



House of Commons  
Work and Pensions Committee

---

**Benefit Sanctions:  
Beyond the Oakley  
Review: Government  
Response to the  
Committee's Fifth  
Report of Session  
2014–15**

---

**Third Special Report of Session 2015–16**

*Ordered by the House of Commons  
to be printed on 22 October 2015*

**HC 557**  
Published on 22 October 2015  
by authority of the House of Commons  
London: The Stationery Office Limited  
£0.00

## The Work and Pensions Committee

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

### Current membership

[Rt Hon Frank Field MP](#) (*Labour, Birkenhead*) (Chair)  
[Debbie Abrahams MP](#) (*Labour, Oldham East & Saddleworth*)  
[Heidi Allen MP](#) (*Conservative, South Cambridgeshire*)  
[Ms Mhairi Black MP](#) (*Scottish Nationalist Party, Paisley & Renfrewshire South*)  
[Ms Karen Buck MP](#) (*Labour, Westminster North*)  
[John Glen MP](#) (*Conservative, Salisbury*)  
[Richard Graham MP](#) (*Conservative, Gloucester*)  
[Mrs Emma Lewell-Buck MP](#) (*Labour, South Shields*)  
[Craig Mackinlay MP](#) (*Conservative, South Thanet*)  
[Jeremy Quin MP](#) (*Conservative, Horsham*)  
[Craig Williams MP](#) (*Conservative, Cardiff North*)

### Powers

The committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the Internet via [www.parliament.uk](http://www.parliament.uk).

### Publications

Committee reports are published on the Committee's website at [www.parliament.uk/workpencom](http://www.parliament.uk/workpencom) and by The Stationery Office by Order of the House.

Evidence relating to this report is published on the Committee's website at [www.parliament.uk/workpencom](http://www.parliament.uk/workpencom).

### Committee staff

The current staff of the Committee are Adam Mellows-Facer (Clerk), Margaret McKinnon (Second Clerk), James Clarke (Committee Specialist), Rod McInnes (Committee Specialist), Rachael Savage (Committee Specialist), Abigail Slade (Committee Specialist), Andrew Wallace (Senior Committee Assistant), Alison Pickard (Committee Assistant) and Jessica Bridges-Palmer (Media Officer).

### Contacts

All correspondence should be addressed to the Clerk of the Work and Pensions Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 2839; the Committee's email address is [workpencom@parliament.uk](mailto:workpencom@parliament.uk)

# Third Special Report

---

The Work and Pensions Committee published its Fifth Report of Session 2014–15, on the *Benefit Sanctions: Beyond the Oakley Review*, HC 814 on 24 March 2015. The Government's response was received on 22 October 2015 and is appended to this report.

In the Government Response, the Committee's recommendations are shown in *italic text*. The Government's response is in plain text.

## Appendix: Government response

---

### INTRODUCTION

Over the last five years we have seen almost two million more people in work and the current employment rate of 73.6% is the highest since records began. Furthermore, the number of workless households has fallen by 671,000 since 2010, and is now the lowest on record since 1996. This represents a transformation in many people's lives; giving families more security; boosting self-esteem; and providing hope for those who have been unemployed for years.

There is a large body of evidence<sup>1</sup> showing that work is good for physical and mental wellbeing and that, where they are able, people should be encouraged and supported to remain in, or to re-enter work as soon as possible. The evidence also shows that children in working households have better outcomes in academic attainment, training and future employment. Work provides a route out of poverty for families and improves children's wellbeing and life chances as fewer will grow up in workless households.

This is why the Department invests significant resource to help people move quickly into employment.

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

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

All claimants will agree a tailored Claimant Commitment or Action Plan which sets out what is expected of them, and also the consequences of failing to meet these requirements. The vast majority of claimants comply with these.

As taxpayers would expect, for the small minority of claimants who refuse to meet their agreed requirements or refuse to take up employment without good reason, a benefit

---

<sup>1</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/214326/hwwb-is-work-good-for-you.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/214326/hwwb-is-work-good-for-you.pdf)

reduction is applied. Any decision to temporarily reduce or halt a benefit payment is always thoroughly considered. A robust decision making process is in place to ensure that decisions are correct. Independent Decision Makers consider each case, including any evidence of good reason put forward by a claimant and claimants can ask for the decision to be reconsidered and appeal to the First-tier Tribunal.

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

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

Since the publication of the Oakley review we have implemented a number of improvements to our processes. We also keep our systems under review to ensure that they operate as effectively and fairly as possible and, where we identify issues, we act to put things right. In 2001, the process for issuing sanction notifications was changed, replacing automated letters with arrangements whereby staff had to manually trigger a notification. Recent analysis assessed historical compliance with these arrangements as above 93%. The Department has introduced new checks to move compliance towards 100%, and will revert to the pre-2001 arrangement of issuing letters automatically. The Department will write to claimants we have identified who may not have had a decision letter to explain the position.

