



House of Commons  
Work and Pensions Committee

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**Benefit Sanctions**

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**Nineteenth Report of Session 2017–19**

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

*Ordered by the House of Commons  
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## Work and Pensions Committee

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

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## Summary

For a long time, the UK's out-of-work benefits have been framed in terms of responsibilities and rights, from which derives a system of conditionality and sanctions. There are certain things the state expects you to do as a condition of receiving out-of-work benefits; if you fail to do those things your benefit may be stopped. The Committee does not believe in unconditional benefits for those who are capable of moving into work. But unfair and disproportionate application of the current sanctions regime is causing unintended consequences.

The objective of conditionality and sanctions is to motivate people to engage with support and to take active steps to move them closer to work. But the evidence on the role of sanctions in achieving this goal is patchy. At the very least, it calls for more research. The Welfare Reform Act 2012 and subsequent changes have made sanctions longer, more severe and applicable to more people than ever before. The previous Government did not know the impact of these changes in 2012 and, six years later, it is still unknown. What we do know is that sanction rates are higher under Universal Credit than under the legacy system, and when applied inappropriately can have profoundly negative effects on people's financial and personal well-being.

The failure to evaluate the 2012 reforms is unacceptable. It is time for the Government urgently to evaluate the effectiveness of reforms to welfare conditionality and sanctions introduced since 2012, including an assessment of sanctions' impact on people's financial and personal well-being. Furthermore, until the Government can point to robust evidence that longer sanctions are more effective, higher level sanctions should be reduced to two, four and six months for first, second and subsequent failures to comply.

Some groups of people are disproportionately vulnerable to, and affected by, the withdrawal of their benefit. These include single parents, care leavers and people with an impairment or health condition. The Government must develop a better understanding of how sanctions affect employment outcomes for vulnerable claimants. Only strong causal relationships can justify these groups' continued inclusion in the sanctions regime. In the meantime, we recommend that people who are the responsible carer for a child under the age of 5, or a child with demonstrable additional needs and care costs, and care leavers under the age of 25, only ever have 20% of their benefit withheld if sanctioned. As well as reduced sanctions, care leavers need better support. So we recommend that the Government review working practices between local authority personal advisers and work coaches to ensure they are collaborating as effectively as possible to support care leavers. It must also introduce a way of identifying care leavers within the benefits system to allow ongoing monitoring of their experiences, including of sanctions, and to inform further tailored support.

Of all the evidence we received, none was more compelling than that against the imposition of conditionality and sanctions on people with a disability or health condition. It does not work. Worse, it is harmful and counterproductive. We recommend that the Government immediately stop imposing conditionality and sanctions on anyone found to have limited capability for work, or who presents a valid doctor's note (Fit

Note) stating that they are unable to work, including those who present such a note while waiting for a Work Capability Assessment. Instead, it should work with experts to develop a programme of voluntary employment support.

We still believe that support for people in work to increase their hours and earnings has the potential to be revolutionary. But its promise risks being undermined by hasty roll-out of a policy not grounded in robust evidence. The Randomised Controlled Trial showed sanctions had no effect on in-work claimants' outcomes and work coaches are not yet equipped to get decisions right every time for every claimant. Sanctioning people who are working is too great a risk for too little return. We recommend that the Department does not proceed with conditionality and sanctions for in-work claimants until full roll-out of Universal Credit is complete. Even then, the policy should only be introduced on the basis of robust evidence that it will be effective at driving progress in work. In the meantime, the Department should focus on providing in-work claimants with the right support.

Under Universal Credit, a sanction incurred under one conditionality regime continues to apply even if the claimant's circumstances change and they are no longer able, or required, to look for work. At that point, the argument that the sanction will incentivise them towards work no longer holds water. The sanction becomes little more than a seemingly unfair punishment for non-compliance. We therefore recommend that sanctions are cancelled when a claimant's change in circumstance means they are no longer subject to the requirement that led to their sanction in the first place.

Under Universal Credit, the maximum amount someone can be sanctioned is 100% of their standard allowance. In theory, housing and children elements are therefore protected. But in reality, this is not always the case: If someone is receiving less than their full standard allowance because of deductions, such as for rent arrears, a sanction representing 100% of their standard allowance eats into other elements. It is a technical glitch, but it puts housing and children's welfare at risk and must be resolved with the greatest urgency. We therefore recommend that the Government immediately ensures any deductions from standard allowances are postponed for the duration of any sanction imposed to ensure that the children and housing elements are always protected.

Setting the right policy is important. But so too is implementing it on the ground. Over and over again we heard stories of it going horribly wrong, resulting in inappropriate sanctions causing unjustified and sustained hardship. We heard about people being asked to comply with impossible requirements.

We also heard that work coaches were not consistently applying the exemptions ('easements') they have the power to use. Claimants did not know they existed and work coaches had neither the time nor the expertise to ask questions about every avenue of someone's life. We recommend that the Department develop a standard set of questions, covering all possible easements, which work coaches routinely ask claimants when agreeing their Claimant Commitment. The Department should also review and improve information about easements made available to claimants.

If a work coach thinks someone has failed to comply with their Claimant Commitment they raise a doubt and put in motion the wheels that could lead to a sanction. We recognise that giving work coaches and decision-makers the right amount of flexibility

is a challenge. But we heard too many stories of poor decision-making to believe the current system has got it right. The first hurdle is deciding what counts as ‘good reason’ for failing to comply, which is currently a judgment call for work coaches. This is a big ask when the consequences of getting it wrong can be so great. What’s more, it inevitably means that claimants in similar circumstances are treated inconsistently. But this could be easily fixed by carefully drafted regulations. We therefore recommend that the Department introduce regulations on what counts as good reason, which still allow work coaches to exercise judgment in any situation not included.

If a work coach concludes someone did not have good reason for failing to comply, they must refer them for a sanction. We heard repeatedly, however, that the welfare system is being reformed to reflect the world of work. But we do not think it is fair or proportionate for someone’s first mistake to be met with the harshest penalty, either in the world of work or benefits system. We welcome the Government’s announcement to trial a system of warnings, instead of sanctions, for first sanctionable failures, but it only applies to narrow circumstances. We therefore recommend that the Government use the trial as an opportunity to learn lessons, while taking steps towards introducing warnings, instead of sanctions, for every claimant’s first failure to comply.

We recognise the importance of an independent decision-maker to impose the sanction. It is, however, a missed opportunity that a work coach’s relationship with the claimant and insight into their circumstances—supposedly at the very heart of Universal Credit—plays no role at this stage of the process. What is more, a sanction can only be challenged once the decision has been made, by which stage the damage has been done, and the burden of proof falls to the claimant. We recommend that when a work coach refers a claimant for a sanction they are required to include a recommendation on whether a sanction should be imposed based on their knowledge of the claimant and their circumstances. Decision-makers should contact the claimant to let them know their ‘provisional decision’ and, if it is to impose a sanction, the evidence on which this is based. The claimant should then have 30 days to challenge the provisional decision or actively opt not to provide further evidence.

Claimants can challenge the final decision to impose a sanction first, through Mandatory Reconsideration, and then via First-tier Tribunal. But in the absence of any commitment from the Department on how long these decisions will take, people can endure the hardship of a sanction for weeks on end. This is all the more painful if, after all that time, the sanction is overturned. We therefore recommend that the Department commit to a timetable for making decisions about sanctions at Mandatory Reconsideration and appeal.

Hardship payments are made to those who would otherwise be left with nothing when sanctioned. But recovering that payment at a rate of 40% of someone’s standard allowance imposes further significant hardship. It is neither necessary for the Government—as it appears not to be financially motivated to recover the money—nor affordable for those who have been recognised as at risk of extreme poverty. Our final recommendation is therefore that the Department issues revised guidance to all work coaches to ensure hardship repayments are set at a rate that is affordable for the claimant, with the default being 5% of their standard allowance.

# 1 Introduction

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## Overview

1. In the UK, as in many other countries, some claimants must take steps towards work, like actively looking for work and attending meetings at the jobcentre, in order to receive benefits. Such activities are referred to as the claimant’s ‘work-related requirements’ or ‘conditionality’. When a claimant does not fulfil an agreed requirement and has no good reason for failing to do so, a sanction is applied. This means that their benefit is stopped or reduced for a period of time. A sanction usually means the claimant loses 100% of their out-of-work benefit, or 40% if they are the lead carer for a child between the ages of one or two—subject to work-related interviews only—or are considered to be vulnerable.<sup>1</sup> How long a sanction lasts depends on the claimant’s circumstances; for example, which benefit they claim, the importance of the requirement they did not meet, and whether or not it is the first time they have failed to comply. The aim of conditionality and sanctions is to motivate claimants to engage with employment support and move into work.<sup>2</sup>

2. We heard little support for unconditional welfare and many witnesses acknowledged the role that sanctions must play. For example, the Joseph Rowntree Foundation told us that “sanctions are an inevitable part of a welfare-to-work system where conditions are attached to the receipt of benefits” and without them, “conditionality is meaningless”.<sup>3</sup> But we also heard that, for a conditionality and sanctions policy to be effective, it must apply to the right people—not all out-of-work benefit claimants are able to move into work—and be implemented carefully, to ensure benefits are not wrongly withdrawn. The Department for Work and Pensions (the ‘DWP’ or ‘Department’) argued that the current regime was achieving this, but we heard a lot of evidence to the contrary.

## Conditionality and sanctions explained

### *How does conditionality apply to different claimants?*

3. Conditionality and sanctions can apply to claimants of Jobseeker’s Allowance (JSA), Employment and Support Allowance (ESA), Income Support and Universal Credit (UC). The level and intensity of conditionality depends on the claimant’s circumstances. Depending on, for example, whether they have a disability or health condition, young children, caring responsibilities or other income, they will be put into one of four groups ranging from full conditionality (“all work-related requirements”) to no conditionality (“no work-related requirements”). Each has an associated “Labour Market regime”, which determines what steps the claimant must take towards work, and a set of available “interventions”, which indicates the support they must engage with.

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1 Regulation 111 of the Universal Credit Regulations 2013 ([SI 2013/376](#)) provide for a 40% sanction rate to apply to claimants if, for example, they are aged 16 or 17 years old, or are the responsible for carer for a child under the age of 1.

2 Department for Work and Pensions ([ANC 0083](#))

3 Joseph Rowntree Foundation ([ANC 0068](#))

**Table 1: Conditionality groups, Labour Market regimes and interventions**

| Claimants' circumstances  | Conditionality Group          | Labour Market regime        | Interventions available   |
|---|-------------------------------|-----------------------------|---|
| Jobseekers or those with very low earnings  | All work-related requirements | Intensive work search       | Getting started interview<br><br>Work search review<br><br>Flexible coaching support<br><br>Quarterly coaching review |
| Those with individual or household earnings above the administrative earnings threshold (AET) <sup>4</sup> , but below the relevant conditionality earnings threshold (CET) <sup>5</sup>  |                               | Light touch                 | Getting started interview<br><br>In work review   |
| Those expected to look for work in the future, including:<br><br>Those assessed as having limited capability for work following a Work Capability Assessment (WCA); and<br><br>lead carers of children, where the youngest child is aged between 2 and 5 years old. | Work preparation              | Work preparation            | Getting started interview<br><br>Flexible coaching support  |
| Those expected to work in the future but who are currently the lead carer for children, including where the youngest child is aged between 1 and 2 years old.   | Work-focused interview        | Work-focused interview only | Getting started interview<br><br>Flexible coaching support  |

| Claimants' circumstances   | Conditionality Group         | Labour Market regime         | Interventions available |
|--|------------------------------|------------------------------|-------------------------|
| Those with earnings over the individual or household CET, or, self-employed and the Minimum Income Floor applies.  | No work-related requirements | Working enough               | No interventions        |
| Those not expected to work or look for work at present, including:<br><br>Those with limited capability for work and work-related activity following a WCA;<br><br>Those over State Pension age;<br><br>Those with significant caring responsibility for a disabled person for at least 35 hours a week;<br><br>Those who are the leader carer for a child under the age of 1. |                              | No work-related requirements | No interventions        |

Source: <Department for Work and Pensions, [Universal Credit Full Service Survey](#), June 2018>

- 4 The AET ensures only claimants on no income, or very low income are subject to stricter conditionality and receive intensive support. The current AET is £338 per month for a single person and £541 for a couple, based on gross taxable pay.
- 5 The CET is the amount an individual or household must earn to no longer be subject to conditionality. It is individually assessed, taking into account circumstances such as health or caring responsibilities. If no restrictions apply, the default threshold is 35 hours multiplied by the hourly rate of the National Minimum Wage.

### How much is someone's benefit reduced by if they are sanctioned?

4. UC claimants will usually lose 100% of their standard allowance, or half if claiming as a couple. A reduced rate (40% of standard allowance) will apply if the claimant receives a lowest level sanction (see below) or is vulnerable for other reasons.<sup>6</sup> Under the legacy system, JSA claimants typically lose 100% of their JSA benefit, ESA claimants, an amount equivalent to their personal allowance, and sanctions for lone parents claiming Income Support are capped at 20% of their personal allowance.

### How long does a sanction last?

5. The length of a sanction depends on the circumstances. The rules are established in legislation<sup>7</sup> and are set out in the table below:

**Table 2: Sanctions under Universal Credit and new style JSA and ESA**

| Sanction  | Applicable to  | Duration                              |             |                           |
|---|--|---------------------------------------|-------------|---------------------------|
|   |  | 1st failure                           | 2nd failure | 3rd or subsequent failure |
| <b>Higher level</b><br>e.g. failure to take up an offer of paid work                            | Claimants subject to all work-related requirements   | 91 days                               | 182 days    | 1095 days                 |
| <b>Medium level</b><br>e.g. failure to undertake all reasonable action to obtain work           | Claimants subject to all work-related requirements   | 28 days                               | 91 days     |                           |
| <b>Lower level</b><br>e.g. failure to undertake particular, specified work preparation activity | Claimants subject to all work-related requirements and claimants subject to work preparation and work-focused interview requirements | Open ended until re-engagement, plus: |             |                           |
|   |  | 7 days                                | 14 days     | 28 days                   |
| <b>Lowest level</b><br>Failure to participate in a work-focused interview                       | Claimants subject to work-focused interview requirements only  | Open ended until re-engagement        |             |                           |

Source: Social Security Advisory Committee, [Universal Credit and Conditionality](#), August 2012

### The process for imposing a sanction

6. In its written evidence, the DWP explained the steps leading to a sanction. First, the claimant agrees their work-related requirements with their work coach and records them in the Claimant Commitment. The work coach will “raise a doubt” with the claimant if they believe that person failed to comply with their Claimant Commitment. The work coach must then establish whether the claimant had good reason for this failure. This decision requires work coaches to exercise their judgement in line with DWP guidance.

6 Regulation 111 of the Universal Credit Regulations 2013 ([SI 2013/376](#)) states that a reduced rate sanction will apply if the claimant: is aged 16 or 17; or, responsible for a child under the age of 1, is an adopter, pregnant and due to give birth within 11 weeks, or has had a baby in the last 15 weeks.

7 Regulation 102 of the Universal Credit Regulations 2013 ([SI 2013/376](#))

If the doubt is raised in a face-to-face interview, this can be done there and then, but in all other cases, the work coach “will make every effort to contact the customer to find out why they failed to meet their requirements”.<sup>8</sup> The DWP explained:

In simple cases that meet prescribed circumstances and where the Work Coach has ascertained that the claimant has good reason, Work Coaches do not need to refer the case to an independent Decision Maker and can make a decision not to apply a sanction themselves instead. The reasons are set out in guidance ...<sup>9</sup>

7. If the work coach concludes that the claimant did not have good reason, or if they do not hear from the claimant within five days of raising a doubt (seven if the claimant is receiving ESA or Income Support), they refer the claimant’s case to an independent decision-maker. The DWP told us there were additional safeguards if someone was vulnerable, had complex needs, or could not access “normal channels of communication” either themselves or through someone else. These people would not be referred for a sanction “until a reasonable number of attempts [had] been made to complete a visit and all other attempts to contact [them had] failed”.<sup>10</sup> When a work coach refers someone for a sanction, they provide the decision-maker with “information about any complex need or vulnerability that may contribute to the claimant failing to understand and/or comply with a specific requirement”.<sup>11</sup> The decision-maker must then consider whether to apply a sanction. The claimant can challenge this decision, first through a Mandatory Reconsideration, and then by a right of appeal to the First-tier Tribunal. The process is summarised in the flow-chart below.

