themselves, the Department should explore ways in which to better engage claimants through the letters they send. Doing so provides an opportunity to positively impact on behaviour and ensure that claimant understanding is improved. A recent Financial Conduct Authority⁴¹ trial showed how small details like what was printed on the front of the envelope, how the letter was structured and whether departmental logos were used can make a significant difference to how individuals engage with letters. To build on this:

Recommendation

The Department should work with experts in communication and behavioural insights to test whether variations in the style and content of letters could boost the proportion of claimants who open and engage with the letters they have been sent.

Impact of a sanction on other benefits

One area of concern that came up repeatedly through the Review was the impact that adverse sanction decisions had on the receipt of Housing Benefit. Sanctions considered under the remit of this Review should not impact on Housing Benefit, however, the Review team heard of instances where Local Authorities ended a claim for Housing Benefit after a sanction had been applied. To tackle this issue:

Recommendation

The Department should work with Local Authorities to improve the coordination of their approach to delivering Housing Benefit for claimants who have been sanctioned. In the short-term, all letters and communications informing claimants of the application of a sanction should advise claimants already in receipt of Housing Benefit to contact their Local Authority about their claim.

⁴¹ Adams and Hunt (2013).

Communicating when letters cannot be understood

Improvements in the Department's written communication are likely to help those claimants who already have a reasonable understanding of the broad system. However, a large number of respondents argued that, even if the quality and clarity of letters were improved, communication via this route would be inappropriate for some claimants with particular support needs. For example, this point was made by a number of respondents who represented claimants living in supported housing or for whom comprehension of letters would be difficult because of poor reading ability, a language barrier or because they are blind or partially sighted. In these circumstances, it was argued that failures to meet conditions arose from claimants not having sufficient understanding of what is expected of them.

A clear example of this can be found in the response from St Mungo's and Broadway, who argue that 16% of their clients cannot read a letter without support and 33% cannot complete a form without support. Similar issues were identified by a prime provider on the Work Programme that highlighted over a third of the customers they had dealt with had health issues, mental health problems or a learning difficulty. For many of these claimants it was argued that "...written letters from Jobcentre Plus or their Work Programme provider may not be the most appropriate way to inform of compulsory appointments or mandated activities".

To tackle these issues, the Department should build on its recent consultation on how to improve their approach to using alternative formats for written communication and consider how third parties could help claimants to understand written communications. It should also consider more broadly how other forms of communication could be used.

Receiving support from third parties

Where letters are sent, it was argued that support workers or friends and family acting as advocates can be an important aide in accessing and understanding communication. To make the most of this, Jobcentre Plus advisers already have the power to copy letters to nominated third parties where claimants have requested that they do so. However, advocates for these groups argued that this approach was used in an inconsistent manner, leaving many claimants with clear and identifiable support needs without access to the help they need.

With this in mind, more work should be done to develop an appropriate approach to this issue.

Recommendation

The Department and providers should work together with stakeholders and advocates for groups with communication support needs to develop an approach for identifying and engaging claimants who might require third party support to understand letters sent while they are on mandatory schemes.

Other forms of communication

As well helping claimants to understand letters, the Department should also consider other forms of communication that could be used alongside letters. For instance, a number of respondents discussed using text messaging, e-mails and phone calls to back up and complement the more standard forms of communication.

Recommendation

As recommended by the Social Security Advisory Committee, the Department should ensure that claimants' communication preferences are routinely recorded and that communications are delivered through the requested channel. This information should also be shared with providers of mandatory schemes and guidance adjusted so that they also communicate with claimants in the manner requested.

Understanding of conditionality requirements

For the social security system to be effective and to ensure that sanctions are not enforced unfairly, all benefit claimants need to have a full understanding of their responsibilities and what they need to do to avoid a sanction. As outlined above, participants being referred to mandatory schemes face a more complex system of requirements since they typically have to comply with requirements from Jobcentre Plus as well as any mandatory requirements of the scheme.