We welcome the committee's report and we will respond to the recommendations in themed groups in the next chapter.

## **GOVERNMENT RESPONSE**

### ***Call for an independent review, Evaluating the Welfare Reform Act 2012 changes and Review of the legislative framework for sanctioning***

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

*9. We recommend that DWP evaluate, by testing different approaches, the relative impacts on movements off out-of-work benefits and into work of: benefit conditions themselves; the level of accompanying employment support; and the application, or deterrent threat, of financial sanctions.*

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

*26. We recommend that the clarity and coherence of the legislative framework for benefit sanctions policy be included in the terms of reference of the full independent review which we have recommended. (Paragraph 112)*

## **Not accepted**

We have made a number of improvements to the Jobseeker’s Allowance (JSA) and Employment and Support Allowance (ESA) sanction systems, and are implementing further changes following recommendations made by Matthew Oakley within his review. It is important that we now focus on embedding those changes and improvements including within Universal Credit.

It is widely agreed that sanctions play a vital role in supporting conditionality. They encourage claimants to comply with the requirements that are designed to help them move into or prepare for work – DWP research shows that 72 per cent of JSA claimants and 61 per cent of ESA claimants said awareness of sanctions made them more likely to follow rules. In addition, international evidence is clear that benefit regimes tied to conditionality get people into work.

As with all our policies, we are keeping the operation of the sanctions system under constant review to ensure that it continues to function effectively and fairly and that, where we identify an issue, we act to put it right. This has recently been illustrated through a compliance issue we have identified, which has resulted in a quality assurance exercise on sanctions communications, and a decision to automate the notification system to move compliance in sending notifications towards 100%.

We will continue to publish sanctions statistics on a quarterly basis.

## **Work Programme Providers’ and ability to accept “good reason”**

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

*3. We further recommend that negotiations with Work Programme prime providers, ahead of the re-letting of prime contracts in 2017, prioritise the development of a more flexible approach to “mandation”. (Paragraph 29)*

## Accepted in Principle

Providers of mandatory back-to-work schemes already have the discretion to set and amend mandatory requirements. This gives considerable flexibility. For example, if a claimant participating in the Work Programme contacts them before they are due to undertake a mandatory activity, such as attending an interview, the provider can decide whether to re-arrange this to a more suitable date. In such circumstances, because the mandatory requirement (the interview) has changed before the breach of the requirement occurred there is no need for the provider to consider good reason or make a sanction referral. We have expanded current guidance to ensure that this discretion and flexibility is as clear as possible to the provider and are taking steps to ensure that all providers and sub-contractors are aware of this guidance and utilising it, and are happy to share this guidance with the Committee if helpful.

However, where a sanctionable failure has already occurred the provider has no discretion and must refer all failures to a DWP Decision Maker. We are pleased that the committee accepts that this is necessary under current legislative and contractual obligations. This is different to the system for our Work Coaches who have the ability not to refer cases where a claimant clearly has good reason. These are known as “treat as straightforward” cases.

As set out in our commitment in the Government response to Matthew Oakley’s report, we also accept that in principle there may be some circumstances where it would be appropriate for these straightforward decisions to be made (i.e. circumstances where it is quite clear that a sanction should not be applied). We will therefore consider this as part of our ongoing policy development.

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

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

*5. We also recommend that DWP pilot pre-sanction written warnings and non-financial sanctions in relation to claimants’ first-time failures within the Jobcentre Plus conditionality system. (Paragraph 33)*

*30. DWP should also test alternative, non-financial models of conditionality for vulnerable groups. In particular, it should review the situation of claimants with co-morbidities, to ensure that there are no perverse unintended consequences in applying non-financial models to particular vulnerable groups of claimants. (Paragraph 135)*

## Accepted in Principle

It is already the case that claimants receive clear warning about the consequences of failing to meet their requirements without good reason. When a claim is made, the Work Coach verbally explains requirements and agrees them with the claimant so that they are clear about the commitment they have made. In addition, the Work Coach issues written information about expectations and consequences within the Claimant Commitment, agreed by the claimant and their Work Coach - so there should be no doubt about what the claimant needs to do and what non-compliance can mean to their benefit payment.

However, we do see potential benefit in an approach which encourages positive compliance: the sanctions system is not designed to be punitive. As set out in the Written Ministerial Statement accompanying this response, we will trial arrangements whereby claimants are given a warning of our intention to sanction, and a 14-day period to provide evidence of good reason before the decision to sanction is made. During this time, claimants will have another opportunity to provide further evidence to explain their non-compliance. We will then review this information before deciding whether a sanction remains appropriate. We expect that this will strike the right balance between enforcing the claimant commitment, and fairness.

## Impact of sanctions on Housing Benefit

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

## Accepted

A DWP sanction should in no way impact the payment of Housing Benefit.