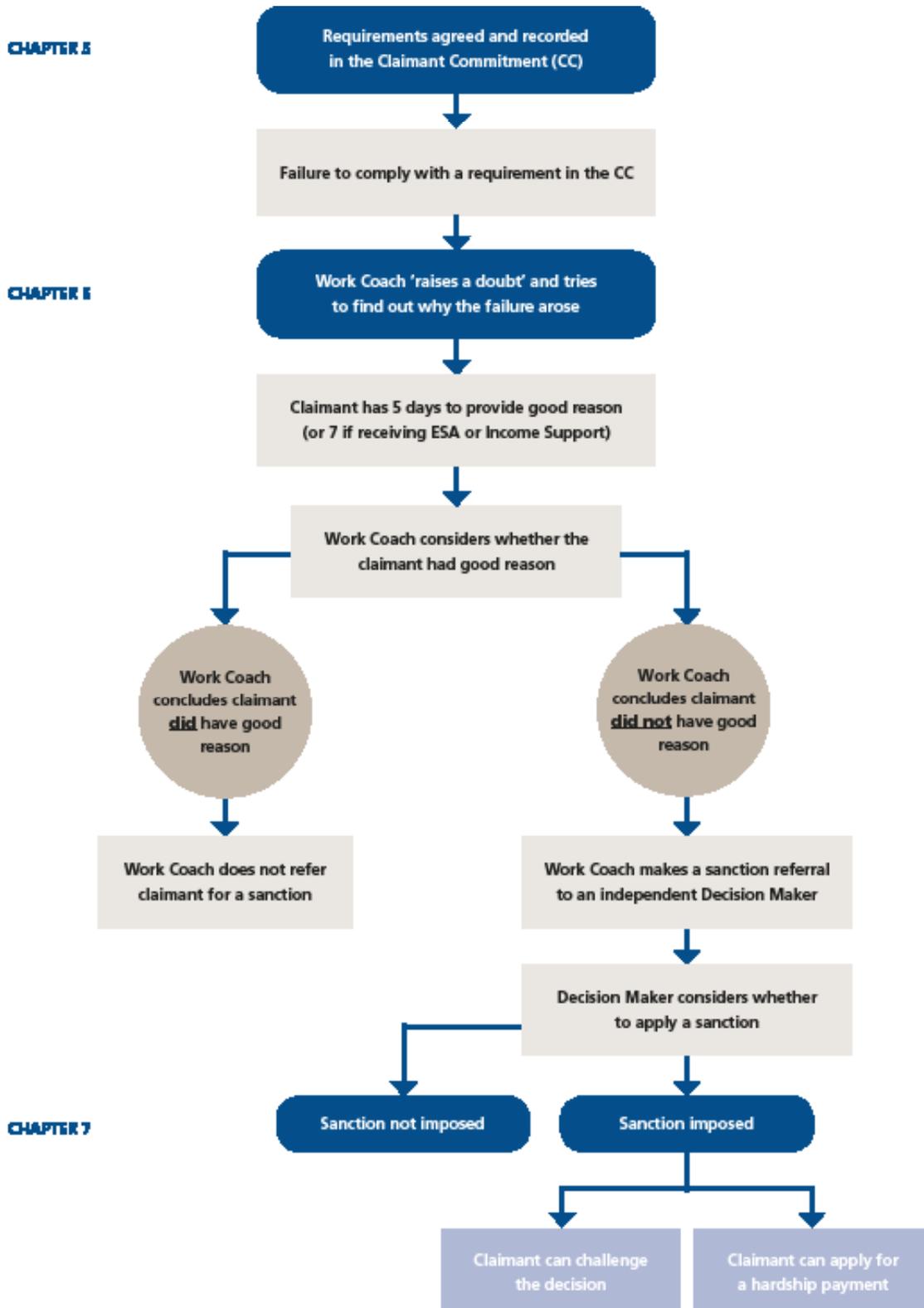
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8 Department for Work and Pensions ([ANC 0083](#))

9 Department for Work and Pensions ([ANC 0083](#))

10 Department for Work and Pensions ([ANC 0083](#))

11 Department for Work and Pensions ([ANC 0083](#))



## Our inquiry

8. We accept the principle of benefits awarded on the basis of support backed by conditionality and sanctions. But stories of people having their benefit stopped—leaving them and their families in severe financial hardship—because of a ‘failure’ as minor as being minutes late to a meeting, or missing an appointment because they were in hospital, prompted us to investigate. This Report sets out our findings.

9. We could not have understood the process, its shortfalls and the consequences of its failings without the many people who contributed to our inquiry. We would like to thank everyone, but especially those who gave oral evidence or who shared their personal experiences, including through our online survey.<sup>12</sup> We are particularly grateful to Samantha, Luke and Jen who spoke to us so candidly. Their evidence was invaluable to our inquiry.

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<sup>12</sup> Between 4 May and 5 June 2018 the Work and Pensions Committee invited views on benefit sanctions via an online survey on its webpage.

## 2 Evidence on the effectiveness of sanctions

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10. The DWP says that the aim of conditionality and sanctions is:

to motivate claimants to engage with support on offer to look actively for work and thereby to move into work. It also ensures the system is fair to the taxpayer by reducing the standard rate of benefit from claimants when they fail, without good reason, to meet a conditionality requirement that they have agreed.<sup>13</sup>

But evidence was mixed on whether sanctions were achieving this. On the one hand, the Department said “evidence shows that sanctions have a positive impact on behaviour”.<sup>14</sup> It cited its own research, which found that over 70% of JSA and 60% of ESA recipients said the threat of sanctions made them more likely to comply with their work-related requirements.<sup>15</sup> Further research showed that mandatory checks on whether someone was complying with their work-related requirements were “effective at decreasing time on benefits”.<sup>16</sup> The National Audit Office (NAO) reported that JSA claimants “spent less time claiming after getting a sanction”.<sup>17</sup>

11. On the other hand, several studies contradicted, or qualified, these findings. First, UK and international studies showed that while receiving a sanction could increase the likelihood of moving into employment, it was often into low-quality jobs, in terms of pay, conditions and sustainability.<sup>18</sup> Moreover, a five-year project (2013–2018) funded by the Economic and Social Research Council, *Welfare conditionality: sanctions support and behaviour change* (hereafter the ‘Welfare Conditionality Project’), found that “stasis—a lack of significant, sustained change in employment status—was the most common outcome” for sanctioned claimants participating in its study.<sup>19</sup>

12. Second, the NAO found that while JSA claimants spent less time claiming benefits after getting a sanction, they were just as likely to stop claiming *without* finding work, as they were *to find work*.<sup>20</sup> Some evidence also suggested that people who came off benefits following a sanction did not necessarily move into work, but might turn to other forms of support, such as family members.<sup>21</sup>

13. Third, several witnesses told us that the cause of positive behaviour changes was unclear, as it was difficult to untangle the effects of support offered by the jobcentre, the obligation to comply with certain conditions, and the sanctions themselves. Tony Wilson, Director of Policy and Research at the Learning and Work Institute, an independent policy and research organisation, argued that the extent to which the threat of a sanction affected

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13 Department for Work and Pensions ([ANC 0083](#))

14 Department for Work and Pensions ([ANC 0083](#))

15 Department for Work and Pensions, [The Jobcentre Plus Offer: Final evaluation report](#), November 2013

16 Department for Work and Pensions ([ANC 0083](#))

17 National Audit Office, [Benefit Sanctions](#), November 2016

18 MRC/CSO Social and Public Sciences Unit University of Glasgow ([ANC 0061](#)), Child Poverty Action Group ([ANC 0056](#)), Q13, see also Beth Watts, Suzanne Fitzpatrick, Glen Bramley et al, “[Welfare sanctions and conditionality in the UK](#)”, September 2014

19 Welfare Conditionality Project ([ANC 0079](#))

20 National Audit Office, [Benefit sanctions](#), November 2016

21 Dr Rachel Loopstra ([ANC 0078](#)), Citizens Advice ([ANC 0067](#))

behaviour was “a justification for the conditionality regime”, rather than the sanction itself.<sup>22</sup> Furthermore, the Welfare Conditionality Project found that jobcentre’s focus on claimants fulfilling their mandatory conditions, plus claimants’ fear of sanctions, led to “counterproductive compliance”. It explained:

Pressure to achieve more demanding job application/work search requirements (up to 35 hours per week) coupled with benefit recipients’ strong desire to avoid the punitive effects of a sanction resulted in people applying for jobs they had no realistic chance of getting. The threat of a benefit sanction therefore encouraged a culture of counterproductive compliance and futile behaviour that got in the way of more effective attempts to secure employment.<sup>23</sup>

## The 2012 reforms

14. The Welfare Reform Act 2012 (‘the 2012 Act’) is the foundation of today’s conditionality and sanctions regime. It established the rules for UC and amended those for legacy benefits so that they were broadly aligned. In doing so, it increased the length and severity of sanctions and made them applicable to more claimants than ever before.<sup>24</sup> The Department’s Impact Assessment said the changes would address problems of inconsistency, lack of clarity and “insufficiently tough” sanctions for those who “repeatedly fail to meet their most important responsibilities”.<sup>25</sup>

15. Several witnesses argued, however, that mixed evidence on the effectiveness of sanctions did not support the introduction of a tougher regime, including longer sanctions following a similar ‘failure’ within the previous 12 months.<sup>26,27</sup> At the time, the DWP itself acknowledged that the 2012 changes would “elicit behavioural responses which are difficult to predict with certainty”.<sup>28</sup> But it said the policy would be “reviewed from 2013 on an ongoing basis” to “establish its impact and the extent to which the policy objectives have been achieved”.<sup>29</sup> Several witnesses to our inquiry criticised the Department for failing to conduct such an evaluation.<sup>30</sup> Tony Wilson described it as “a real dereliction of the Department”<sup>31</sup> and told us:

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22 Q13

23 Welfare Conditionality Project ([ANC 0079](#))

24 National Audit Office, [Benefit sanctions](#), November 2016

25 Department for Work and Pensions, [Impact Assessment for conditionality measures in the 2011 Welfare Reform Bill](#), October 2011

26 This is measured as the time between the dates of the ‘failures’, not the sanction decisions.

27 Citizens Advice ([ANC 0067](#)), Child Poverty Action Group ([ANC 0056](#)), Q13 [Tony Wilson]

28 Department for Work and Pensions, [Impact Assessment for conditionality measures in the 2011 Welfare Reform Bill](#), October 2011

29 Department for Work and Pensions, [Impact Assessment for conditionality measures in the 2011 Welfare Reform Bill](#), October 2011

30 See for example Dr David Webster ([ANC 0019](#)), Q13 [Tony Wilson], DePaul ([ANC 0070](#)), Baptist Union of Great Britain, the Church of Scotland, the Methodist Church, the United Reformed Church and the Church Action on Poverty ([ANC 0043](#)), MRC/CSO Social and Public Sciences Unit University of Glasgow ([ANC 0062](#)), British Psychological Society ([ANC 0061](#))

31 Q13

This is the only major welfare reform introduced after 2010 that has not been evaluated. There has been no attempt to evaluate the impact of sanctions. There has been no attempt to understand what the impacts are on individuals.<sup>32</sup>

### *Longer sanctions*

16. Furthermore, Dr David Webster, an expert academic in this field, noted that the “DWP does not publish any information on how many sanctions there are of each duration” nor “record the date of the ‘failure’ for which the claimant is sanctioned”.<sup>33</sup> As a result, the Department could not know how many claimants received longer sanctions for second or successive ‘failures’. He described this as “an astonishing gap in the statistics” as it meant the impact of escalated sanctions—a major reform—could not be evaluated.<sup>34</sup>

17. Alok Sharma MP, Minister of State for Employment (‘the Minister’), confirmed that the Department “does not hold the start and end date for a sanction and thus [does] not hold the length of the sanction either”.<sup>35</sup> He said that it would be possible to infer the length of sanctions from payment data and the dates of failures, but “this would take considerable time to extract and analyse”.<sup>36</sup> He was also unable to point to any specific evaluation of the more severe sanctions regime introduced in 2012 when giving oral evidence.<sup>37</sup> We asked again, in correspondence, “what further evaluation has been done of the regime introduced by the 2012 Act, in particular regarding the impact and effectiveness of more severe sanctions ...?”. He replied:

The Department is building its understanding of how sanctions help to underpin our conditionality regime, in particular how the impact of Universal Credit has changed our engagement with claimants, the effect of sanctions on customer behaviour and how this varies for different customer groups, as well as how we can make the sanctions regime more effective. This work is on-going, especially as we analyse the new data available on Universal Credit systems. As part of this work, we will explore the use of analytical techniques that attempt to isolate the impact of sanctions on transitions into work and of earnings when in work.<sup>38</sup>

He acknowledged that “this will not provide evidence of the effectiveness of the 2012 Act, compared to the previous system”, but “may provide insight into the effectiveness of the current sanctions system in supporting conditionality”.<sup>39</sup> We also asked how the Department expected to evaluate the increased sanction lengths without knowing how many of each length had been imposed. To this, the Minister said:

There is existing academic literature that shows the impact of different levels of sanctions on work search behaviour. We are considering how we might apply some of this to our UC data, to look at sanction durations, but it is

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32 Q13

33 Dr David Webster ([ANC 0019](#))

34 Dr David Webster ([ANC 0019](#))

35 [Letter to the Chair from Alok Sharma MP, Minister of State for Employment](#), 4 September 2018

36 [Letter to the Chair from Alok Sharma MP, Minister of State for Employment](#), 4 September 2018

37 Qq245–8

38 [Letter to the Chair from Alok Sharma MP, Minister of State for Employment](#), 4 September 2018

39 [Letter to the Chair from Alok Sharma MP, Minister of State for Employment](#), 4 September 2018

complicated as sanction duration is currently identified on our analytical systems using drops in payment amounts, rather than purely identifying individual sanctions at different durations.<sup>40</sup>

He cited two studies when referring to “existing academic literature”. The first analysed the impact of ‘mild’ and ‘strong’ sanctions applied to young benefit claimants in Germany.<sup>41</sup> It found that “both types of sanctions lead to a higher transition rate to work, and that this effect is higher for strong sanctions”.<sup>42</sup> The second analysed the effect of sanctions on the exit rate from unemployment in Denmark.<sup>43</sup> It concluded that “for both men and women ... more severe sanctions have a larger impact on the exit rate from unemployment”.<sup>44</sup> It is important, however, to note the length of sanction being considered: In the German study, a ‘strong’ sanction withdrew benefits for up to three months, and in the Danish study, the “more severe” sanction lasted just three weeks. It is therefore a huge leap to see these findings as evidence for the more severe sanctions regime introduced in 2012, under which a higher-level sanction can last up to three years.

### *Sanction rates under Universal Credit*

18. A recent House of Commons Library publication explained that sanction rates “are complicated to assess due to the range of experimental data series available from DWP and the different sanction policies covering each sanctionable benefit”.<sup>45</sup> They could be looked at in two ways:

- i) ‘Prevalence’—a measure of how many people are currently under a sanction, and
- ii) ‘Incidence’—a measure of how many sanctions are newly issued in a given period.

‘Prevalence’ therefore provides a better idea of how many people are affected by sanctions at any one time, while ‘incidence’ provides a better idea of the actual volume of sanction decisions being made.<sup>46</sup> The figure below shows that sanctions are more prevalent under UC than JSA.