A recurring theme that the Review team heard was that some claimants have a poor understanding of what they had to do to meet their responsibilities with Jobcentre Plus whilst on a mandatory scheme. One response typifies this view:

...claimants regularly receive conflicting information from the Jobcentre and the Work Programme Provider. Confusion also arises when a claimant's job seeking requirement is changed. Claimants get confused when they are asked to attend somewhere new, or there has been a change to the type of searches they are to do as this is very rarely fully explained to them. On several occasions a claimant has received correspondence to say they are to attend a new programme while still getting letters saying they should continue attending their original programme. Evidently, the claimant will attend one and miss the other leading to a sanction.⁴²

Work Programme providers that the Review team spoke to also raised concerns in this area.

To address these issues:

Recommendation

The Department should work with providers to review procedures to ensure that claimants on mandatory back to work schemes have a clear understanding of their responsibilities to both the provider and Jobcentre Plus. The Claimant Commitment should be shared with providers of the scheme so that they are able to tailor their provision to fit around Jobcentre Plus requirements and any easements that have been highlighted.

A number of respondents also made suggestions around better coordination of claimant communications from Jobcentre Plus and providers. For instance, some suggested merging communication so that referrals from Jobcentre Plus and appointment letters from providers could be issued together to provide clarity. It was argued that such an approach could also provide an opportunity to work with communication experts to see whether more positive messaging around the scheme involved could lead to improved outcomes. This is something the Department should explore with providers in the future.

⁴² Extract from North Tyneside CAB response.

Improvements of referral and information sharing on requirements should apply across the range of mandatory work schemes provided by private and third sector organisations. However, as already outlined, the Review team heard of particular problems with the Work Programme where providers had directed claimants to a course or particular activity which meant that they were sanctioned as they were not able to fully uphold their job seeking requirements at the Jobcentre.

To ensure that this does not happen:

Recommendation

Where claimants are being referred to the Work Programme, the Department should test whether understanding and compliance could be improved by agreeing the Claimant Commitment between Jobcentre Plus advisers and the claimant, in consultation from the adviser from the provider.

In the longer-term the Department should consider whether understanding and outcomes could be improved by adapting the current system of joint responsibility to two separate bodies.

Recommendation

The Department should consider whether the current model of dual requirements from Jobcentre Plus and providers could be adapted to improve claimant understanding.

Future options are wide ranging. The Department could consider more co-location of Jobcentre Plus and providers, contracting providers to deliver fortnightly signing alongside their standard provision or giving providers more flexibility over setting conditionality.

First failure as a sign of poor understanding

Before the next phase of Work Programme or if the model of dual responsibilities is still a feature following development work, the Department should consider other options for ensuring that claimants are not being sanctioned because of poor communication and a lack of understanding. Where this occurs, providers highlighted the damage it can cause to the relationships and trust they need to build with claimants.

Ensuring that claimants are not sanctioned because of a lack of understanding has also been a theme highlighted by previous reviews of the conditionality and sanctions regime.⁴³ For instance, to ensure that claimants have a good understanding of requirements and potential sanctions before they are subject to a sanction, the Gregg Review suggested that a system of “warnings” should be put in place across the whole system. He argued that this should involve sending a letter to claimants when they first failed to comply with requirements to inform them of the consequences of any future failures to comply.

In principle this seems a good way to ensure that claimants are not sanctioned because of poor communication and a lack of understanding. However, if applied across the whole benefits system, this approach would likely attract manipulation. There are also concerns that simply sending another letter could prove an ineffective way to improve understanding. Instead the Department could build on this approach to test whether, for some claimants, a different approach to sanctioning could help to ensure that conditions and requirements are fully understood before financial sanctions are applied.

⁴³ Freud (2007); Gregg (2008).

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This could involve a formal warning along with a non-financial sanction targeted at improving understanding and identifying potential undisclosed barriers to compliance. An example of this could be to issue a warning letter, as in Gregg's original proposals, and also require the claimant to attend Jobcentre Plus or the provider more regularly in the following week, with providers and Jobcentre Plus working together to give in-depth sessions to explain requirements and provide support.

Recommendation

To test potential opportunities to improve claimant understanding, the Department should work with providers to pilot a new approach using warnings and non-financial sanctions following a first failure to comply with conditionality on the Work Programme.