Analysis of over 300 cases has indicated no instances of impact, or the systems operating incorrectly. We continue to monitor to ensure that this remains the case.

In thinking through this issue we reflected that it is possible that a sanction may be wrongly classified as a disentitlement of benefit, in which case there would potentially be an impact on Housing benefit. Although we cannot find evidence that this has been the case, as a safeguard we recently produced and published additional guidance for Local Authorities, to ensure they take correct action following a sanction notification, and that they classify the sanction in the right way.

## Helping claimants to comply

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

### Accepted

We are pleased that the Committee agrees with our approach.

Building upon established guidance, we are also strengthening the support provided to JSA claimants through a new Work Coach delivery model. Key to this will be claimants seeing the same Work Coach each time they attend the Jobcentre. This continuity of contact provides the basis for even greater tailoring of employment support and discussions about conditionality following the imposition of a sanction.

Throughout a claim all claimants will receive personalised support and advice to help them move closer and into work. As part of this support the claimant enters into a Claimant Commitment which is tailored to the claimant's needs and circumstances, clearly sets out their agreed requirements and is regularly reviewed. During these regular interventions the Work Coach can utilise the wide menu of support on offer for the claimant such as skills training or help with CV writing.

Following a sanction a Work Coach will continue to support the claimant at their next face-to-face meeting which should fall within two weeks.

At this meeting staff will offer advice and agree further ways in which to improve prospects of moving into or towards work. The claimant also has an opportunity to discuss their requirements and future compliance at this meeting and as the Claimant Commitment is a live document it can be amended to reflect any changes agreed between the Work Coach and the claimant.

### In-work conditionality

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

### Accepted in part

We agree that individuals on Universal Credit and in work will not be subject to the full range of work-related requirements and sanctions beyond existing pilots until we have fully considered the learning from those pilots. Outside of the pilots, Universal Credit



claimants will continue to be subject to the current light-touch offering until we have enough evidence from the pilots to make a decision on the way forward.

Claimants subject to the light-touch offering are required to participate in two mandatory Work Search Interviews: at day one; and at eight weeks. In these interviews, the Work Coach will offer tailored support and advice to help the claimant to increase their earnings, for example this may include encouraging the claimant to speak with their employer to increase their hours, find another job, or attend training courses to increase their hourly pay rate. There are no further mandatory requirements other than to participate in these two conversations. Claimants are not required to attend further Work Search Reviews, and all other work-related activity is agreed as part of a voluntary action plan.

### Monitoring the destinations of sanctioned claimants

*11. We recommend that DWP develop systems, using RTI data, to track shorter and longer term employment outcomes and earnings progress for sanctioned benefit claimants within Universal Credit, as part of its ongoing evaluation of the efficacy and impacts of benefit sanctions policy. (Paragraph 66)*

### Not accepted

We are using the RTI data to track employment outcomes and evaluate what difference Universal Credit makes to the labour market outcomes of new claimants. A preliminary impact evaluation using RTI data was published in February 2015. <https://www.gov.uk/government/publications/universal-credit-estimating-the-early-labour-market-impacts>

There are currently no plans to use RTI data to track shorter and longer term employment outcomes and earnings progress for sanctioned claimants within Universal Credit.

The Department releases statistics and management information on Universal Credit in line with the publication strategy set out in September 2013 which follows guidelines set by the UK Statistics Authority. (<https://www.gov.uk/government/collections/universal-credit-statistics>).

This is designed to ensure that statistics are placed into the public domain in a clear and controlled way.

### Setting JSA job-searching conditions

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

*13. We therefore further recommend that DWP expedite its evaluation and publish initial findings as early as possible in the next Parliament, and certainly before the end of 2015.*

## **12. Accepted in principle 13. Not accepted**

We are including the Claimant Commitment in our evaluation of Universal Credit. To date, the evaluation has looked at the attitudes of claimants towards the Claimant Commitment. Findings from the Pathfinder Survey were published in October 2014: ([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/380537/rr886-universal-credit-pathfinder-evaluation.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/380537/rr886-universal-credit-pathfinder-evaluation.pdf))

and interim findings from the Expanded Gateway Singles Survey were published in February 2015:

([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/403415/universal-credit-survey-report-final-ad-hoc-20.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/403415/universal-credit-survey-report-final-ad-hoc-20.pdf))

These show that the vast majority of claimants thought that some or all of the actions they accepted as part of their Claimant Commitment would increase their chances of finding work, took account of their personal circumstances, and were achievable. Almost all respondents said that they knew what would happen (reduced or stopped payments) if they did not fulfil their Claimant Commitment conditions.

As we continue with the safe and secure rollout of Universal Credit we are extending the evaluation accordingly. By the end of the year the Department will publish results from the Universal Credit Extended Gateway Survey of claimants and the findings from qualitative interviews with claimants. We do not plan to evaluate the Claimant Commitment under JSA.