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40 [Letter to the Chair from Alok Sharma MP, Minister of State for Employment](#), 4 September 2018

41 Gerard J. van den Berg, Arne Uhlendorff and Joachim Wolff, [“Sanctions for young welfare recipients”](#), IZA Discussion Paper No. 7630, September 2013

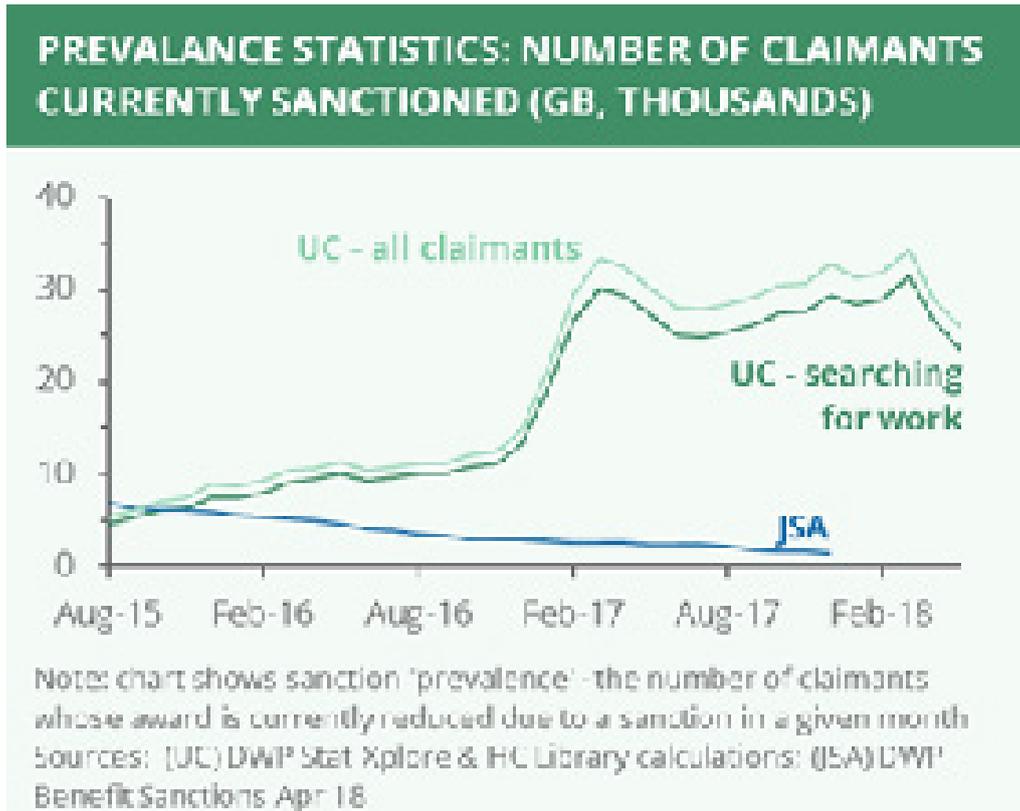
42 Gerard J. van den Berg, Arne Uhlendorff and Joachim Wolff, [“Sanctions for young welfare recipients”](#), IZA Discussion Paper No. 7630, September 2013

43 Michael Svarer, “The effect of sanctions on the exit rate from unemployment: Evidence from Denmark”, *Economica*, September 2011

44 This finding is itself caveated as being “explorative analysis” due to data limitations

45 House of Commons Library, [Why are sanction rates higher under Universal Credit?](#), accessed 23 October 2018

46 House of Commons Library, [Why are sanction rates higher under Universal Credit?](#), accessed 23 October 2018



19. Dr David Webster described the rate of sanctions under UC as “strikingly high” at around 5% per month—a rate reached under JSA only for relatively short periods in 2010—11 and 2012—14.<sup>47</sup> The difference is even more pronounced when looking solely at UC claimants who are required to search for work (a more direct comparison to JSA claimants). In December 2017, around 0.3% of JSA claimants were experiencing a sanction, compared to 8.2% of those UC claimants (this fell to 5.3% in May 2018, but equivalent JSA data was not available at the time of writing this report).<sup>48</sup> In addition, data show that the incidence of adverse sanction decisions (i.e. the number of sanctions imposed over a period of time) “has been consistently higher under the UC live service than under JSA” (data on UC sanction decisions was only available for the live service at the time of writing).<sup>49</sup> In April 2018, around 7,000 individuals were newly sanctioned under the UC live service, compared to around 2,300 under JSA. This was equivalent to around 5% of all UC live service claimants and around 1% of all JSA claimants.<sup>50</sup>

20. In written evidence, the DWP said sanction rates for UC appeared higher because actions that resulted in closing a claim under JSA led to a sanction under UC: for example, failing to attend a work coach meeting and not making contact within five days, or “not actively seeking work”.<sup>51</sup> Cases could not be closed under UC as claims might include other elements that were not affected by a sanction and needed to continue, such as those for children or housing.<sup>52</sup>

47 Dr David Webster, [Benefit sanctions statistics briefing July 2018](#), accessed 23 October 2018

48 House of Commons Library, [Why are sanction rates higher under Universal Credit?](#), accessed 23 October 2018

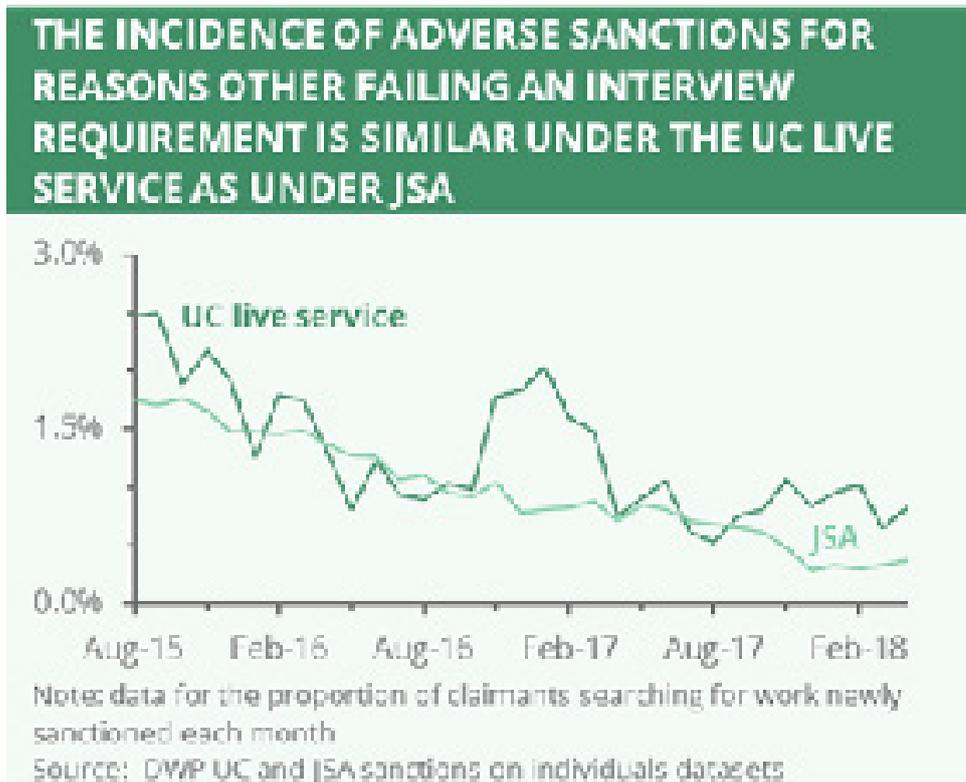
49 House of Commons Library, [Why are sanction rates higher under Universal Credit?](#), accessed 23 October 2018

50 House of Commons Library, [Why are sanction rates higher under Universal Credit?](#), accessed 23 October 2018

51 Department for Work and Pensions ([ANC 0083](#))

52 Department for Work and Pensions ([ANC 0083](#))

21. Dr David Webster said this explanation was “rather puzzling” and did not explain fully the higher rate of sanctions under Universal Credit. So we asked the House of Commons Library to test the Department’s hypothesis. To do this, it removed interview-related sanctions from the overall sanction rates for UC live service and JSA (noting that this discounted a considerable proportion of total sanctions). The figure below shows the result. Although the difference between the two rates is smaller, the rate of sanctions under UC was still higher than under JSA in recent months.



22. The House of Commons Library concluded that this result “might seem to affirm DWP’s suggestion that the higher rate of sanctioning under UC is due to the practice of sanctioning claimants when they miss an interview rather than simply stopping their benefit payments entirely”.<sup>53</sup> It said, however, that it was still not possible to know *why* the rate of interview-related sanctions was so high under UC, or what the rate of sanctions would be under JSA if cases were not closed for missed interviews. In addition, the effect of the higher rate of sanctioning on a UC claimant’s likelihood of finding work was still unknown. In a letter dated 23 August 2018, the Minister said:

The Department is yet to undertake robust analysis into the extent of the effects on sanction rates resulting from the differences in policy between UC and legacy benefits. Such analysis will be scheduled into our work plan for the next 12 months.<sup>54</sup>

23. **At best, evidence on the effectiveness of sanctions is mixed, and at worst, it shows them to be counterproductive. The Coalition Government had little or no understanding of the likely impact of a tougher sanctions regime when it was introduced in 2012. It said the policy would be reviewed on an ongoing basis to understand its impact and**

53 House of Commons Library, [Why are sanction rates higher under Universal Credit?](#), accessed 23 October 2018

54 [Letter to the Chair from Alok Sharma MP, Minister of State for Employment, 23 August 2018](#)

the extent to which it was achieving its objectives. But six years later, it is none the wiser. The lack of any such evaluation is unacceptable. Furthermore, without evidence to support the significantly longer sanctions introduced, or data to understand the behavioural impact of escalated sanctions for repeated failures, the policy appears to be nothing other than arbitrarily punitive. The high rate of sanctions under Universal Credit only increases the urgency with which the Government must understand fully the effect of the 2012 reforms. Crucially, if such research suggests changes are required, the Government must be prepared to respond accordingly.

24. *We recommend that the Department urgently evaluate the effectiveness of reforms to welfare conditionality and sanctions introduced since 2012 in achieving their stated policy aims. The Department should commission an independent review of its methodology for this work. We further recommend that higher level sanctions should be reduced to two, four and six months for first, second and subsequent failures to comply, until the Department can present robust evidence that longer sanctions would be more effective at moving people into work.*

## The impact of sanctions

25. The Joseph Rowntree Foundation acknowledged that “sanctions by nature have to threaten some level of hardship. But this should not result in destitution”.<sup>55</sup> We heard evidence, however, that sanctions could have a profound and long-lasting financial impact. For example, frontline workers at Citizens Advice reported that their sanctioned clients “more commonly borrowed money, cut back spending on food and other essentials, or fell into arrears with bills” rather than increased their income through finding work.<sup>56</sup> Samantha, a single parent claiming UC while working part-time, told us how she fell into debt following a sanction. She said:

After three months less £500 ... how do you catch up? ... you are still getting yourself to work, but the ends are still not being met ... when the sanction [ends], you’ve still got that backlog. You have still got bills that are outstanding and you are still being chased.<sup>57</sup>

26. In addition to borrowing money and seeking help from family members, Samantha turned to food banks.<sup>58</sup> We heard evidence of other people in the same situation, suggesting that Samantha’s experience was far from unique.<sup>59</sup> Furthermore, Dr Rachael Loopstra’s quantitative study of the relationship between sanctions and the use of food banks found that “in each case ... at the area level, as more Jobseeker’s Allowance claimants received sanctions over 2012 to 2015, food bank usage rose”.<sup>60</sup> She said the results of her study likely “understate the true magnitude of the relationship between sanctions and food insecurity”.<sup>61</sup> This was because she used Trussell Trust food bank usage as a proxy for food insecurity, which did not capture everyone experiencing hunger.

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55 Joseph Rowntree Foundation ([ANC 0068](#))

56 Citizen’s Advice ([ANC 0067](#))

57 Qq125–129

58 Q129

59 See for example Joseph Rowntree Foundation ([ANC 0068](#)), Gingerbread ([ANC 0080](#)), Shaw Trust ([ANC 0086](#))

60 Dr Rachael Loopstra ([ANC 0078](#))

61 Dr Rachael Loopstra ([ANC 0078](#))

**Box 1: Comments from respondents to online survey question: How did the sanction affect you?**

*“I had to rely on food banks and the kindness of family to get through Christmas. It made me feel like a failure and caused my children stress”—Female aged 31–45 claiming UC*

*“It caused anxiety and anger... I fell into debt with bills and at times was unable to top up my prepayment electric meter so was without heating or lighting”—Male aged 31–45 claiming UC*

*“I got into severe debt that I am still paying off ... I borrowed from loan sharks [and] have been served with an eviction notice from the council”—Female aged 45+ claiming ESA*

Source: Between 4 May and 5 June 2018 the Work and Pensions Committee invited views on benefit sanctions via an online survey on its webpage.

27. As well as affecting financial well-being, we heard how sanctions could have a deeply negative impact on people’s physical and mental health. Child Poverty Action Group (CPAG), an organisation that develops and campaigns for policy solutions to end child poverty, found that sanctions “tend to reduce people’s capabilities”, including their physical health, mental health, financial security and coping abilities.<sup>62</sup> This could, in turn, increase the burden on the National Health Service. In 2017, Mind, the mental health charity, surveyed 3,000 people with mental health problems and experience of the benefits system. Nine in ten of those who were sanctioned, or threatened with a sanction, said it had led to a deterioration of their mental health.<sup>63</sup>

**Box 2: Comments from respondents to online survey question: How did the sanction affect you?**

*“I was already depressed, this worsened it, seriously knocking my confidence. I self-harmed”—Male aged 31–45 previously claiming JSA*

*“I was reduced to 1 meal a day for several weeks and lost a stone and a half. Prior to this I was already considered dangerously underweight”—Male aged 31–45 previously claiming JSA*

*“It made my depression worse and I am too scared/anxious to enter a jobcentre” Male previously claiming JSA*

*“It sent my mental and physical health spiralling out of control. I have severe anxiety at the mention of the DWP or sight of a brown envelope”—Female aged 45+ claiming ESA*

Source: Between 4 May and 5 June 2018 the Work and Pensions Committee invited views on benefit sanctions via an online survey on its webpage.

28. Several witnesses, including the Shaw Trust, a national charity helping people into work, Centrepoint, a charity providing housing and support for young people, and CPAG, also highlighted that claimants’ negative experiences of sanctions often eroded their relationship with the jobcentre.<sup>64</sup> Others, such as Inclusion London, a London-wide organisation promoting equality for London’s Deaf and Disabled people, told us how “extreme poverty is a barrier to looking for work” as people are forced to prioritise basic needs, like:

62 Child Poverty Action Group ([ANC 0056](#))

63 Mind, “[People with mental health problems made more unwell by benefits system](#)”, accessed 25 October 2018

64 Shaw Trust ([ANC 0086](#)), Gingerbread ([ANC 0080](#)), Centrepoint ([ANC 0060](#)), Child Poverty Action Group ([ANC 0056](#)), Welfare Conditionality Project ([ANC 0079](#))

using a foodbank, trying to sort out your housing benefit with your local council, trying to sleep for longer so you don't feel the cold and hunger so badly, looking up friends who may give you a hand-out (who you can't telephone because you have no credit) as well as appealing the sanction.<sup>65</sup>

**Box 3: Comment from respondents to online survey question: How has being sanctioned changed how you think about your benefits?**

*"I've lost all faith and trust in the staff and system"—Male aged 31–45 claiming UC*  
*"I think there's no point even engaging with Jobcentre Plus"—Male aged 18–24 claiming UC*  
*"I am now very nervous of JCP staff"—Male aged 45+ claiming JSA*

Source: Between 4 May and 5 June 2018 the Work and Pensions Committee invited views on benefit sanctions via an online survey on its webpage.