Such an approach would be particularly appropriate for claimants referred to the Work Programme who had previously never been referred for a sanction. Testing and comprehensively evaluating this approach in a number of pilot areas would provide vital evidence of whether this could increase understanding, compliance and employment outcomes for some claimants.

Chapter 5: Improving processes to support claimants' understanding

A problem often reported to the Review team by advisers in both Jobcentre Plus and providers was that communication and claimant understanding was severely limited by a lack of information sharing. The key issue was highlighted as being that, because different IT systems were used across the different organisations, neither providers nor Jobcentre Plus hold all the information on a claimant's current experience and potential sanctions.

In the extreme, this can result in a situation where claimants are passed from pillar to post, without either Jobcentre Plus or providers taking responsibility for explaining the claimant's situation. More commonly, we heard that Jobcentre Plus advisers had to spend large amounts of time dealing with claimants' queries about sanctions from mandatory schemes.

On the side of the provider, one respondent suggested that the system was 'clunky, time-poor, convoluted and paperwork heavy' and that 'communications need to be improved on a multitude of levels between a multitude of agencies'.

A number of providers argued that joint systems and data sharing between the Department and providers would improve processes, aide communication efforts and improve claimant understanding, whilst freeing up resources to spend more time helping claimants into work.⁴⁴ However, there are clear risks to this approach. Implementing such a wide scale reform of systems would undoubtedly take a significant time and both the costs and issues around data sharing would likely limit action in this area in the short-term.

With this in mind, while the Department should work with providers to consider whether this approach might have distinct benefits, this Chapter outlines a series of reforms that could be implemented in the shorter-term to improve processes and consumer understanding.

Provider referrals and good reason

Chapter 2 highlighted the very high numbers of cancelled and non-adverse decisions that are made for referrals from the Work Programme and other back to work schemes. A potentially large driver of this is that, because providers of mandatory schemes are unable to make legal decisions regarding good reason, they have to refer all claimants who fail to attend a mandatory interview to a decision maker. This is the case even if the claimant has provided them with what would ordinarily count as good reason in Jobcentre Plus.

One provider highlighted that while referral rates to sanction decisions were around 20% of their caseload, advisers were clear that "many appointments were missed with good cause", so it was no surprise that just 30% of these actually resulted in an adverse decision.

⁴⁴ For example, see Community Links (2014).

This situation has clear costs for providers and the Department as valuable resources are wasted on a process of referrals where there should be no intention of a sanction actually being applied. Reducing them would allow more money to be spent on helping claimants understand and navigate the system and, ultimately, get back into work. As one provider argued, if the process was improved:

“...this would allow DWP and provider resources to be more usefully targeted at engaging those who are willingly non-compliant or lack understanding of their requirements.”

This was also a situation highlighted as an area of poor understanding as claimants did not realise that they could be referred for a sanction decision even if they call ahead to rearrange the appointment with a provider. It is understandable that this situation is confusing for claimants and that it can lead to a sense of injustice among claimants and stakeholder groups.

Another concern highlighted by claimants and organisations responding to the call for information was that letters for referrals and appointments were sometimes not received and that this led to sanctions being imposed purely because claimants were not aware of what they needed to do. It was argued that this was often a result of administrative problems between Jobcentre Plus and providers:

‘...six months ago I moved house my work program has my new address, along with the job centre BUT sent the letter to my old address, I found this out when I got a letter from DWP saying I was sanctioned.’

Claimant response

To ensure that, within a system of independent decision making, less sanction referrals are needlessly made because of administrative errors or an inability to accept good reason even when it is a clear-cut case:

Recommendation

The Department should revise guidance and/or enabling legislation so that, in some circumstances, providers of mandatory back to work schemes are able to accept good reason from claimants.

Recommendation

The department should require providers to check all potential sanctions referrals through the Provider Direct system to ensure that administrative errors have not led to ineffective communication.

The provision of good reason once referrals are made

Chapter 2 outlined the process of decision making once a claimant has been referred for a sanction from a mandatory scheme. It showed that, typically, decision makers will write to claimants outlining that there is a “doubt over their benefit” and asking them to provide good reason. They will have a given number of days within which to respond and following this, a decision will be made.