*14. We believe that there is a specific need to review whether the conditionality applied to those claiming JSA while a decision on ESA eligibility is being reconsidered or appealed should be altered to reflect this, and the individual's specific circumstances. (Paragraph 74)*

## **Accepted**

Evidence shows that work is good for physical and mental wellbeing. This is why we believe that where an individual is fit and able for work that they are encouraged and supported in finding employment.

It is really important that the transition from ESA to JSA benefits is carefully managed. To support this we have made a number of improvements to our processes so that recipients of benefit have access to the full package of support offered by Jobcentre Plus. This support is tailored to the claimant based on their circumstances and requirements and designed to help them move towards work.

In response to the Committee's recommendation, comprehensive guidance has been issued to staff to help improve awareness of how JSA conditionality can be varied to take account of the claimant's physical or mental health conditions and caring responsibilities. Claimants can agree with their Work Coach any restrictions in their pattern of availability

and/or in the type/nature/hours of work they are capable of doing, as long as the restrictions are reasonable in light of their condition.

Therefore, all JSA claimants should have conditionality requirements that are tailored to their specific circumstances and there is sufficient flexibility in current processes to ensure individual circumstances are taken into account, including for those who are appealing an ESA decision. We will continue to monitor the quality of Claimant Commitments to ensure they are appropriate, realistic and achievable as claimant circumstances change.

Under Universal Credit we are driving a model of even more early and positive engagement and tailoring to individual circumstances.

*15. We recommend that DWP, drawing on specialist advice from health experts, develop guidance on vulnerability which is specifically intended to assist JCP staff in identifying vulnerable JSA claimants, including those with mental health problems and learning disabilities, who may face difficulties in understanding and/or complying with benefit conditionality. This guidance should include examples or case studies to illustrate how conditionality can be tailored in a range of circumstances.*

*16. We further recommend that the Department amalgamate this guidance into the broader Claimant Commitment guidance, so that it becomes part of the routine process of developing appropriate and tailored JSA conditionality. (Paragraph 80)*

## Accepted

Well-established vulnerability guidance is in place to assist Work Coaches in dealing with vulnerable claimants. It is linked to the wider Vulnerability Hub which has been created to support staff in dealing with all forms of vulnerability. The Vulnerability Hub contains links to a wide body of information such as the Mental Health Toolkit and the Hidden Impairment Toolkit which have been developed in conjunction with health experts, recognised organisations and DWP Work Psychologists.

The Vulnerability Guidance provides staff with information on where they can access further expert advice. In the case of mental health conditions this may include the Department's Work Psychologists who will provide specific advice and guidance to ensure the welfare of the claimant is fully considered. Jobcentre Plus District Managers also have the flexibility to consider the appointment of Mental Health and Wellbeing Partnership Managers to improve and facilitate links between local mental health provision and partners with employment services.

The Vulnerability Guidance also signposts staff to a range of learning and development to support them in working with vulnerable claimants. The content of the guidance is reviewed frequently and the Department works with both internal and external stakeholders to ensure it consistently meets the needs of staff in effectively recognising and supporting the vulnerable.

We accept the Committee's recommendation and will supplement existing Work Coach guidance to illustrate how conditionality can be tailored to take account of individual claimant's circumstances where they have complex needs or need additional support to use

the Department's services effectively. We are considering the most appropriate guidance in which to include such examples to ensure their accessibility to staff developing tailored conditionality.

Claimant Commitment guidance is auto-linked to appropriate guidance to ensure staff fully consider the needs of claimants when developing requirements. We will review existing links to ensure they also include guidance on vulnerable claimants.

## Use of Jobseeker's Directions

*17. We recommend that DWP's evaluation of the Claimant Commitment include an assessment of the appropriate use of Jobseeker Directions and their interaction with the Claimant Commitment process. (Paragraph 84)*

### Accepted

We agree that it is important that Jobseeker's Directions are used appropriately alongside the Claimant Commitment. We are currently rolling out a programme of refresher training to ensure that all of our staff have a clear and consistent understanding of the Claimant Commitment and use of Jobseeker's Directions.

All JSA claimants are required, by legislation, to agree a Claimant Commitment which includes details of the actions they will take on an on-going basis to fulfil the Actively Seeking Work requirement. However, if a claimant does not complete the exact actions detailed in their Claimant Commitment, Work Coaches have the discretion and ability to evaluate whether they have fulfilled their obligation to actively seek work in other ways.

Some JSA claimants can also be issued a Jobseeker's Direction, in accordance with the legislation, to compel them to undertake specific, one-off, activities which will either help them find work or improve their job prospects – for example to attend a CV course or set up a profile on Universal Jobmatch.

All requirements set in a Jobseeker's Direction must be reasonable, taking into account the claimants individual circumstances. A claimant will not receive a sanction if they have good reason for failing to comply with a Jobseeker's Direction. We will continue to monitor and review the use of Jobseeker's Directions as part of our Operational Performance Plans.