### *The wider implications of sanctions*

29. The NAO highlighted that supporting people affected in the ways described above can “lead to extra public spending in areas such as local authority funding welfare support”.<sup>66</sup> It noted that while the DWP had estimated costs and benefits for changes to lone parent conditions, “it has not assessed costs and benefits for sanctions as a whole”.<sup>67</sup> The Public Accounts Committee said “the Department does not understand the wide effects of sanctions” and recommended two years ago that the Department:

work with the rest of government to estimate the impacts of sanctions on claimants and their wider costs to government and report back to us on progress at the end of 2017.<sup>68</sup>

In evidence to our inquiry, the DWP said it had explored the possibility of conducting research into the impact of sanctions, including on wider public services, but concluded there were “significant practical issues which make it difficult to quantify potential impacts”.<sup>69</sup>

**30. It is one thing for a sanction to result in short-term hardship as a consequence of breaching an agreed work-related requirement. It is something else entirely for a sanction to affect someone's physical and mental well-being, drive them into debt and leave them on the brink of destitution. We agree that research to understand the impact of sanctions would be complicated, but we do not agree that this is a reason for the DWP not to try. There is too much at stake not to.**

***31. We recommend that the Department include in the evaluation we have recommended an assessment—to whatever extent is feasible—of the impact sanctions have on claimants' financial and personal well-being, as well as on wider public services. It should take expert advice on how to achieve this and consider commissioning external research if necessary.***

65 Inclusion London ([ANC 0026](#))

66 National Audit Office, [Benefit sanctions](#), November 2016

67 National Audit Office, [Benefit sanctions](#), November 2016

68 Committee of Public Accounts, Forty-second Report of Session 2016–17, [Benefit sanctions](#), HC 775

69 Department for Work and Pensions ([ANC 0083](#))

## 3 Vulnerable claimants

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### Single parents

32. From April 2017, single parents became subject to conditionality when their youngest child turned one year old. Previously, conditionality applied when their youngest child turned two (see table 3).<sup>70</sup> When introducing these changes, the Government said:

providing additional support for parents to move into work, and conditionality to require them to engage with it, enables them to take financial responsibility for themselves and their children.<sup>71</sup>

Furthermore, it said “evidence finds that parents who have conditionality are more likely to move into work”.<sup>72</sup>

33. In August 2017, DWP data showed that 68% of lone parents were in work—an increase of nearly 11 percentage points since 2010 and “the highest figure on record”.<sup>73</sup> Gingerbread, a charity working with single parent families, questioned, however, the extent to which sanctions themselves were responsible for this improvement. It found that for single parents, sanctions were typically due to “one-off errors”, more often the result of structural barriers or a failing of logistics—such as unavailability of part-time work or accessible childcare—rather than a failing of attitude or motivation. It argued, “in these circumstances, sanctions serve little purpose”.<sup>74</sup> This was supported by the Welfare Conditionality Project’s research, which found single parents to be “highly motivated to work, but prevented from doing so by a range of structural and/or personal barriers”.<sup>75</sup> As a result, conditionality had “little tangible influence” on their motivation to “seek or increase their participation in paid employment”.<sup>76</sup>

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70 Gingerbread, [Unhelpful and unfair? The impact of single parent sanctions](#), March 2018

71 Department for Work and Pensions, [Welfare Reform and Work Bill: Impact Assessment of the change in conditionality for responsible carers on Universal Credit](#), July 2015

72 Department for Work and Pensions, [Welfare Reform and Work Bill: Impact Assessment of the change in conditionality for responsible carers on Universal Credit](#), July 2015

73 [“Lone parent employment rate highest on record”](#), Department for Work and Pensions press release, 30 August 2017

74 Gingerbread ([ANC 0080](#))

75 Sarah Johnsen and Janice Blenkinsop, [Welfare Conditionality Project final findings: Lone parents](#), May 2018

76 Sarah Johnsen and Janice Blenkinsop, [Welfare Conditionality Project final findings: Lone parents](#), May 2018

Table 3: Conditionality and sanctions for single parents

| Requirement on parent                        | Under UC, requirement applies when youngest child is aged | Under legacy system, requirement applies when youngest child is aged | Sanction under UC, if applied |
|--|---|--|-------------------------------|
| Must attend work-focused interviews          | One   | Two (JSA)  | 40% of standard allowance     |
| Must take “active steps” to prepare for work | Two   | Three or Four (JSA)  | 100% of standard allowance    |
| Must look for work                           | Three or four   | Five or older (IS)   | 100% of standard allowance    |

Source: Gingerbread, [“Unhelpful and unfair? The impact of single parent sanctions”](#), March 2018

34. Evidence to our inquiry also highlighted the “devastating” impact sanctions could have on single parent families, whose finances were particularly vulnerable in the absence of a second income.<sup>77</sup> Gingerbread told us that sanctions could throw single parents’ finances into “disarray, leading to debt and reliance on emergency support”.<sup>78</sup> We also heard how debt can quickly lead to rent arrears, which put housing at risk.<sup>79</sup> Newcastle Citizens Advice noted that such consequences could make children in the household “vulnerable to poverty and severe hardship”.<sup>80</sup> Several written evidence submissions, including from Inclusion London and Citizens Advice, stressed that people facing hardship could not, and did not, prioritise finding employment. Rather they were forced to focus on more basic needs.<sup>81</sup>

77 Gingerbread ([ANC 0080](#))

78 Gingerbread ([ANC 0080](#))

79 Gingerbread ([ANC 0080](#))

80 Citizen’s Advice Newcastle ([ANC 0051](#))

81 Inclusion London ([ANC 0026](#)), Citizens Advice ([ANC 0067](#))

**Box 4: Samantha's story**

*Samantha is a single parent who gave evidence to our inquiry. She was working full-time and needed childcare before and after school, some weekends and during school holidays. She described how the pressure of working full-time, yet still struggling to meet the costs of childcare, led to "serious stress and low moods as it seemed [she] was not able [to keep] up with it all". Although she would have liked to continue with her company, "lack of childcare made it just impossible", and she moved to a part-time job. She explained her circumstances to her work coach and provided confirmation from her doctor about the stress her full-time job was causing. At the time, her work coach seemed understanding but she was sanctioned for voluntarily leaving employment.*

*Samantha described the immediate impact on her income, which fell from an average of £800 per month to £300. While doing her best to budget, she said that after "paying for food and a small amount of heating, I had quite literally no money." She fell behind with rent and said she felt lucky to be given food parcels from friends, so she could "spend less on food and more on heating, or paying some of [her] rent arrears". She described herself in a "cycle of begging for money ... food and handouts", despite working part-time. She was still feeling the consequences of being in debt, two years on. Samantha was visibly upset while telling us about her experience.*

Source: Samantha ([ANC 0085](#)), Q129

35. Given the limited evidence on sanctions' effectiveness, but strong evidence on their potentially devastating impact for single parent families, several witnesses including Gingerbread and the Employment Related Services Association (ERSA), argued that sanctions should not apply to this group of claimants.<sup>82</sup> Gingerbread recognised the political challenges of implementing this significant change. It noted, however, that the Government already reduced sanction rates for certain groups (withholding 40% or 20% of their benefit, rather than 100%) and recommended that, at the very least, this should apply to single parents.<sup>83</sup>

**36. Children play no part in a failure to comply with conditionality, yet when a sanction is imposed they feel the effects just as acutely. Any positive effect a sanction might have is outweighed by the risk that children's welfare becomes the collateral damage. This risk is all the more real for children in single parent families. While it is welcome that a record proportion of single parents are in work, we are concerned about the devastating impact sanctions can have on this vulnerable group of claimants and their children. In the absence of more robust evidence that sanctions themselves are driving the positive trend in single parents' employment outcomes, it is hard to justify the risks they pose.**

**37. *The evaluation we have recommended must include an assessment of the role played by conditionality and sanctions in improving employment outcomes for lone parents. If a robust causal relationship is not found, there would be a strong case for the Department to end conditionality and sanctions for this group. In the meantime, the Government should amend regulations to ensure that a sanction rate of 20% applies to any claimant who is the responsible carer for a child under the age of five, or a child with demonstrable additional needs and care costs.***

82 Gingerbread ([ANC 0080](#)), Employment Related Services Association ([ANC 0066](#)), Professor Michael Adler ([ANC 0025](#))

83 Gingerbread ([ANC 0080](#))

## Care leavers

38. From all known research, we are aware that the life chances of young people who have been in care are far less favourable than their peers who have not been.<sup>84</sup> The Children’s Society, a charity supporting vulnerable children and young people, told us that most care leavers have to submit a benefit claim around their 18th birthday because they have no other financial support or savings; just one of the many challenges they faced when reaching adulthood.<sup>85</sup> It described benefits as a “lifeline” but highlighted that care leavers were disproportionately affected by sanctions.<sup>86</sup>

39. It told us care leavers were “far more likely to be sanctioned than other young people aged 18 to 24, who in turn are already more likely to be sanctioned than older claimants”. Its analysis showed that overall, care leavers were five times more likely to be sanctioned than other claimants. It stressed that given their “financially precarious situation”, stopping their benefits could lead to “devastating consequences”.<sup>87</sup> Often with no family support to lean on, care leavers could be left without money for weeks, “making it impossible for them to pay their bills and make ends meet” and risked moving them further away from work or study “and closer to extreme financial hardship”.<sup>88</sup>

## Improving support

40. We heard that care leavers were often not aware of the rules and “felt confused when sanctioned”.<sup>89</sup> This was despite having two relationships that should help them understand and navigate the system: their local authority personal adviser and work coach. But evidence identified a lack of information sharing between these two roles as a significant failing of the current system. We were told that, while the personal adviser often held crucial information about the care leaver’s circumstances, work coaches could not contact them without seeking explicit consent from the young person on every occasion.<sup>90</sup>

41. Written evidence from the Children’s Society argued that “better support from professionals, including local authority and jobcentre plus staff working more closely with each other, could help care leavers avoid being sanctioned”.<sup>91</sup> It highlighted examples of such practice, like Doncaster, where no care leaver had been sanctioned since the jobcentre and care leaving team at Doncaster Children’s Services Trust signed a joint protocol. The Children’s Society suggested wider implementation of such joint protocols and identified two specific changes that would improve support for care leavers:

- requiring work coaches to make contact with the care leaver’s personal adviser before applying a sanction; and

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84 See for example: National Audit Office, [“Care leavers’ transition to adulthood”](#), July 2015, Howard League for Penal Reform, [“Criminal care: children’s homes are criminalising children”](#), March 2016 and Department for Education, [“Children looked after in England \(including adoption and care leavers\)”](#), Eavan Brady and Robbie Gilligan, [“The life course perspective: An integrative research paradigm for examining the educational experiences of adult care leavers?”](#), Elsevier vol 87, pp69–77, April 2018

85 The Children’s Society [\(ANC 0053\)](#)

86 The Children’s Society [\(ANC 0053\)](#)

87 The Children’s Society [\(ANC 0053\)](#)

88 The Children’s Society [\(ANC 0053\)](#)

89 The Children’s Society [\(ANC 0053\)](#)

90 The Children’s Society [\(ANC 0053\)](#)

91 The Children’s Society [\(ANC 0053\)](#)

- enabling care leavers to give consent for their personal adviser to discuss matters relating to their benefit claim for a specified time period, rather than having to seek consent on every occasion they wish to speak to the care leaver’s personal adviser.<sup>92</sup>

### *Reducing the severity of sanctions*

42. Conditionality and sanctions apply to care leavers in the same way they do any other claimant. Iain Porter, Policy Officer for Poverty and Inequality at the Children’s Society, told us that many care leavers the charity worked with agreed with the principle of conditionality.<sup>93</sup> But the organisation’s written evidence argued that care leavers’ vulnerable circumstances should be recognised through applying less severe sanctions.

43. The Universal Credit Regulations 2013 make provision for a reduced rate sanction—40%, instead of 100%, of the UC standard allowance—to apply to people in certain circumstances, including those aged 16 and 17 years old.<sup>94</sup> In written evidence, the Children’s Society argued that this should be extended to care leavers.<sup>95</sup>

### *Monitoring*

44. The Children’s Society told us that identifying and monitoring care leavers through the benefits system was crucial to tailoring support and reducing sanctions. It noted, however, that care leaver status could not be recorded under UC and it was concerned that, as a result, the full scale of sanctions on care leavers was unknown. It therefore recommended that a marker for care leavers be included in UC. In response to this suggestion, the Minister pointed to a new function to “pin’ key profile notes” within the system.<sup>96</sup> This would be like an electronic post-it note, making information “instantly visible to all staff helping a claimant”. It was trialled in August 2018 across 13 jobcentres and the Department were “looking to introduce it more widely in the autumn”.<sup>97</sup>

**45. Care leavers acknowledge their responsibilities associated with receiving benefits. In return, the Government should acknowledge care leavers’ challenging circumstances and consequent vulnerability. But care leavers are currently being let down by the system, with often devastating consequences. What is worse, the inability to identify care leavers under Universal Credit risks the Department losing sight of them altogether. ‘Pinning’ information—which is like sticking an electronic post-it note on someone’s file—sounds like a good way for work coaches to communicate better the circumstances surrounding someone’s claim. But it is not the same as having to identify routinely, through a simple tick box, whether someone is a care leaver. The Government has a duty to monitor the impact of its policies on all benefit claimants, but as a corporate parent, it has a unique and particular duty to promote the wellbeing of care leavers.**

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92 The Children’s Society ([ANC 0053](#))

93 Q148

94 Universal Credit Regulations 2013 ([SI 2013/376](#))

95 The Children’s Society ([ANC 0053](#))

96 [Letter to the Chair from Alok Sharma MP, Minister of State for Employment](#), 4 September 2018

97 [Letter to the Chair from Alok Sharma MP, Minister of State for Employment](#), 4 September 2018

46. *We recommend that the Department review any guidance or restrictions on working practices, including information sharing, between personal advisers and work coaches for care leavers. It should follow successful examples of joint protocols already in place and, in particular, should consider:*

- a) *requiring work coaches never to apply a sanction until they have made contact with the claimant’s personal adviser and taken into consideration the information they receive; and*
- b) *enabling care leavers to give consent for their work coach to discuss any matter regarding their benefit claim with their personal adviser for a specified period of time.*

47. *We further recommend that:*

- *care leavers under the age of 25—in line with thresholds for the national minimum wage—only ever lose 20% of their benefit if sanctioned. This provision should be included in the amendment to regulations we have recommended the Government introduce in relation to responsible carers of young children; and*
- *the Department introduce a specific marker for care leavers under Universal Credit to enable it to identify and monitor their experiences within the benefits system, including sanctions.*

### **Claimants with a disability or chronic health condition**

48. Claimants with a disability or chronic health condition (hereafter ‘disability’), can be subject to conditionality and sanctions in the circumstances outlined in Table 4.

Table 4: Circumstances in which conditionality applies to a disabled claimant

| Benefit being claimed      | Status of claim  | Applicable conditionality regime | Level of sanction imposed for non-compliance (see Table 2)         | Amount of benefit deducted if a sanction is imposed |
|----------------------------|--|----------------------------------|--|---|
| ESA or equivalent under UC | Assessed by the Work Capability Assessment (WCA) to have limited capability for work (in Work-Related Activity Group or equivalent under UC) | Work preparation                 | Lower level  | 100% of UC standard allowance or JSA                |
| JSA or equivalent under UC | Assessed by the WCA to be capable of work  | Full conditionality              | Higher, medium or lower, depending on the nature of non-compliance | 100% of UC standard allowance or JSA                |
| UC                         | Awaiting a WCA   | Full conditionality              | Higher, medium or lower, depending on the nature of non-compliance | 100% of UC standard allowance                       |

Claimants assessed by a Work Capability Assessment (WCA) as having limited capability for work and work-related activities do not have to take any steps towards employment and cannot be sanctioned.