Given the sometimes poor claimant engagement with, and understanding of, written communication through letters, this reliance on this mode of communication for the provision of good reason is a concern. If some claimants are unable to give good reason (that would have otherwise have been accepted) because of this choice of mode of communication, it will result in a sanction where one should not have been imposed.

The Review also heard concerns from decision makers and Jobcentre Plus advisers that claimants either do not understand the good reason process or they do not realise the significance of it. Decision makers said that they try to contact claimants either by post or phone to request good reason, but a large proportion of claimants fail to respond. Some advisers suggested that they were reluctant to discuss good reason with claimants due to fear of a violent reaction.

Given the importance of claimants being able to give good reason, this is obviously concerning. Problems in this area can also lead to a costly process for the Department. If claimants are sanctioned, but subsequently appeal this decision later on, they may well then be supported by advocacy groups who can help them provide the good reason that should have been provided earlier. The sanction will be overturned and both the claimant and the Department will have been through a needless and costly legal process.

To tackle this issue, the Department should review the process by which attempts are made to obtain good reason from claimants referred for sanction from a mandatory scheme.

Recommendation

Guidance for providers should be revised to require that they have an obligation to take proportional steps to seek good reason from claimants. All subsequent referrals for a sanction should outline the attempts that a provider has made to do this and provide accurate details of any good reason that has been given.

As well as asking more from providers, Jobcentre Plus should also play a role. The time between a sanction referral from a mandatory scheme and a decision being made is likely to be at least 10 working days,⁴⁵ meaning that the majority of claimants will sign-on at a Jobcentre Plus within this period. This provides a vital opportunity for Jobcentre Plus advisers to improve claimant understanding and facilitate the provision of good reason.

Recommendation

Referrals for sanctions from mandatory schemes should be automatically flagged to the claimant's Jobcentre Plus adviser. Following this, advisers should attempt to explain, via the claimant's preferred method of communication or at their next fortnightly sign-on, that a referral for a sanction decision has been made. This should also be an opportunity for the claimant to give good reason.

Informing claimants once a decision has been made

A large number of respondents to the call for information reported anecdotal evidence of claimants not receiving letters about referrals and decisions from the Department and providers, and suggested that the first they knew of a sanction was that they found that benefits had not been paid into their bank account. The recommendation that claimants should be informed of an impending decision by Jobcentre Plus staff will ensure that this would not happen in future.

⁴⁵ Calculated as 1 day to refer, 1 day to process referral by decision maker, 1 day for letter to reach claimant, 5 days to respond, 1 day postage back and 1 day to process decision.

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As well as this, the Department should consider whether improvements could be made to the process of informing claimants of the final decision and any subsequent reconsideration decisions. An improved approach could also bring the system in line with the new approach to appeals and make a clearer commitment to the length of time it will take for a decision to be made and provide clarity over when benefits would actually be stopped. Doing so would provide much needed clarity for the affected claimants: ensuring that, as a general principle, claimants know that they have been sanctioned before their benefits are affected. It would also be likely to improve the effectiveness of the sanctioning system by improving understanding and more explicitly linking benefit reductions with the behaviour that triggered them.

To do this:

Recommendation

The Department should build on the approach it has taken for the appeals process and introduce a commitment to make decisions over sanctions referrals within a set timescale. This should include both initial sanction decisions and reconsiderations.

Recommendation

The Department should revise procedures and guidance to ensure that proportionate steps are taken to inform all claimants of a sanction decision before the payment of benefit is stopped. Again, claimants' preferred method of communication should be used to convey this message.

Chapter 6: Conclusion

This Review has outlined 17 recommendations for improving communication surrounding the benefit sanctions system.

If implemented, and alongside reforms that are already underway, they should go some way to ensuring that claimants are more fully aware of: the requirements being placed on them when they are referred to a mandatory back to work scheme; the processes surrounding the system of sanctions, reconsiderations and appeals while they are on that scheme; and how they can claim hardship payments where appropriate. Together that should make the system more easily navigable and fairer for those claiming benefits. The recommendations should also improve how the Department and providers work together to ensure that the system supports and promotes claimant understanding and that, in practice, less people are needlessly referred for a sanction decision.