Jobseeker's Directions are not part of the Universal Credit process as all mandatory requirements – work search, work availability, work preparation and attendance at work-focused interviews – are included in the Universal Credit Claimant Commitment.

### Single parent conditionality

*18. We recommend that DWP increase training for JCP Work Coaches on the regulatory flexibilities which should be applied to the benefit conditions of single parent JSA claimants. (Paragraph 87)*

## Accept

Jobcentre Plus Work Coaches all receive comprehensive training to equip them with the skills and knowledge to deal with the full range of Jobcentre Plus claimants, including those with parental responsibilities. This allows Work Coaches to offer a personalised approach to claimants based on their individual needs, rather than a service based on particular claimant groups or individual benefits.

This training is supplemented by operational guidance, which makes clear the flexibilities available to single parents on JSA. To supplement this guidance, we have recently published additional information on our internal Intranet site.

Under Universal Credit, we are transforming the way that we work with individuals, providing even more tailored and positive support.

*19. We also recommend that DWP produce a straightforward, plain English guide to the flexibilities, which should be given to all single parent JSA claimants. (Paragraph 87)*

## Accepted

A plain English factsheet around the flexibilities available for lone parent JSA claimants is already published on gov.uk:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/368554/jobseekers-allowance-for-lone-parents-oct14.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/368554/jobseekers-allowance-for-lone-parents-oct14.pdf)

*20. We further recommend that DWP review the regulatory flexibilities afforded to single parent Universal Credit claimants, with a view to ensuring that they are offered the same level of protection from inappropriate conditionality and sanctioning as JSA claimants. (Paragraph 88)*

## Accepted

The same protections exist for individuals in Universal Credit as they do for JSA claimants, including single parents. The intention is that a more flexible conditionality regime will mean the expectations placed on claimants properly reflect their personal circumstances. Therefore under primary legislation, Work Coaches have flexibility to vary the requirements placed on claimants, including allowing limitations to work search and availability requirements to take into account the needs of claimants in a whole range of different circumstances.

Within this framework, Work Coaches should always ensure requirements are reasonable and appropriate, taking into account individual needs and circumstances. Claimants will be made aware of and agree to their responsibilities and the consequences of failing to meet their requirements without good reason. These will be clearly set out in their Claimant Commitment.

Legislation clearly sets out the circumstances in which it is not reasonable to expect a person to meet even limited work search and availability requirements and provides powers to lift the requirements placed on claimants – this provides for greater flexibility

than in JSA. It is, therefore, not necessary to apply blanket rules in regulations to specify what requirements must or must not be placed on particular claimant groups.

We will continue to ensure that the Claimant Commitment is underpinning work search activity in the most effective way as part of the wider Universal Credit evaluation.

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

*21. We recommend that DWP draw on its 2011 research into the attitudes of unemployed people towards job-seeking and work, and consider whether its insights could inform a more targeted approach to benefit conditionality and sanctioning.*

*22. We recommend that DWP establish a small-scale pilot to test the efficacy of a targeted approach based on segmentation of claimants by their attitudes and motivations.*

*(Paragraph 93)*

### Accepted in Principle

We agree with the committee that a targeted approach to conditionality is valuable.

Our conditionality approach has been designed to be responsive and to encourage claimants to share relevant information with us so that barriers to work and motivation issues can be identified. This enables us to respond to an individual's capability and personal circumstances by tailoring the activities we expect them to undertake, ensuring they are relevant and will support their individual needs.

These tailored activities are set out within the Claimant Commitment, which is now available in all jobcentres across Great Britain. The Claimant Commitment is designed to encourage personal responsibility and independence by setting out an agreement between the individual and the State about what claimants are required to do to find work, based on a claimant's personal circumstances.

Analysis of the latest survey of Universal Credit Claimants and their JSA counterparts<sup>2</sup> show that the substantial majority of Universal Credit claimants felt that either all or some of the actions agreed in their Claimant Commitment would increase their chances of finding work, took account of personal circumstances, were achievable and would be checked by the jobcentre. Over time, attitudes towards the Claimant Commitment have been sustained.

By setting clearly defined conditionality groups we are able to target support effectively to those who need it most.

We believe there is a further role for segmentation in targeting our services and support and are currently developing a segmentation approach through Universal Credit. Drawing on evidence from current Departmental trials and through future testing, including analysis of attitudes of unemployed people towards job search, the Department aims to develop an evidence-based segmentation model with the long term aim of identifying claimant needs and allocating appropriate interventions and support in the most effective

<sup>2</sup> <https://www.gov.uk/government/publications/universal-credit-claimant-survey-nov-to-dec-2014-interim-findings>

way to help people to improve their prospects of finding employment. Targeting our services must be our primary aim – providing the right level of support as claimant circumstances change.