### *Disabled claimants' disproportionate propensity to be sanctioned*

49. At its peak in August 2014, 125,000 ESA sanction referrals were being made each year.<sup>98</sup> And while Dr Ben Baumberg Geiger, an expert academic in this field, found sanctioning of ESA claimants to be “rare”, he wrote it was “clearly happening at a non-negligible scale with over 400,000 confirmed sanctions being applied to disability claimants since conditionality was introduced in 2008”.<sup>99</sup> We heard further concerns that disabled claimants were more likely to be sanctioned than non-disabled claimants. For example, Dr David Webster found that ESA claimants were more likely to be sanctioned repeatedly than those on JSA<sup>100</sup> and research by Dr Ben Baumberg Geiger showed JSA claimants with a disability were 26 to 53% more likely to be sanctioned than non-disabled claimants between 2010 and 2014.<sup>101</sup> He acknowledged the limitations of self-declared disability data, but said the finding validated anecdotal evidence that “disabled people are being sanctioned unfairly”.<sup>102</sup>

50. Both Dr Ben Baumberg Geiger and Dr David Webster were concerned that the full effect of sanctions on disabled people could not be fully understood because of omissions

98 Dr David Webster, [Benefit sanctions statistics briefing February 2016](#), accessed 23 October 2018

99 Ben Baumberg Geiger, “Benefits conditionality for disabled people: stylised facts from a review of international evidence and practice”, *Journal of Poverty and Social Justice*, vol 25(2), June 2017, pp 107–128

100 Dr David Webster, [Benefit sanctions statistics briefing February 2016](#), accessed 23 October 2018

101 Ben Baumberg Geiger, “Benefits conditionality for disabled people: stylised facts from a review of international evidence and practice”, *Journal of Poverty and Social Justice*, vol 25(2), June 2017, pp 107–128

102 Dr Ben Baumberg Geiger ([ANC 0063](#))

in data collected and published by the DWP. Dr David Webster explained that published data did not currently include the number of people claiming UC on the grounds of sickness or disability (the equivalent of ESA). This meant the number of disabled claimants subject to a sanction could “no longer be stated with certainty”.<sup>103</sup> In addition, those with a self-declared disability claiming out-of-work UC could not be identified, unlike under JSA. Dr Ben Baumberg Geiger said this meant it was “almost impossible to scrutinise the operation of sanctioning as it applies to disabled people in UC”.<sup>104</sup> He, as well as others such as Anna Bird, Executive Director of Policy and Research at Scope, the disability equality charity, called for these omissions to be resolved.<sup>105</sup> In response to this suggestion, the Minister again referred to work coaches’ newly introduced ability to ‘pin’ key information to a claim.<sup>106</sup>

**51. As with care leavers, the Department risks losing sight of disabled people if it does not introduce a specific marker under Universal Credit. It cannot rely on work coaches ‘pinning’ information.**

**52. We recommend that the Department introduce a marker for disability under Universal Credit.**

### *The effectiveness of conditionality and sanctions at moving disabled claimants into employment*

53. The extension of conditionality and sanctions to claimants on disability benefits is not unique to the UK and has been supported by organisations such as the OECD.<sup>107</sup> As the policy aims to encourage people to engage with support that moves them closer to employment, it has a role in the Government’s ambition for 1 million more disabled people to be in work by 2027.<sup>108</sup> DWP research found that over 60% of ESA claimants surveyed said the threat of a sanction made them more likely to comply with conditionality.<sup>109</sup> We were also told by Dr Ben Baumberg Geiger that programmes combining sanctioning and support—such as the Support for the Very Long-Term Unemployed Trailblazer in the UK and Personal Roads to Individual Development and Employment in the USA—“can sometimes increase employment outcomes for disabled people”.<sup>110</sup>

54. The overwhelming majority of evidence we received on this issue argued, however, that conditionality and sanctions for people with a disability is at best ineffective, and worse, inappropriate and counterproductive.<sup>111</sup> Dr Ben Baumberg Geiger concluded:

103 Dr David Webster, [Benefit sanctions statistics briefing February 2016](#), accessed 23 October 2018

104 Ben Baumberg Geiger ([ANC 0063](#))

105 Ben Baumberg Geiger ([ANC 0063](#)), Q185 [Anna Bird], Q36 [Dr David Webster]

106 [Letter to the Chair from Alok Sharma MP, Minister of State for Employment](#), 4 September 2018

107 OECD, “[Fit mind, fit job: From evidence to practice in mental health and work](#)”, 2015 and OECD, “[Sickness, disability and work: Breaking the barriers](#)”, 2010

108 Department for Work and Pensions and Department of Health, “[Improving lives: The future of work, health and disability](#)”, Cm 9526, November 2017

109 Department for Work and Pensions, “[The Jobcentre Plus Offer: Final evaluation report](#)”, November 2013

110 Dr Ben Baumberg Geiger ([ANC 0063](#))

111 Shaw Trust ([ANC 0086](#)), Welfare Conditionality Project ([ANC 0079](#)), Citizens Advice ([ANC 0067](#)), Feeding Britain ([ANC 0072](#)), Mind ([ANC 0064](#)), Dr Ben Baumberg Geiger ([ANC 0063](#)), Child Poverty Action Group ([ANC 0056](#)), Disability Rights UK ([ANC 0054](#)), Royal Mencap Society ([ANC 0046](#)), Inclusion London ([ANC 0026](#)), Q19 [Dr David Webster], Q27 [Matthew Oakley], Q27 [Tony Wilson], Q147 [Ayaz Manji]

The limited but robust existing evidence focusing on disabled people suggests that sanctioning may have zero or even negative impacts on work-related outcomes.<sup>112</sup>

Professor Peter Dwyer, Director of Research for the Welfare Conditionality Project, summarised the project's findings that "conditionality does not move disabled people ... into sustainable work".<sup>113</sup> This echoed the NAO's conclusion that sanctions "reduced [ESA] claimants' time in employment" and that

most of the reduction [of time in employment] meant people spent more time claiming, suggesting sanctions may have discouraged some claimants from working.<sup>114</sup>

The DWP cautioned against the NAO's analysis as the results were preliminary and not extensively peer reviewed.<sup>115</sup> But Dr David Webster told us that, if it "was not for the embarrassment", the Government would have suspended conditionality and sanctions for ESA claimants in immediate response to this finding.<sup>116</sup>

### *The impact of conditionality and sanctions on disabled claimants' well-being*

55. Witnesses stressed the disproportionate impact of both the threat, and application, of sanctions on disabled claimants' well-being. For example, Dr Ben Baumberg Geiger told us that the "stress of conditionality itself" can negatively affect the health of disabled people.<sup>117</sup> Others, such as Citizens Advice, described how conditionality made disabled claimants "fearful" of engaging with the jobcentre and:

People who are fearful of engaging with the Jobcentre are unlikely to take up support that is accessed there, or engage constructively with a Work Coach.<sup>118</sup>

Among others, the British Psychological Society highlighted the particularly damaging effect the threat of sanctions can have on claimants with mental ill health. It stated, "the threat of sanctions can trigger or exacerbate mental health conditions",<sup>119</sup> which was reflected in a YouGov survey of over 2,000 people in contact with secondary mental health services. It found that 29% of those who had considered taking their own life mentioned the fear of losing welfare benefits.<sup>120</sup> Mind, the mental health charity, described the "significant amount of anxiety" experienced by people with mental health problems "as they attempt to navigate the system in good faith".<sup>121</sup>

56. Furthermore, much evidence stressed that the negative impact of a sanction, once imposed, "may be even more acute" for disabled people, for example, due to: the extra day-to-day costs resulting from their condition, the challenges faced in the labour market

112 Dr Ben Baumberg Geiger ([ANC 0063](#))

113 Q166

114 National Audit Office, "[Benefit sanctions](#)", November 2016

115 National Audit Office, "[Benefit sanctions: detailed methodology](#)", November 2016

116 Q30

117 Dr Ben Baumberg Geiger ([ANC 0063](#))

118 Dr Ben Baumberg Geiger ([ANC 0063](#))

119 British Psychological Society ([ANC 0061](#))

120 Mind, "[One in two people with mental health problems have felt suicidal because of money, housing or benefits issues](#)", accessed on 23 October 2018

121 Mind ([ANC 0064](#))

and their limited ability to increase income quickly.<sup>122</sup> The Welfare Conditionality Project stated that such effects make sanctions counterproductive as they “are likely to move disabled people further away from the paid labour market”.<sup>123</sup> Witnesses highlighted that those with learning disabilities or mental ill health may be particularly disadvantaged as it could be harder for them to get back on track after a sanction.<sup>124</sup> Mencap, the charity which supports people with learning disabilities, described benefits as a “lifeline for many people with a learning disability”, but said sanctions could “trap [them] in a cycle of poverty”.<sup>125</sup> Citizens Advice Rossendale and Hyndburn described a similar “spiral of increasing problems” for claimants with mental health conditions following a sanction.<sup>126</sup>

### *Conditionality while waiting for a WCA*

57. Under the legacy system, claimants with disabilities only had to take steps towards work once the Work Capability Assessment (WCA) concluded that they had limited capability for work, but that they could undertake ‘work-related activities’. Under UC, anyone waiting for a WCA must comply with full conditionality. This means they could be required to look for work for up to 35 hours a week before any assessment of whether they are even capable of doing so. The Minister confirmed that “work coaches have discretion to reduce commitments where they deem it necessary for the claimant”.<sup>127</sup> But written evidence from CPAG stated that these claimants “rarely have their claimant commitment suitably tailored”.<sup>128</sup> For example, one woman suffering from anxiety and agoraphobia—a fear of being in situations where escape might be difficult—was subject to full conditionality for nine months while waiting for a WCA. She told Mind that she felt “treated like a work-shy nobody until I had my [WCA] and they realised I am actually struggling with my health at the moment”.<sup>129</sup>

### *What is the alternative to conditionality and sanctions for disabled claimants?*

58. Matthew Oakley, an economist and policy analyst who published an independent review of the operation of JSA sanctions in 2014,<sup>130</sup> described finding an alternative to conditionality and sanctions for disabled claimants as “a really challenging question”. He said any substitute must balance the risks to disabled claimants’ wellbeing against the desired outcomes of encouraging people towards employment and ensuring there are some “checks and balances”.<sup>131</sup> Dr Ben Baumberg Geiger also acknowledged the public expectation that claimants “make efforts to gain work in return for claiming benefits”.<sup>132</sup> But his research found that the existing regime for disabled claimants “goes far beyond

122 Dr Ben Baumberg Geiger ([ANC 0063](#)), see also: Child Poverty Action Group ([ANC 0056](#)) and Citizens Advice ([ANC 0067](#))

123 Peter Dwyer, Katy Jones, Jenny McNeill, Lisa Scullion and Alasdair B R Stewart, [Welfare Conditionality Project final findings: Disabled people](#), May 2018

124 Dr Ben Baumberg Geiger ([ANC 0063](#)), Scottish Association for Mental Health ([ANC 0069](#))

125 Royal Mencap Society ([ANC 0046](#))

126 Citizens Advice Rossendale and Hyndburn ([ANC 0058](#))

127 [Letter to the Chair from Alok Sharma MP, Minister of State for Employment](#), 4 September 2018

128 Child Poverty Action Group ([ANC 0056](#))

129 Mind ([ANC 0064](#))

130 Matthew Oakley, “[Independent review of the operation of Jobseeker’s Allowance sanctions validated by the Jobseekers Act 2013](#)”, July 2016

131 Q27

132 Ben Baumberg Geiger ([ANC 0063](#))

most members of the public's sense of fairness".<sup>133</sup> He also noted that, from an international perspective, the UK is unusual in terms of the number of sanctions imposed on disabled claimants. While many countries require some sick or disabled benefits claimants to participate in work-related activities, few actually sanction "more than negligible numbers of claimants".<sup>134</sup> In comparison, 1.2 million sanctions were applied to disabled claimants in the UK since 2008.<sup>135</sup>

59. On balance, Matthew Oakley told us that conditionality and sanctions should not apply to disabled claimants and those with chronic health conditions. He described the policy as "probably too dangerous", noting that "when it goes wrong" the impact on disabled claimants is much greater.<sup>136</sup> He said this presented a "huge risk".<sup>137</sup> A significant proportion of the evidence we received echoed this view and recommended that disabled claimants should be exempt from conditionality and sanctions.<sup>138</sup> Several submissions recommended that this exemption should also apply to UC claimants waiting for a WCA.<sup>139</sup> Dr Ben Baumberg Geiger and Mind stressed that work coaches did not have the expertise to determine what work-related activities someone with a disability could do and therefore how their conditionality should be adapted while they wait for the WCA.<sup>140</sup> CPAG explained that this left people "at high risk of being sanctioned when in reality they are not able to meet the conditions placed on them".<sup>141</sup>

60. Organisations such as CPAG and Mind recommended that conditionality and sanctions should be replaced by voluntary employment support. Disability Rights UK said such a model would "make a reality of the Government's pledge to halve the disability employment gap".<sup>142</sup> Ayaz Manji, Policy and Campaigns Officer at Mind, told us there was "good evidence that specialist voluntary support works". Scope already offers employment support programmes to working-aged disabled people to help them "find jobs, work experience and volunteering opportunities that will develop their careers".<sup>143</sup> Scope supported over 1,000 disabled people across its employment programmes in from 2017 to 2018; 30% of people leaving these programmes secured jobs, 73% of whom were still in work after 13 weeks.<sup>144</sup> Anna Bird, the charity's Executive Director of Policy and Research, told us the key to this success was personalised, tailored and voluntary support.<sup>145</sup>

### *The Government's position*

61. When giving evidence, the Minister said he would consider exempting disabled claimants from conditionality and sanctions, including UC claimants waiting for a WCA.

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133 Ben Baumberg Geiger ([ANC 0063](#))

134 Ben Baumberg Geiger ([ANC 0063](#))

135 Ben Baumberg Geiger ([ANC 0063](#))

136 Q27

137 Q30

138 Shaw Trust ([ANC 0086](#)), Welfare Conditionality Project ([ANC 0079](#)), Citizens Advice ([ANC 0067](#)), Employment Related Services Association ([ANC 0066](#)), Mind ([ANC 0064](#)), Dr Ben Baumberg Geiger ([ANC 0063](#)), Child Poverty Action Group ([ANC 0056](#)), Disability Rights UK ([ANC 0054](#)), Royal Mencap Society ([ANC 0046](#)), NHS Health Scotland ([ANC 0045](#)), Inclusion London ([ANC 0026](#)), Dr David Webster ([ANC 0019](#)), Q24 [Dr David Webster], Q27 [Matthew Oakley and Tony Wilson]

139 See for example Mind ([ANC 0064](#)) and Child Poverty Action Group ([ANC 0056](#))

140 Dr Ben Baumberg Geiger ([ANC 0063](#)), Mind ([ANC 0064](#))

141 Child Poverty Action Group ([ANC 0056](#))

142 Disability Rights UK ([ANC 0054](#))

143 Scope, "[Employment](#)", accessed on 23 October 2018

144 Scope ([ANC 0096](#))

145 Q176

But in a later letter, he said that imposing such a “blanket policy” would do this group a “great disservice” because the take-up of voluntary employment support “is extremely low and has had limited success”. He explained:

For example, the ESA Support Group has no mandatory conditionality and less than 1% move off the benefit and into work every month.<sup>146</sup>

The Minister’s argument suggested that conditionality and sanctions played an important role in motivating claimants to move into employment. But the Minister’s example to support this argument was wholly inappropriate: claimants in the ESA Support Group necessarily have limited capability for work and work-related activities. It is therefore unsurprising that so few moved off the benefit and into work every month. More importantly, others have argued that the idea that disabled people were out of work because of a lack of motivation ignored “the real barriers” they faced.<sup>147</sup> The recent Welfare Conditionality Project’s research showed:

Personal impairments, long-term physical and mental health conditions and wider discriminatory attitudes and practices, rather than individual attitudinal barriers, often posed significant obstacles to finding and sustaining paid work.<sup>148</sup>

It argued that conditionality “which regards people’s individual behaviour as being central to both the cause and solution for their inactivity in the paid labour market, achieved little in addressing such barriers”.<sup>149</sup> Turning to what did work, Dr Ben Baumberg Geiger’s research found that those with some capability to work required “considerable support” to move towards employment; the relationship with their work coach and the ability to experiment was vital to their successful transition to employment.<sup>150</sup>

**62. The Government should be commended for its commitment to improving employment outcomes for disabled people and those with health conditions. But it presented no evidence that conditionality and sanctions are helping achieve this. We are not convinced by the Government’s argument that exempting disabled claimants from conditionality would be doing them a “great disservice”. Conditionality and sanctions neither work for disabled claimants, nor further the Government’s objectives. We are convinced of the urgent need for change.**