However, the scale of the challenge the Department faces in ensuring full claimant understanding should not be underestimated. That means that these reforms are unlikely to prove to be a silver bullet and that this Review should not be seen as the final word on this subject.

Going forward, the Department must keep their progress in terms of improving claimant understanding under review. This should involve an ambitious approach to considering how they work with contracted providers in future. Chapter 5 outlined questions over how the Department and contractors share information, IT systems and communication approaches and this area certainly warrants further exploration. The Department must also be proactive in designing ways of holding individual contracted providers, and Jobcentre Plus offices and advisers to account, for ensuring that claimants understand the position they are in. Ultimately, given the diversity of needs and barriers that claimants face, full understanding is not something that can be designed by policy makers from above. Instead, those on the front line should be supported to implement approaches based on their own experience of what works.

More generally, and as with all social security policy, potential reforms will only ever be as good as the evidence that informs them. This makes it vital that the Department continues to invest both in measuring the extent of claimant understanding through qualitative and quantitative research, and in undertaking and fully evaluating pilots of new approaches.

As well as this Review's formal recommendations, chapters 4 and 5 outlined several examples of new approaches and other areas that the Department should consider in future. Together with the formal recommendations and the work already underway in the Department, it is hoped that these provide a helpful contribution to ensuring a social security system that is fit for purpose in the 21st Century.

Annex 1: Outline of each of the mandatory schemes covered by this Review

Section 2(2) of the Act stipulates that the Secretary of State for Work and Pensions must appoint an independent person to prepare a report, covering a 12 month period starting on 26 March 2013, on the operation of the provisions in the Act which allow the imposition of sanctions that, but for the Act, could not have been lawfully imposed. This covers the schemes outlined in the following table.

The Work Programme (Jobseekers Allowance claimants only)
<p>The Work Programme is for individuals who are at risk of long-term unemployment, including claimants on Jobseeker's Allowance (JSA) and Employment and Support Allowance (ESA). The programme supports people for up to two years.</p> <p>Claimants who are harder to help may join the programme earlier in their benefit claim, and providers are paid more for supporting them into sustained work.</p>
Day One Support for Young People trailblazer in London
<p>18-24 year old income-based JSA claimants who claimed within the trailblazer period, who had less than six months work history since leaving full time education, were immediately referred to the contracted providers to gain experience in workplace environment.</p>
The Derbyshire Mandatory Youth Activity Programme
<p>The trailblazer has been developed within Derbyshire to meet the needs of the high numbers of young unemployed claiming JSA and to address employer feedback about young people's lack of understanding of the work place and is targeted at 2,000 young people (18 to 34) reaching five months on JSA in 2012/13 and 2013/14.</p>
Full-time Training Flexibility
<p>Full-time training flexibilities are used to support longer-term JSA claimants who need to develop numeracy, literacy or general employability skills. Full-time training flexibility allows claimants who have been claiming JSA for six months or more to be referred, on a mandatory basis, to full-time training of up to and including 30 hours per week whilst remaining in receipt of JSA. This is part of the day-to-day employment support provided by Jobcentre Plus.</p>
New Enterprise Allowance
<p>New Enterprise Allowance is a voluntary scheme designed to assist JSA claimants into self-employment. It comprises of guidance and support provided by a business mentor, access to a loan (subject to status) and a weekly allowance for a period of 26 weeks once the claimant starts trading.</p>
Sector-based work academy
<p>The sector-based work academy is a scheme which provides training over a period of six weeks, followed by a work experience placement for a period to be agreed with the claimant; this may be followed by either a job interview with an employer or support with a job application. The academies are designed to support claimants of JSA, aged 18 years and over, who are relatively job-ready. The training and work experience is tailored to employers' needs to help fill vacancies more efficiently, whilst supporting participants into sustained employment in a demand sector.</p>