We have drawn on 2011 and subsequent research as a part of developing our segmentation data collection tool which was tested in a “Weekly vs. Fortnightly Randomised Control Trial” and other trials which will help to inform our segmentation model.

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

### Accepted in Principle

We expect—and are clear—with JSA claimants that they must do all they reasonably can each week to look for work. The need to comply with mandatory work-related requirements is set out clearly in legislation.

The system has been designed to be as fair as possible and allows Decision Makers to decide whether a sanction should be imposed in accordance with the evidence provided. There are some distinctions in place. Where someone may be abusing the system and it is determined that they are genuinely ‘not actively seeking employment’ they would receive a sanction. However, where someone has made every effort to ‘actively seek employment’ they may not be referred for not meeting this particular requirement regardless of whether they have fully complied with the precise terms of their Claimant Commitment.

Claimants must, each week, do all that can reasonably be expected of them to give themselves the best prospects of employment. What is deemed reasonable for each individual is discussed, agreed and set out in their Claimant Commitment, taking into account their particular needs and circumstances to ensure the requirements are helpful, realistic and achievable.

When reviewing what the claimant has done Work Coaches should not only review what the claimant said they would do on their Claimant Commitment, but, importantly, also consider what the claimant actually did and whether that was reasonable taking into account the prevailing circumstances during the period in question. Where a claimant may not have completed everything in their Claimant Commitment in a particular period, it does not automatically follow that they were not actively seeking work if what they actually did was reasonable during the period being considered (for example they may not have completed all their agreed activities for the period as they were preparing for and attending an interview).

Where it appears the claimant has not done all that could reasonably be expected to give themselves the best prospects of employment, the Work Coach is required to refer the case to a Decision Maker for further consideration. The independent Decision Maker will

consider all available information, including that provided by the claimant. Where they decide the claimant has done all that was reasonable a sanction will not be imposed.

We recognise the importance of setting realistic and achievable requirements to support claimants towards work. We are delivering further refresher upskilling for our Work Coaches on the Claimant Commitment, and on making assessments on the “actively seeking” requirement.

*24. We recommend that the Government confirm the steps it has taken to ensure that suspensions of JSA payments where the JCP Work Coach believes that the claimant has not been “actively seeking employment” do not occur before good reason can be considered, and a decision made, by a Decision Maker detached from the employment support process. DWP should set out the steps it has taken to address this issue, to provide assurance that the newly instituted procedure of making decisions in these circumstances within two days of referral is sufficiently robust to ensure that the decision has in fact been made, and the claimant notified, before the JSA payment is suspended.*

*(Paragraph 108)*

## Accepted in Principle

DWP have robust processes in place to ensure that good reason is considered, both for disentitlement and for sanction decisions. In order to be entitled to benefit JSA claimants are required to satisfy conditions of entitlement, two of which are that they must be available for work and they must be actively seeking work. This is set out in primary legislation—the Jobseekers Act 1995—which requires JSA benefit to be immediately suspended as soon as a doubt is raised about whether a claimant has met these requirements. The Work Coach must then refer the case to a decision maker who will consider good reason.

The Department has made significant improvements to ensure doubts around actively seeking work are resolved quickly. We make Decision Maker referrals immediately and have committed to processing decisions within 48 hours, including consideration of good reason. Our internal checks have shown that the vast majority of decisions are made within this timescale. The small number of cases which go over are usually those which require further information.

We have systems in place to ensure that when the Decision Maker makes a decision in the claimant’s favour, their benefit payments are transferred to them as quickly as possible using the faster electronic payment system to ensure the payment reaches the claimant’s account on the same day. This ensures that the vast majority of claimants continue to feel no impact and receive payment on their normal payment day.

At the point of referral, claimants should be told how and when they will receive a decision and how to challenge the decision. They are also informed about hardship payments in various stages in the process, in the event that they are disentitled and a sanction is imposed.

Additionally, and in recognition of the immediate impact of their benefit being suspended, vulnerable claimants (which include for example anyone responsible for a child, claimants



with chronic medical conditions and those under 21 who have left local authority care in the last 3 years) have access to hardship payments at the point a doubt is referred to the Decision Maker.

We are currently quality assuring our notifications processes to ensure that we clearly explain each stage in the customer journey to the claimant in the right way and at the right time. We are also reintroducing automated sanctions notifications, as set out in the Written Ministerial Statement accompanying this response.

Following the results of our trial on early warning for sanctions, we will further consider how the approach might be tailored for where a doubt is raised for entitlement to JSA.

*25. We also believe that notification should be by either written or telephone communication, depending on the claimant's preferences as previously expressed to JCP staff when signing the Claimant Commitment, or subsequent to this. (Paragraph 108)*

## Accepted

Where a claimant gives additional contact information we record it. Our Work Coaches and Decision Makers will then have the option to supplement any communications with additional contact via this channel (typically an e-mail address).