**63. We recommend that the Department immediately exempt the following groups from conditionality and sanctions:**

- ***any claimant assessed by a Work Capability Assessment (WCA) to have limited capability for work;***
- ***claimants not found to have limited capability for work as a result of a WCA, but who have an impairment or health condition, including mental health,***

<sup>146</sup> Letter to the Chair from Alok Sharma MP, Minister of State for Employment, 4 September 2018

<sup>147</sup> Ben Baumberg Geiger, “Benefits conditionality for disabled people: stylised facts from a review of international evidence and practice”, *Journal of Poverty and Social Justice*, vol 25(2), June 2017, pp 107–128

<sup>148</sup> Peter Dwyer, Katy Jones, Jenny McNeill, Lisa Scullion and Alasdair B R Stewart, “Welfare Conditionality Project final findings: Disabled People”, May 2018

<sup>149</sup> Peter Dwyer, Katy Jones, Jenny McNeill, Lisa Scullion and Alasdair B R Stewart, “Welfare Conditionality Project final findings: Disabled People”, May 2018

<sup>150</sup> Ben Baumberg Geiger, “Benefits conditionality for disabled people: stylised facts from a review of international evidence and practice”, *Journal of Poverty and Social Justice*, vol 25(2), June 2017, pp 107–128

*and who present a valid Fit Note stating that they are unable to work; where a valid Fit Note can be issued by a health or social care professional and should be presumed to continue for a set period unless there is good reason to think that someone's health has improved;*

- *Universal Credit claimants awaiting a Work Capability Assessment who present a valid Fit Note stating that they are unable to work (as above).*

*We further recommend that the Government bring together experts and third sector representatives to consider how voluntary employment support could best be provided to these groups of claimants.*

## 4 Universal Credit and sanctions

### In-work conditionality

64. Under the legacy system, Working Tax Credit claimants, who necessarily work more than 16 hours per week, typically had no ongoing support from, or obligations to, the jobcentre. With the roll-out of UC, however, people claiming benefits while also working will, for the first time, stay engaged with the jobcentre and receive support to increase their earnings and progress in work. In 2010, the DWP said this programme, known as “in-work progression”, will

encourage people to increase their earnings and hours in a way that we have never been able to do before, helping people along a journey toward financial independence from the state.<sup>151</sup>

In its 2016 report, *In-work progression in Universal Credit*, our predecessor committee commended the Government for this policy. It said “an employment support service for in-work claimants of Universal Credit holds the potential to be the most significant welfare reform since 1948”.<sup>152</sup> Similarly, Kayley Hignell, Head of Policy for Families Welfare and Work at Citizens Advice, told us that in-work progression presented “some massive opportunities” and, among others, welcomed support for low paid workers.<sup>153</sup>

65. More contentiously, working claimants could be required to take active steps to increase their earnings as an ongoing condition of receiving their UC. This is known as ‘in-work conditionality’. Different levels of conditionality apply to in-work claimants depending on how their income relates to the Conditionality Earnings Threshold (CET) and the Administrative Earnings Threshold (AET), as shown below:

| EARNINGS THRESHOLD  | LABOUR MARKET REGIME           | LEVEL OF CONDITIONALITY   |
|---|--------------------------------|---|
| Conditionality Earnings Threshold (AET)<br>Usually 35 hrs x National Minimum Wage | <b>“Working enough”</b>        | People in this group do not have to do anything to receive their benefit.   |
| Administrative Earnings Threshold (AET)<br>£338 per month (for a single person)   | <b>“Light touch”</b>           | <i>Experimental phase</i>   |
|   | <b>“Intensive work search”</b> | People in this group are subject to full conditionality and expected to take “all reasonable action” to find more, or better paid work. |

151 Department for Work and Pensions, [“Universal Credit: Welfare that works”](#), Cm 7957, November 2010

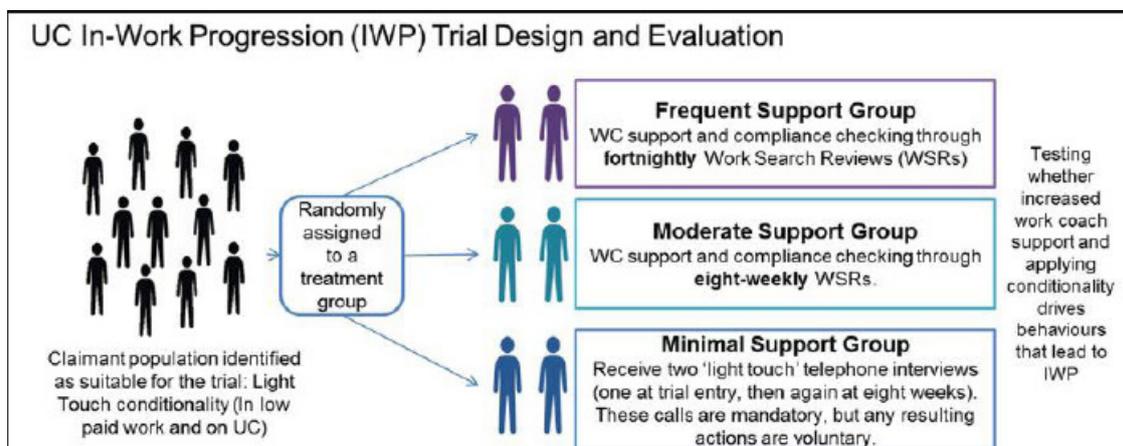
152 Work and Pensions Committee, Tenth Report of Session 2015–16, [“In-work progression in Universal Credit”](#), HC 549

153 Q206

The policy for the people in the “light touch” regime is still in an experimental stage. It was the focus of the Government’s recent In-Work Progression Randomised Controlled Trial (RCT).

### *The In-Work Progression Randomised Controlled Trial*

66. The RCT was a national trial that ran between 2015 and 2018. To be eligible, claimants had to be in the “light touch” regime, shown above. The aim of the RCT was to “test whether DWP could help Universal Credit claimants in work to increase their earnings through a combination of support and conditionality”.<sup>154</sup> Participants were randomly assigned to one of three groups with different levels of support and mandatory activities: Frequent, Moderate and Minimal.



Source: Department for Work and Pensions and Government Social Research, “Universal Credit: In-work progression randomised controlled trial, findings from quantitative survey and qualitative research”, September 2018

### *Findings*

67. Analysis found that after one year, participants in the Frequent and Moderate support groups earned £5.25 and £4.43 more on average per week, respectively, than the Minimal support group.<sup>155</sup> Participation in the Frequent support group also had “a positive impact on behaviours”, including taking more steps to improve the chances of progression. For example, Frequent support participants “were more likely than other participants to have been on a training course”.<sup>156</sup> The evaluation concluded, however, that the frequency of support was not particularly significant. It was more important that support was tailored to people’s needs and addressed any personal barriers to progressing in work.<sup>157</sup>

154 Department for Work and Pensions and Government Social Research, “Universal Credit: In-work progression randomised controlled trial, findings from quantitative survey and qualitative research”, September 2018

155 Department for Work and Pensions and Government Social Research, “Universal Credit: In-work progression randomised controlled trial, impact assessment”, September 2018

156 Department for Work and Pensions and Government Social Research, “Universal Credit: In-work progression randomised controlled trial, findings from quantitative survey and qualitative research”, September 2018

157 Department for Work and Pensions and Government Social Research, “Universal Credit: In-work progression randomised controlled trial, findings from quantitative survey and qualitative research”, September 2018

## Sanctions

68. If someone failed to attend an appointment or carry out an agreed mandatory action, they could be sanctioned. As shown below, the overall sanction rate for the trial was low (2.4%) and failing to attend a meeting was the most common reason for being sanctioned; it accounted for 91.2% of all sanctions in the trial.

**Table 5: Levels of sanctions**

| Sanction level            | Frequent | Moderate | Minimal | Total  |
|---------------------------|----------|----------|---------|--------|
| High                      | 12       | 8        | 6       | 26     |
| Medium                    | 8        | 5        | 2       | 15     |
| Low                       | 180      | 164      | 101     | 445    |
| Grand total               | 200      | 177      | 109     | 486    |
| All participants in group | 6,417    | 6,704    | 7,086   | 20,207 |
| Percentage                | 3.1%     | 2.6%     | 1.5%    | 2.4%   |

Source: Department for Work and Pensions and Government Social Research, [“Universal Credit: In-work progression randomised controlled trial, impact assessment”](#), September 2018

**Table 6: Reason for sanction**

| Reason for sanction                                 | Frequent   | Moderate   | Minimal    | Total      |
|---|------------|------------|------------|------------|
| Fail to apply for a job                             | 1          | 0          | 0          | 1          |
| Fail to comply with a work preparation requirement  | 2          | 0          | 0          | 2          |
| Fail to undertake all reasonable work search action | 8          | 5          | 2          | 15         |
| <b>Failed to attend</b>                             | <b>178</b> | <b>164</b> | <b>101</b> | <b>443</b> |
| Leaving employment voluntarily                      | 7          | 4          | 2          | 13         |
| Lose pay voluntarily                                | 1          | 2          | 0          | 3          |
| Loss of employment through misconduct               | 3          | 2          | 4          | 9          |
| Grand total   | 200        | 177        | 109        | 486        |

Source: Department for Work and Pensions and Government Social Research, [“Universal Credit: In-work progression randomised controlled trial, impact assessment”](#), September 2018

## The effectiveness of in-work conditionality and sanctions

69. Our inquiry took place before the evaluation of the RCT was published, but witnesses were sceptical about how effective sanctions would be for in-work claimants. Kirsty McHugh, Chief Executive of the Employment Related Service Association, told us:

The evidence is there for in-work support. The evidence is not there for in-work conditionality and the evidence is definitely not there for sanctions in work.<sup>158</sup>

158 Q210, see also: Q204 [Ed Boyd] and Q206 [Kayley Hignell]

Moreover, in 2016, Wright et al claimed that the idea of conditionality and sanctions leading to positive behaviour change was undermined when people felt they were sanctioned unfairly, particularly if they were already working.<sup>159</sup>

70. Both concerns were borne out in the evaluation of the RCT. It found that while the threat of sanctions “encouraged compliance”, being sanctioned did not positively affect people’s motivation because “it was difficult for participants to agree that their sanction was justified, which led to negative feelings towards the work coach and jobcentre plus”.<sup>160</sup> Overall, the evaluation concluded:

There is no evidence of different outcomes depending on reported experience of sanctions.<sup>161</sup>

### *External barriers, unintended consequences and work coach capacity*

71. A lot of evidence we received questioned whether conditionality and sanctions could ever be effective for in-work claimants owing to the fact that barriers to progressing in work were often structural, rather than motivational. For example, work-related decisions needed to consider a “huge number of factors”, such as childcare, caring responsibilities, transport, and managing a disability or health condition.<sup>162</sup> Other external factors, such as the employer’s circumstances, the local job market, or wider market conditions, could mean it simply was not possible for someone to increase their hours or pay. Citizens Advice found that over a quarter of current Working Tax Credit or UC claimants felt “employment constraints and personal circumstances” would make it difficult to increase their income from work.<sup>163</sup>

72. Furthermore, witnesses were concerned that in-work conditionality and sanctions could in fact have negative unintended consequences. First, the Welfare Conditionality Project found that in-work claimants “clearly resented” the threat of sanctions and often reacted by “relinquishing their right” to support.<sup>164</sup> Second, Kayley Hignell said that in-work conditionality and sanctions risked undermining claimants’ incentives, or ability, to stay in work, for example, if a sanction meant they were unable to pay for travel or childcare.<sup>165</sup> Third, Ed Boyd, Programmes Director at the Centre for Social Justice, was concerned that requiring claimants to push for more, or better paid, work could “sour” their relationship with their employer.<sup>166</sup>

73. Given these risks, we were told that it was vital work coaches were prepared and able to implement in-work conditionality and sanctions appropriately. The Department estimated that once UC was fully rolled out there would be 1 million in-work claimants.<sup>167</sup> Citizens Advice told us:

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159 Sharon Wright and Alasdair B R Stewart, [“Welfare Conditionality Project first wave findings: Jobseekers”](#), May 2016

160 Department for Work and Pensions and Government Social Research, [“Universal Credit: In-work progression randomised controlled trial, findings from quantitative survey and qualitative research”](#), September 2018

161 Department for Work and Pensions and Government Social Research, [“Universal Credit: In-work progression randomised controlled trial, findings from quantitative survey and qualitative research”](#), September 2018

162 Citizens Advice [\(ANC 0067\)](#)

163 Citizens Advice [\(ANC 0067\)](#)

164 Welfare Conditionality Project [\(ANC 0079\)](#)

165 Q206 and Q213

166 Q231 [Ed Boyd] and Q232 [Kirsty McHugh]

167 Department for Work and Pensions and Government Social Research, [“Universal Credit: In-work progression randomised controlled trial, findings from quantitative survey and qualitative research”](#), September 2018

As more and more people are brought into the Jobcentre remit through in-work conditionality the overall caseload for work coaches is set to grow over the coming years. The Government will need to expand Work Coach numbers to maintain and bring down caseloads. Work Coach capability and expertise will also need to improve to ensure they are able to determine the full range of support needs or challenges faced by those in low income work ...<sup>168</sup>

Ed Boyd also stressed the key role work coaches played. He said their training, skills and capacity—particularly their understanding of structural barriers to in-work progression—would be “absolutely vital”<sup>169</sup> to setting realistic requirements and applying sanctions appropriately.<sup>170</sup> But the Department’s evaluation of work coaches’ experiences of the trial found inconsistencies, in terms of the training they received, the level of support they offered to in-work claimants, and their confidence in delivering the programme, particularly when it came to imposing sanctions.<sup>171</sup>

### *What next?*

74. Based on information available before the evaluation of the RCT was published, Professor Peter Dwyer said the lack of evidence meant it was inappropriate to extend conditionality to in-work claimants.<sup>172</sup> Kayley Hignell said if sanctions continued to apply to in-work claimants they should be an absolute last resort. But she questioned whether this would be the case given her observation of how sanctions were currently applied to out-of-work claimants.<sup>173</sup> Ed Boyd stressed the need to act on evidence:

Success will require learning from the evidence base and rolling out what actually works rather than what politicians or anyone else thinks works without the evidence base being there.<sup>174</sup>

75. Concluding its evaluation of the RCT, the Department did not state its position on the future of in-work conditionality and sanctions based on the trial’s evaluation. It merely recommended “that we continue to track performance [of participants] beyond the 52 week point to assess whether there is further impact of the intervention”. It has already committed £8 million over 4 years from 2018–19 to develop its understanding of in-work progression further.<sup>175</sup>

**76. We stand by our predecessor committee’s conclusion in 2016 that in-work progression has the potential to be revolutionary in its ability to break the cycle of people getting stuck in low paid, low prospects employment. But this great opportunity could quickly be undermined if it is coupled with conditionality and sanctions, particularly if work coaches—the key agent here—have even greater and greater workloads. The Government’s own research shows that the effect of sanctions is not conclusive. Any**

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168 Citizens Advice ([ANC 0067](#))

169 Q221

170 Citizens Advice ([ANC 0067](#)), Q231

171 Department for Work and Pensions and Government Social Research, “[Universal Credit: In-work progression randomised controlled trial, findings from quantitative survey and qualitative research](#)”, September 2018

172 Q184

173 Q214

174 Q204

175 Department for Work and Pensions, “[DWP response to SSAC report on In-work progression and Universal Credit: government response](#)”, March 2018, accessed 23 October 2018

evidence that the threat of a sanction motivates claimants to comply is outweighed by the possible unintended consequences of a sanction, once imposed. The risks are even greater given that work coaches are not yet sufficiently trained or equipped to implement this policy consistently. In light of this, the Department would be unwise to press ahead with in-work conditionality.