Skills Conditionality
Skills Conditionality is a scheme comprising training or other activity designed to assist a claimant to obtain skills identified as needed to get employment. Skills conditionality embraces all types of training. Claimants receiving JSA can be referred on a mandatory basis to undertake activity to address an identified skills need; his puts activity to address a skills need onto the same basis as other conditionality requirements.
Mandatory Work Activity
Mandatory Work Activity (MWA) is a short work placement of up to 30 hours a week for four weeks that must be of community benefit. MWA gives extra support to a small number of JSA claimants who would benefit from a short period of activity to help to re-engage with the system and gain valuable work-related disciplines.
The Community Action Programme Pilot
The Community Action Programme (CAP) was a trailblazer of contracted provision where claimants were required to undertake a six month work placement of benefit to the community at 30 hours a week. This activity was complemented by up to 10 hours of provider-supported job search each week. The trial ran from November 2011 to July 2012 across four Jobcentre Plus districts: Derbyshire; Lincolnshire, Rutland and Nottinghamshire; East Anglia; and Leicestershire and Northamptonshire. This policy was rolled out nationally as Community Work Placements from April 2014.

Annex 2: Organisations that responded to the call for information

Access Community Trust
Act now for Autism
Advice network and training partnership
Careers Development Group (CDG) UK
Centrepont
Child Poverty Action Group
Citizens Advice Scotland
Community links
Crisis
Cumbria Local Welfare Assistance Programme
Derbyshire Districts Citizens Advice Bureau
Down Syndrome Scotland
Drugscope
Enable Scotland
Family Mosaic
Foundation
Gingerbread
Gipsil
Glasgow Advice Services
Glasgow Citizens Advice Bureau
Glasgow disability alliance
Glasgow Housing Association
Gosport Citizens Advice Bureau
Great places
Harringay Council
Harrow Citizens Advice Bureau
Herefordshire Citizens Advice Bureau
Hestia housing
Home Group
Homeless Link
Homelesslink
Housing trust
Inclusion London
Leeds City Council
Look Ahead
Legal Services Agency (Glasgow)
Meadow well connected
Mencap
Methodist Action North West
Money advice unit
National Association of Welfare Rights Advisors
National Autism Strategy Programme Board
National Council for Voluntary Organisations
Norfolk Community Law Service
Norfolk County Adult Social Services
North Lancashire Citizens Advice Bureau
North Staffordshire Advice Partnership
North Tyneside Citizens Advice Bureau
Nottingham City
Nottingham Community Housing Association
Nottingham County Council Leaving Care Team
Oxfam
Peabody Trust Housing Association
Portsmouth Advice Services Partnership
Poverty Alliance
Poverty Truth Commission
Preston Christian Action
Project Community Engagement
Public and Commercial Services Union
Salvation Army
Sandwell financial services
School of Social and Political Sciences
Scope
Scottish Council for Voluntary Organisations
Scottish Federation of Housing
Sefton Council Health and Well-being centre

Shaw Trust
Shetland CPP
Single Parent Action Network
Snap Crymu
Sovereign Housing
Sovereign Housing Association
St Mungo's and Broadway
Stevenage Citizens Advice Bureau
Stockport Homes
Stockton-on-Tees Borough Council
The Benjamin Foundation
The Learning Shop
The Upper Room Community
The Well Advice Centre
Turning Point
UnemployedNet and Respect
West Cheshire Foodbank
Wheatly Housing Group
Wiltshire Citizens Advice
YMCA
YMCA England
Ynysmon Citizens Advice Bureau
York Citizens Advice Bureau

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Van den Berg, G., Van der Klaauw, B. and Van Ours, J. (2004) *Punitive Sanctions and the Transition Rate from Welfare to Work*. *Journal Of Labor Economics* [serial online]. January 2004;22(1):211-241. Available from: Business Source Premier, Ipswich, MA. Accessed February 20, 2014.

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This publication can be accessed online at:
**[www.gov.uk/government/publications/
jobseekers-allowance-sanctions-
independent-review](http://www.gov.uk/government/publications/jobseekers-allowance-sanctions-independent-review)**

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Copies of this publication can be made
available in alternative formats if required.

Department for Work and Pensions
July 2014
www.gov.uk

ISBN 978-1-4741-0871-3



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