Where a claimant has a particular communication need, for example, because of a disability, we record that information and provide contact via those channels, where we have permission.

We are currently quality assuring our notifications processes and, as part of that, will ensure that the issue of how to notify an individual according to their preference is made clear.

## ESA sanctioning

*27. We recommend that DWP review ESA sanctioning in relation to the Work Programme, accelerating development of more effective support for this group, and prioritising the updating of regulations early in the next Parliament, to empower Work Programme providers to be able to accept "good cause". (Paragraph 134)*

## Accepted in Principle

Work Programme performance has improved significantly since the programme began and in contract year four all providers exceeded their contractual targets. The Department has taken significant steps to continually drive the performance for ESA groups within the Work Programme and actions taken include:

- Identifying and sharing best practice across the market;
- Conducting additional compliance monitoring checks to ensure ESA claimants are receiving the correct level of support;

- Giving equal weighting to ESA performance when assessing which providers enter our Enhance Performance Management regime (meaning that higher volume JSA performance does not mask weak ESA performance).

Of the most recent joiners to the Work Programme nearly 1 in 10 ESA new claimants found lasting work within 12 months. This is well above the expected level of around 1 in 14 and compares to around 1 in 25 of the first joiners.

S16(3) of the Welfare Reform Act 2007 specifically prevents the contracting out of decisions on whether the claimant has failed to comply, shown good cause or should suffer reduction of ESA (i.e. sanction). Any changes to this approach would require primary legislation.

It is important that we maintain a fair and independent approach to decision making and the current process ensures that this is possible. However, we accept that there are some occasions where the provider could benefit from being able to accept good reason in straightforward cases. As committed to within the Government Response to Matthew Oakley's review, we have already taken steps to improve the good reason (good cause in ESA) evidence gathering process. Guidance and supporting products for providers have been strengthened to make clear their obligations to the mandation process, where there is flexibility to set requirements and to record any reasons for non-participation.

There are a number of existing safeguards in place to provide claimants on ESA with effective support whilst on the Work Programme. Contractually providers are bound to comply with all applicable legislation relating to safeguarding and protecting vulnerable groups. To strengthen existing processes, new provider guidance has been developed, to clarify their responsibilities within the sanctions process and to ensure that they check that the claimant fully understands requirements.

We will consider what more we can do to enhance this process.

*28. We call upon DWP also to review the programme of Core Visits as soon as possible, to clarify what changes to conditionality and the application of sanctions occur as a consequence of such Core Visits. (Paragraph 134)*

## Accepted in principle

We continue to monitor our internal processes, including the core visit programme, to ensure it operates as an effective safeguard, although we have no plans to conduct a specific review of the process.

A core visit is a home visit which is made by a DWP visiting officer to a claimant. The purpose of the visit is to ensure that the claimant understood the requirement that they have failed to meet. Where it is established that they did not understand the requirement a referral to a Decision Maker is not made and the Work Coach will tailor further support activity as appropriate for an individual claimant's circumstances.

Work Programme providers will, where they identify a claimant as vulnerable, make every attempt themselves to engage ‘face to face’ with the claimant to ensure that they understood the requirements and the consequences of not carrying out the mandated activity.

*29. We recommend that the Department include voluntary approaches in its pilots, including the Individual Placement with Support model. DWP should test and evaluate these new approaches, and publish its findings, prior to the re-letting of Work Programme contracts in 2017. (Paragraph 135)*

## Accepted

We welcome the Committee’s acknowledgement that the Department is testing alternative approaches for claimants with long term health conditions and disabilities. In November 2014, we announced a package of ESA measures, including a trial of the Claimant Commitment for ESA claimants at various stages of the claimant journey and the Voluntary Early Intervention (VEI) Pilot to improve further the support we offer disabled people and those with health conditions. We recognise the need to evaluate pilots, and the findings will help inform our future policy design.

We accept the Committee’s recommendation to release evaluation findings of voluntary pilots, and it is our intention to publish the Individual Placement Pilots and the Voluntary Early Intervention Pilots findings in summer 2016.

## Further improving communication with claimants

*31. We recommend that DWP carry out further work with the Behavioural Insights Unit to ensure that claimants understand their position within the benefits system, their underlying entitlements and, when changes to their benefit payments occur, what the reasons are for this. (Paragraph 141)*

## Accepted

We recognise how important it is that all our communications on sanctions are clear so that claimants understand the sanction process and can take the necessary action. We take this very seriously and we are prioritising improvements to communications on sanctions through our quality assurance processes.

The Department will also work with behavioural insights specialists to improve the content of the letters we are reviewing. We have gathered insight from claimants on different versions and layout of letters to make sure the most effective options are used.