77. *We recommend that the Department does not proceed with its policy of applying conditionality and sanctions to in-work claimants until Universal Credit has been fully rolled out. Even then, the policy should only be introduced on the basis of robust evidence that it will be effective at driving progress in work. In the meantime, it should focus its efforts on understanding better:*

- *The frequency and nature of support that is most effective to encourage in-work progression; and*
- *The additional training and support work coaches need to deliver this programme successfully, including developing an understanding of how structural barriers for both employees and employers might affect in-work progression.*

### Claimants moving conditionality group

78. Under the legacy system, if a claimant's circumstances changed, resulting in reduced conditionality, they would move accordingly between JSA, ESA and Income Support. Any sanction imposed on one benefit would not travel with the claimant to a new benefit. This is not the case under UC, as explained by the Minister:

UC sanctions have been designed so that they remain in place for the duration of the sanction regardless of whether the circumstances of the claimant who has been sanctioned change.<sup>176</sup>

For this reason, at February 2018, 1,108 claimants in the “working enough” or “no work-related requirement” conditionality group were subject to a sanction.<sup>177</sup> The Minister noted, however, that the sanction would be reduced from 100% to 40% for claimants who move into the “no work-related requirements” group “because they have become parents or carers”.<sup>178</sup> For example, a sanction imposed upon a pregnant woman would continue, but be reduced to 40% when she had her baby, having become the main carer for a child under the age of one.

79. Nonetheless, CPAG argued:

It is perverse that a sanction continues during a period when, either through ill health or caring responsibilities, a claimant is unable (and has been assessed as such by the DWP) to take up work. In this situation the sanction cannot be intended to drive behaviour change. What then is its purpose?<sup>179</sup>

80. The Committee posed that very question to the Minister.<sup>180</sup> He said:

176 [Letter to the Chair from Alok Sharma MP, Minister of State for Employment](#), 4 September 2018

177 [Annex 1 to letter to the Chair from Alok Sharma MP, Minister of State for Employment](#), 25 June 2018

178 [Letter to the Chair from Alok Sharma MP, Minister of State for Employment](#), 25 June 2018

179 [Child Poverty Action Group \(ANC 0056\)](#)

180 [Letter from the Chair to Alok Sharma MP, Minister of State for Employment](#), 4 July 2018

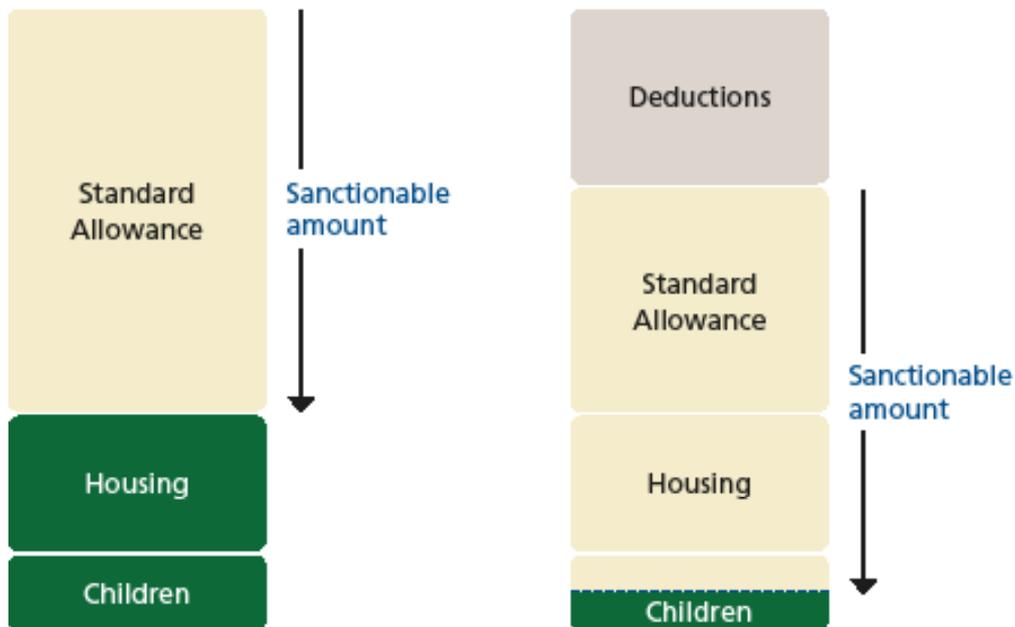
[It] produces a consistent approach across the labour market regimes and reinforces the message that there are implications for non-compliance.<sup>181</sup>

81. **The objective of a sanction is to incentivise people to move into work. But if someone is no longer able, or required, to look for work, the sanction serves no purpose. Worse, it imposes hardship upon people who are particularly vulnerable according to the Department’s own assessment. Any message the DWP sends through the continued application of a sanction will be interpreted as unfair and punitive, and risks eroding the relationship between claimants and the Department.**

82. *We recommend that sanctions are cancelled when a claimant’s change in circumstance means they are no longer subject to the requirement that led to their sanction in the first place.*

### Children and housing elements

83. Under UC, the maximum sanction is 100% of someone’s standard allowance. In theory, this means that other elements, such as those for children and housing, are protected. Evidence suggests, however, that in practice, this is not always the case. Newcastle Citizens Advice explained that if someone is receiving less than their full standard allowance, for example because of deductions as a result of rent arrears, the imposition of a sanction that amounts to 100% of their standard allowance eats into other elements, as shown below.<sup>182</sup>



While it may therefore be true, as the Minister said, that there are no cases where “a sanction deduction of more than the standard allowance has been applied to a claimant’s UC award”, it does not equate to protecting the housing or children elements from the effect of a sanction. Newcastle Citizens Advice stressed the risk this presents to housing and children’s well-being. Together with CAPG, it recommended that the housing and children elements should always be protected.<sup>183</sup>

181 [Letter to the Chair from Alok Sharma MP, Minister of State for Employment, 23 August 2018](#)

182 [Citizens Advice Newcastle \(ANC 0051\)](#)

183 [Citizens Advice Newcastle \(ANC 0051\)](#)

84. In theory, sanctions should only ever withdraw a maximum of 100% of the UC standard allowance. Other elements, such as for housing and children should therefore be unaffected. But in reality, this is not always the case: when someone is already receiving less than 100% of their standard allowance, for example because of deductions as result of rent arrears, the sanction imposed is still for the full amount. When there is no more standard allowance to be withdrawn, the sanction necessarily eats into other elements, putting housing and the welfare of children at risk. This is clearly not the Government's intention and it requires urgent resolution.

85. *We recommend that any deductions from a claimant's standard allowance are postponed when a sanction is applied, for the duration of that sanction, to ensure other elements are protected.*

## 5 Setting conditionality requirements

### Claimant commitments and available easements

86. The Claimant Commitment (CC) records the actions a UC claimant has agreed to undertake as a condition of receiving their benefit. This document is called the Jobseeker's Agreement under JSA, and Action Plan under ESA. For the purposes of this report, however, we will simply refer to the CC. If a claimant does not comply with their CC, and does not have good reason for failing to do so, they could be sanctioned. The CC is therefore an integral part of the sanctions regime, as the DWP recognised in its written evidence:

For sanctions to work properly, it is important that conditionality is applied correctly to ensure that all the conditionality requirements placed on claimants are realistic and achievable with regards to their circumstances.<sup>184</sup>

87. The Department described how requirements were set through a “1–2–1 relationship between work coach and claimant”, the purpose of which was “to develop a good understanding of the claimant’s circumstances, so that a work coach can best help a claimant find work”.<sup>185</sup> Work coaches have discretion to set requirements to suit each claimant. The DWP said CCs should therefore be tailored according to the claimant’s “capability and personal circumstances, taking account of any vulnerability, complex needs or health issues”.<sup>186</sup>

88. We received some evidence suggesting that this process was working well. Luke O’Donnell, a claimant who had been sanctioned, said “I can’t really fault my work coach”.<sup>187</sup> He described how his work coach had given him “breathing room” when his grandmother was ill and then passed away.<sup>188</sup> Researchers studying welfare conditionality for veterans also observed “some evidence of Jobcentre advisors exercising their discretionary powers positively” to adapt to individual circumstances.<sup>189</sup> The DWP’s Universal Credit Full Service Survey found 54% of claimants believed that their CC took their personal circumstances into account.<sup>190</sup>

89. Most of the evidence we received on this subject, however, suggested that people’s experiences of setting conditionality were a far cry from the Department’s expectation of a personal, tailored process. DePaul, a charity supporting vulnerable young people, described CCs signed by young homeless people as often being “generic”, failing to take account of their individual circumstances.<sup>191</sup> This was a common theme, particularly for vulnerable groups with complex circumstances, such as those who were homeless, a

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184 Department for Work and Pensions ([ANC 0083](#))

185 Department for Work and Pensions ([ANC 0083](#))

186 Department for Work and Pensions ([ANC 0083](#))

187 Q95

188 Luke O’Donnell ([ANC 0095](#))

189 Sanctions, support and service leavers: welfare conditionality and transitions from military to civilian life project ([ANC 0036](#))

190 Department for Work and Pensions and Government Social Research, “[Universal Credit full service survey](#)”, June 2018

191 DePaul ([ANC 0070](#))

single parent, suffering from a health condition, including mental ill health, or disabled.<sup>192</sup> We heard repeatedly that when a claimant's CC was not tailored to their personal circumstances, it resulted in unrealistic and/or unachievable conditionality. In such circumstances, claimants were sanctioned because they simply were not *able*, rather than not *willing*, to comply. For example, DePaul gave examples of young homeless people who had been required to spend a lot of time using Universal Jobmatch online, despite having limited access to the internet.<sup>193</sup>

90. Others, such as Gingerbread and CPAG, drew attention to the “power imbalance”<sup>194</sup> between claimants and their work coach when agreeing a claimant commitment. They argued that it led to claimants feeling their conditionality was not agreed through a deliberative negotiation, but rather they felt obliged to accept it.<sup>195</sup> Gingerbread highlighted how this was exacerbated under Universal Credit, as receipt of the first payment is conditional on signing the claimant commitment.<sup>196</sup> The charity said “this risks claimants signing without pushing for more scrutiny of their conditions in order to receive timely financial support”.<sup>197</sup>

91. Citizens Advice Rossendale and Hyndburn also highlighted the DWP's and jobcentre's duty under the Equality Act 2010 to make reasonable adjustments for disabled people, through service provision and engagement with claimants.<sup>198</sup> It noted that this duty was about more than just avoiding discrimination; it required proactive steps to anticipate whether a claimant needed reasonable adjustments. It was concerned, however, that jobcentres did not “always comply with their duties under the Equality Act 2010, and in particular their positive and anticipatory duty to make reasonable adjustments for disabled people”.<sup>199</sup>

### *Insufficient use of easements*

92. Work coaches can reduce or switch off a claimant's conditionality for a period of time if their circumstances mean it would be unrealistic for them to comply. This is known as applying an ‘easement’. Some easements are a legal requirement, such as when someone is the victim of domestic abuse, and others are at the work coach's discretion, such as when someone is experiencing a “domestic emergency”.<sup>200</sup> They are a key tool for ensuring CCs are appropriately tailored, but we received a lot of evidence suggesting they were used insufficiently and inconsistently.<sup>201</sup>

93. Witnesses explained that most easements relied on work coaches making a judgement based on detailed knowledge of claimants' circumstances. So, they must either rely on

192 Joseph Rowntree Foundation ([ANC 0068](#)), Citizens Advice ([ANC 0067](#)), Dr Aaron Reeves ([ANC 0081](#)), Employment Related Service Association ([ANC 0066](#)), Mind ([ANC 0064](#)), Centrepoin ([ANC 0060](#)), Young Women's Trust ([ANC 0059](#)), Child Poverty Action Group ([ANC 0056](#)), Qq57, 85 [Samantha]

193 DePaul ([ANC 0070](#))

194 Gingerbread ([ANC 0080](#)), Child Poverty Action Group ([ANC 0056](#)), British Psychological Society ([ANC 0061](#)),

195 Gingerbread ([ANC 0080](#))

196 Gingerbread ([ANC 0080](#))

197 Gingerbread ([ANC 0080](#))

198 Citizens Advice Rossendale and Hyndburn ([ANC 0058](#))

199 Citizens Advice Rossendale and Hyndburn ([ANC 0058](#))

200 Department for Work and Pensions ([ANC 0083](#))

201 Crisis ([ANC 0065](#)), Mind ([ANC 0064](#)), Child Poverty Action Group ([ANC 0056](#)), The Public Law Project ([ANC 0037](#)), Q156 [Maevae McGoldrick], Sanctions, support and service leavers: welfare conditionality and transitions from military to civilian life project ([ANC 0036](#)), Q185 [Martin Williams]

claimants disclosing the relevant information, or they must ask the right questions to get it. We heard, however, that vulnerable claimants did not always share the relevant information, either because they were not aware of the easements they were entitled to, so did not know what to tell their work coach, or because they did not feel comfortable talking about sensitive personal circumstances, particularly in an open-plan jobcentre.<sup>202</sup> For these reasons, CPAG said that claimants were “entirely dependent on their work coach asking sufficient questions to identify when an easement applies”.<sup>203</sup> But their experience was that “this is simply not happening”,<sup>204</sup> partly because work coaches did not know how someone’s requirements might need to be adjusted in response to often complex circumstances.<sup>205</sup>

94. We heard several suggestions for how to address these issues:

- The Public Law Project and Gingerbread recommended that claimants should be given clearer guidance on the easements available to specific groups<sup>206</sup> and CPAG said that the DWP should have a “legal duty” to provide this information.<sup>207</sup> The Minister told us “some of those easements [available] are published, so it is publicly available information”.<sup>208</sup>
- Several witnesses recommended that private rooms be made available in every jobcentre to help claimants feel more comfortable discussing personal matters.<sup>209</sup> The Minister said that while every jobcentre did not necessarily have a private room, there were spaces where “it is possible to have a private conversation without this being overheard by somebody a few metres away”.<sup>210</sup>
- Witnesses including Matthew Oakley and DePaul argued that work coaches needed better training on the easements available and how to apply them.<sup>211</sup> The Minister told us “very clear training is given to work coaches; there is an intensive three-week period, and that includes looking at easements.”<sup>212</sup>
- Organisations such as Crisis and the Children’s Society highlighted the success of jobcentres working closely, even co-locating, with local specialist support services. The presence of experts helped work coaches identify and understand claimants’ complex circumstances and how to respond to them.<sup>213</sup>

95. We heard that while these measures would go some way to improve the use of easements, they would not resolve the problem entirely, for two main reasons. First, because work coaches did not have enough time to explore fully claimants’ personal

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202 See for example Child Poverty Action Group ([ANC 0056](#)), Dr Aaron Reeves ([ANC 0081](#)), Gingerbread ([ANC 0080](#)), Mind ([ANC 0064](#)), Public Law Project ([ANC 0037](#))

203 Child Poverty Action Group ([ANC 0056](#))

204 Child Poverty Action Group ([ANC 0056](#))

205 See for example Dr Ben Baumberg Geiger ([ANC 0063](#)), Crisis ([ANC 0065](#)) and Royal Mencap Society ([ANC 0046](#))

206 The Public Law Project ([ANC 0037](#)), Gingerbread ([ANC 0080](#))

207 Child Poverty Action Group ([ANC 0056](#))

208 Q255

209 The Public Law Project ([ANC 0037](#)), Mind ([ANC 0064](#)), NHS Health Scotland ([ANC 0045](#))

210 Q272

211 Q48, DePaul ([ANC 0070](#))

212 Q255

213 Crisis ([ANC 0065](#)), The Children’s Society ([ANC 0053](#)), Qq159–160

circumstances; and second, because easements were set out in guidance and therefore relied on work coaches to judge what was reasonable, which CPAG said created “a real risk of poor or patchy decision making”.<sup>214</sup>

96. CPAG recommended that there should be more rules around the application of easements. Martin Williams, a Welfare Rights Advisor for the organisation, explained:

Where you have a general reasonableness test [for when to apply an easement], the amount of fact-finding that the work coach needs to do, the number of things they need to look into, is vast. When you have much more of a rules-based system you can ask them questions, “Do you have any [caring] responsibilities for an elderly relative?” ... Tick box. “How many hours?” Tick box.<sup>215</sup>