## Hardship payments

*32. We recommend that DWP make hardship payments available from day one of a sanction period in all cases, including JSA. (Paragraph 149)*

## Accepted in Principle

Jobseekers are only asked to meet reasonable requirements which are tailored to take into account their circumstances and capability, including health conditions, disability and caring responsibilities. Throughout a claim all claimants will receive personalised support and advice to help them move closer to and into work.

As part of this support the claimant enters into a Claimant Commitment which clearly sets out their agreed requirements and is regularly reviewed. The majority of claimants do comply with these requirements. However, where a claimant does not meet requirements without good reason, a benefit reduction can be made. The decision to temporarily halt a claimant's benefit payment is always thoroughly considered and is not something we do lightly.

There is a well-established system of hardship payments in place which can pay back 60% of the claimant's benefit (this is 80% for JSA Claimants who are seriously ill or pregnant) if a benefit reduction is applied. These are available from day one of the sanction for ESA claimants, and for JSA claimants with children and other vulnerable groups. We are grateful to the Committee for their comments on this and we are now considering the extension of the definition of vulnerability for the purposes of access to hardship payments from day one for a broader group of individuals.

*33. We further recommend that, where the claimant has dependent children or is a member of a vulnerable group, the hardship payment decision-making process be instigated by DWP Decision Makers, and coordinated with the decision on the sanction referral itself, regardless of whether the claimant has proactively applied for a hardship payment. (Paragraph 149)*

## Accepted in principle

The Department accepts in principle that a Decision Maker should instigate the initial appointment for hardship where a claimant is either vulnerable or has dependent children. However, we will need to conduct some further work on the feasibility of this recommendation.

Currently in order to make a claim for hardship an appointment must be made with a hardship officer who will consider evidence before making a decision on eligibility.

This process allows staff to arrange appointments at the convenience of the claimant and to signpost those who need further assistance to additional support services where applicable. Any changes to the process would need to ensure that we are able to continue to provide the best support to those who demonstrate eligibility.

Following the Oakley review we have improved the hardship process to ensure that our customers are regularly told about the availability of hardship payments throughout their claimant journey, and have made improvements to the payment process to ensure that payments are made within 3 days.

*34. We therefore also recommend that DWP publish, on at least an annual basis, official data on the number of applications for hardship payments made by sanctioned claimants; the number of hardship payments made; and the number which were made on day one of a sanction period. (Paragraph 150)*

### Accepted in principle

The Department intends to publish further data on hardship applications and awards and we will consider the best way to present data for the future.

### Investigating deaths of benefit claimants

*It is right that the Department investigates all deaths of claimants resulting from suicide, and other deaths of vulnerable claimants with complex needs, through a system of “peer reviews”. We fully appreciate that in such cases there are likely to be multiple and complex factors involved. We understand that DWP has undertaken 49 peer reviews since February 2012, and that in 33 cases these resulted in recommendations for consideration at either national or local level.*

*35. We ask that the Department set out the number of peer review cases where the claimant was subject to a benefit sanction at the time of death and the results of any such reviews in terms of policy changes. (Paragraph 154)*

### Not accepted

The Department is unable to set out the number of cases where the claimant was subject to a benefit sanction at the date of death because of the high risk that the disclosure of that information may lead to identification of one or more of the individuals concerned, and thus breach the Department’s obligations of confidentiality.

Peer Reviews are one of the internal continuous improvement tools available to the Department when investigating whether its procedures and guidance have been followed in a particular case, and whether they require revision or improvement. They are not a tool for examining policy or recommending policy changes, and thus recommendations contained in them would relate to procedural issues only.

*36. In addition, DWP should seek to establish a body modelled on the Independent Police Complaints Commission, to conduct reviews, at the request of relatives, or automatically where no living relative remains, in all instances where an individual on an out-of-work working-age benefit dies whilst in receipt of that benefit. Such a model, operated within the purview of the Parliamentary and Health Service Ombudsman, should ensure that the role of all publicly-funded agencies involved in the provision of services or benefits to the individual is scrutinised, so that a learning document can be produced setting out how policy, and the service delivery pathway, can be improved at every stage. (Paragraph 154)*

## **Not accepted**

There are already a number of routes for review available to relatives or people close to the deceased. If they disagree with a decision that the Department has made on the deceased's claim they may have a right of appeal to the First-tier Tribunal. Relatives or people close to the deceased who disagree with the way in which the Department has handled the case can also use the Department's complaints processes and ultimately complain to the Independent Case Examiner. They also have access to their Members of Parliament who can investigate for them and, again through their MPs they have access to the Parliamentary and Health Service Ombudsman. Finally, where relatives or people close to the deceased feel that a particular policy or process is unlawful, they may challenge this through the courts. Accordingly there are a number of existing mechanisms by which they can challenge the way in which the Department administers the social security regime.

The number of claimants who are in receipt of the following four out-of-work benefits (JSA, ESA, IS and Universal Credit) means that this proposal to investigate what might amount to every death of a working age benefit claimant is simply unworkable and disproportionate.