He said that, short of “fundamentally changing” work coaches’ available time, pay grade and responsibilities, the current system—whereby work coaches must elicit information and apply easements based on what they judge to be reasonable—would continue to create “nightmare” cases of inappropriate sanctions.<sup>216</sup> But the Minister did not support the suggestion of a more rules-based approach to the application of easements. He argued that there was already some “standardisation in the sense that there are a set of temporary easements that must be applied in certain cases”.<sup>217</sup>

97. **The Claimant Commitment is the bedrock of the sanctions regime and, if done well, it can be a powerful tool for driving positive engagement and minimising inappropriate sanctions. But if done badly, it becomes the root of ineffective, inappropriate and potentially deeply harmful sanctions. We do not doubt that work coaches are doing their best, but the model in which they currently operate makes it near-impossible for them to get it right every time, for every claimant. The system cannot rely on claimants knowing all available easements and pouring forth all the details of their personal lives to their work coach, who has neither the time nor the expertise to explore every potential avenue of a claimant’s situation to understand if, and how, their conditionality should be flexed.**

98. *We recommend that the Department:*

- *develop a standard set of questions that work coaches routinely ask claimants when developing their Claimant Commitment. The questions should elicit information that identifies what, if any, easements should be applied conditionality requirements. They should be designed to cover all available easements and, together with accompanying guidance, simplify the decisions to be taken by work coaches, with the view of reducing inconsistencies;*
- *review and improve the information made available to claimants on easements available, including online and in jobcentres; and*
- *write to all jobcentres to encourage them to co-locate with local support services, particularly but not restricted to, those with expertise in homelessness and mental health. The letter should include case studies of successful pilots.*

214 Child Poverty Action Group (ANC 0056)

215 Q185

216 Q188

217 Q274

## 6 Imposing a sanction - referrals and decisions

### The quality of decision-making

99. Work coaches decide whether to refer someone for a sanction, then an independent decision-maker considers whether to impose one. The Minister told us “there is a very clear process of quality assurance to make sure that we are getting these decisions right”, which were explained further in his letter of 4 September.<sup>218</sup> But throughout our inquiry we heard examples of many decisions that were at best ill-informed, and, at worst, wholly inappropriate. This included personal testimonies from Jen Fidai and Luke O’Donnell, as well as anecdotal evidence from third party stakeholders such as Gingerbread, Crisis and CPAG.<sup>219</sup>

#### Box 5: Luke’s story

*Luke has epilepsy and was in the “all work-related requirements” conditionality group while claiming Universal Credit. He was sanctioned for 21 days when he failed to attend a work-focused interview. But three days before this appointment he was hospitalised owing to multiple seizures. Despite providing evidence of his illness and time in hospital, the decision to sanction him was upheld at Mandatory Reconsideration, concluding “Mr Luke O’Donnell has not shown good reason for missing his appointment”. Luke tweeted about his experience, which “went viral” and was reported in the press.<sup>220</sup> Not long after, Luke received a second letter from the DWP saying he did in fact have good reason for failing to attend his appointment and the decision to impose a sanction had been overturned.*

Source: Qq54, 80, 81

100. Claimants can challenge the decision to impose a sanction, first via Mandatory Reconsideration (MR) and then by appealing to the First-tier Tribunal. UC statistics published in February 2018 showed that 81% of original and MR decisions were not upheld when taken to appeal.<sup>221</sup> Inclusion London said “the large numbers of sanctions that are reversed or over-turned at appeal indicate that many sanctions are being applied unfairly”.<sup>222</sup> It noted that even when the decision was reversed, claimants had already had their benefit withdrawn and, as Coventry Citizens Advice said, “the damage [had been] done”.<sup>223</sup>

218 Q269

219 Gingerbread ([ANC 0080](#)), Crisis ([ANC 0065](#)), Child Poverty Action Group ([ANC 0056](#))

220 I News, “[DWP reverses sanctions decision for epileptic man who missed benefits appointment due to seizure](#)”, accessed 23 October 2018

221 55% of original Universal Credit decisions resulted in a sanction being applied; when escalated 72% of UC mandatory reconsiderations resulted in a sanction being applied; but at appeal only 19% of UC sanction decisions were upheld.

222 Inclusion London ([ANC 0026](#))

223 Coventry Citizens Advice ([ANC 0049](#))

**Box 6: Jen's story**

*Jen was claiming JSA when she was sanctioned for failing to attend a jobcentre appointment. She had phoned in advance and visited in person to tell the jobcentre she would not be able to attend because her appointment clashed with an A level exam (it was later revealed that Jen had been put on the wrong benefit in the first place and should not have been claiming JSA because she was still in full-time education). Although she was told “okay, that’s fine. We’ll put that on your record”, she was still sanctioned. With the help of “an amazing advocate” she successfully challenged the sanction, received a backdated payment and was moved onto the correct benefit. But this did not take away from the fact that Jen had gone without benefits for almost a year. She had had to leave her temporary accommodation and sofa-surfed, stayed with friends, or slept in the school library through the rest of her A levels.*

Source: Qq67—77

101. The Shaw Trust stressed the urgency to improve the “accuracy, consistency, proportionality and fairness of decision-making”<sup>224</sup> to end “inappropriate sanctioning practice”.<sup>225</sup> NHS Health Scotland suggested that the problem went beyond “addressing individual cases that have gone wrong”. Rather it was a “systemic issue that require[d] a systemic response”.<sup>226</sup>

## Causes of systemic failings

102. Evidence to our inquiry suggested several issues at the heart of the failings described above. These are addressed below.

### Discretion

#### Work coaches and decision-makers

103. Written evidence from CPAG explained that while work coaches could *exercise judgement* over what was a ‘good reason’ for failing to comply, they had *no discretion* over whether or not to refer someone for a sanction; once they decided that the claimant did not have good reason they had to impose a sanction “as a result of the law”.<sup>227</sup> Similarly, decision-makers could make a range of judgement about what was reasonable based on the claimant’s circumstances, but they had no discretion over the imposition of a sanction if they concluded that the claimant’s actions were not reasonable.<sup>228</sup>

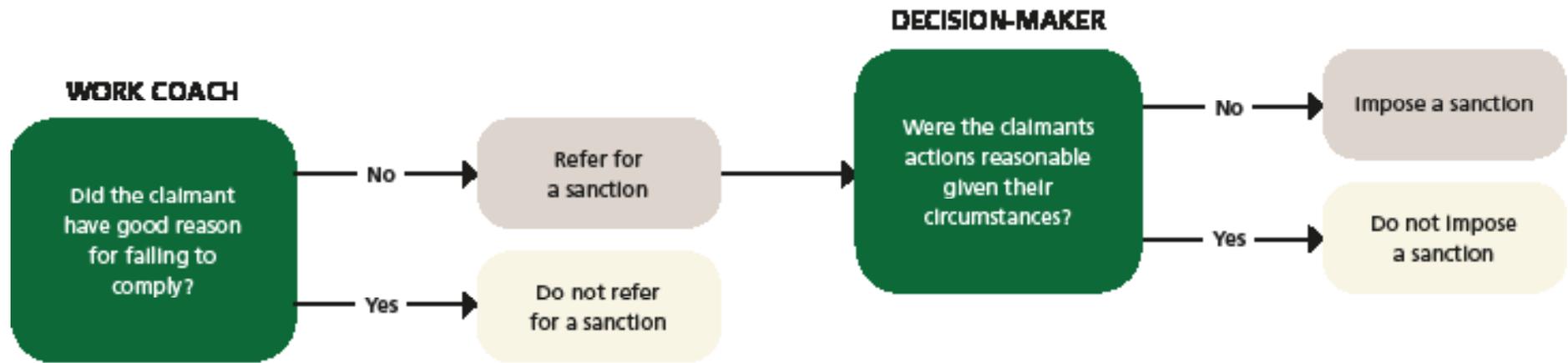
224 Shaw Trust ([ANC 0086](#))

225 Welfare conditionality Project ([ANC 0079](#))

226 NHS Health Scotland ([ANC 0045](#))

227 Child Poverty Action Group ([ANC 0056](#))

228 Child Poverty Action Group ([ANC 0056](#))



104. The NAO's 2016 report recognised the challenge of ensuring fairness and consistency—through stricter rules and fewer judgement—without restricting flexibility to account for individual circumstances—through fewer rules and greater exercise of judgment.<sup>229</sup> While the Minister told us he thought the current system had found the right balance,<sup>230</sup> witnesses were less convinced.

### *Accepting 'good reason'*

105. We heard some examples of work coaches making sensible judgement on what counted as 'good reason'.<sup>231</sup> But, as Luke and Jen's stories show, we also heard examples where they got it horribly wrong, resulting in inconsistent treatment of claimants and wholly inappropriate referrals.<sup>232</sup> Some witnesses said this was the risk in a system that relied on work coaches making judgment calls, which stemmed from the fact that the definition of 'good reason' was set out in guidance, rather than regulations.<sup>233</sup> Several witnesses suggested that the process would be improved by a stricter, regulatory approach. For example, CPAG recommended:

A more stringent rules-based system which limits the need for judgement as to what is 'reasonable'. Rules ought to set out those situations which constitute good reason, rather than requiring [work coaches and] decision makers to make judgement on a case by case basis ... The risk that a particular case may have a good reason but not come within one of the explicit rules can be catered for by having a residual category for other situations, allowing for a reasonableness test in these cases.<sup>234</sup>

It argued that this would improve consistency and make decision making easier, as it could "(largely) be reduced to a set of factual questions".<sup>235</sup>

106. Contracted providers of mandatory work-related programmes are also able to refer people for sanctions, such as providers of the Work and Health Programme, which was introduced in Wales and North West England in November 2017 and rolled out across the rest of England in early 2018.<sup>236</sup> Under this programme, providers are not able to accept good reason and must refer claimants for a sanction automatically whenever someone fails to comply with their conditionality. Dr David Webster told us that automatic referrals were "a source of injustice and damage to claimants".<sup>237</sup> Matthew Oakley criticised this approach under the Work Programme, which concluded in 2017. His 2014 review of the

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229 National Audit Office, "[Benefit sanctions](#)", November 2016

230 Q300

231 Sanctions, support and service leavers: welfare conditionality and transitions from military to civilian life project ([ANC 0036](#)), Luke O'Donnell ([ANC 0095](#))

232 Q154 [Luke O'Donnell], Q65, Q67 [Jen Fidai]

233 Child Poverty Action Group ([ANC 0056](#)), Q188

234 Child Poverty Action Group ([ANC 0056](#))

235 Child Poverty Action Group ([ANC 0056](#))

236 House of Commons Library, "[Work and Health Programme](#)", January 2018

237 Dr David Webster ([ANC 0019](#))

operation of sanctions under JSA recommended that contracted providers should be able to accept good reason in the same way that work coaches could.<sup>238</sup> The Government argued that this would require legislative change and did not accept the recommendation.<sup>239</sup>

### *Discretion to refer for, or impose, a sanction*

107. If a work coach decides someone did not have good reason for failing to comply with their Claimant Commitment, they must refer them for a sanction. We heard mixed views on this. On the one hand, Mind called for work coaches to be empowered “not to make a referral when they do not feel it would be appropriate”;<sup>240</sup> while Dr David Webster said work coaches should not be given more discretion.<sup>241</sup> He argued instead that discretion should “come through a review process that involves increasingly specialised and experienced people”.<sup>242</sup> Others suggested that decision-makers should have discretion not to impose a sanction if they think that doing so would have an inappropriate or disproportionate effect on the claimant or their household.<sup>243</sup> The DWP were concerned that discretion, whether that of a work coach or decision-maker, would create inconsistent treatment of claimants.<sup>244</sup>

### *Process for challenging a decision*

108. If someone thinks they were sanctioned unfairly they can challenge the decision by way of Mandatory Reconsideration (MR) followed by a right of appeal to the First-tier Tribunal. The Law Society of Scotland said, however, that the process was neither “sufficiently effective nor speedy enough to be regarded as satisfactory means of redress”.<sup>245</sup> It noted that there were no time limits for MR to be carried out, most appeals took over six months to be heard and, if successful, people then “faced a further delay of four weeks or more until their benefit [was] reinstated and any arrears paid”.<sup>246</sup> As a result, people often suffered a potentially incorrectly imposed sanction, and consequent unnecessary hardship, for “weeks or months” before their challenge was even heard.<sup>247</sup> The Minister confirmed that the Department did not make “any specific commitments to claimants” about how long it takes for a decision at MR or appeal.<sup>248</sup>

**109. We appreciate that the Government has a difficult job in weighing up the competing aims of allowing discretion to ensure flexibility and implementing rules to ensure consistency. A key decision is whether a claimant had ‘good reason’ for failing to comply with their conditionality. As it stands, this is a judgment call for work coaches. We do not doubt that most work coaches will consider this decision carefully, but getting it wrong can trigger unnecessary hardship for the claimant and unwanted bureaucracy for the Department. What is more, it inevitably leads to inconsistent**

238 Matthew Oakley, “Independent review of the operation of Jobseeker’s Allowance sanctions validated by the Jobseeker’s Act 2013”, July 2014

239 Department for Work and Pensions, “Government’s response to the Independent review of the operation of Jobseeker’s Allowance sanctions validated by the Jobseeker’s Act 2013”, Cm 8904, July 2014

240 Mind (ANC 0064)

241 Q40

242 Q40

243 Feeding Britain (ANC 0072), Employment Related Services Association (ANC 0066)

244 Department for Work and Pensions (ANC 0083)

245 The Law Society of Scotland (ANC 0073)

246 The Law Society of Scotland (ANC 0073)

247 Child Poverty Action Group (ANC 0056)

248 [Letter to the Chair from Alok Sharma MP, Minister of State for Employment](#), 4 September 2018

treatment of claimants. This is an unnecessary and significant responsibility for work coaches and we heard too many examples of inappropriate and inconsistent sanctions to be convinced that this approach is working. Carefully drafted regulations on what constitutes ‘good reason’ would ensure work coaches make fairer and more consistent referrals.

110. Once a work coach decides a claimant did not have good reason, they must refer them for a sanction. Similarly, once a decision-maker concludes the claimant’s actions were not reasonable, they must impose a sanction. In this respect, there is no flexibility. We recognise the arguments for there to be discretion not to impose a sanction, either with work coaches or decision-makers. But this would risk reintroducing the very inconsistency we wish to eradicate. What is more, we are confident that if the recommendations in this report are fully implemented, decision-makers would not find themselves even considering sanctions that would be inappropriate or disproportionate.

111. *We recommend that:*

- *the Department introduce regulations on what reasonably constitutes “good reason”, having sought input from third sector organisations. Regulations should include, but not be restricted to:*

- i) *failure of childcare;*
- ii) *claimant travelling to or at work;*
- iii) *failure of transport;*
- iv) *health-related emergency for the claimant or a dependent;*
- v) *unforeseen requirement to fulfil a caring responsibility;*
- vi) *attendance at an urgent health-related appointment;*
- vii) *tending to affairs for up to two weeks following a bereavement;*
- viii) *any other situation the work coach considers reasonable; and*

*in relation to failure to accept an offer of work:*

- ix) *availability and cost of:*
    - *childcare, and*
    - *transport;*
  - x) *other caring responsibilities; and*
  - xi) *the suitability of hours demanded by the employer and available flexibility; and*
- *any contracted provider of a mandatory work-related programme be given the ability not to refer a claimant for a sanction should the claimant provide good reason for failing to comply with a conditionality requirement.*

112. It is not acceptable that claimants must endure a sanction for weeks on end while they await the outcome of a challenge, which may prove that the sanction was incorrectly applied in the first instance.

113. *We recommend that the Department commit to a timeframe for making decisions at mandatory reconsideration and appeal. It should monitor success against this target and publish the data collected in the its annual report.*

### A 'yellow card' system

114. Prior to this inquiry, several commentators including our predecessor committee, the Public Accounts Committee and Matthew Oakley recommended that work coaches should be able to issue a warning instead of a sanction for the first time someone fails to comply with a conditionality requirement.<sup>249</sup> This is commonly referred to as 'a yellow card'. In its latest response, the Government said that such a policy would require legislative change that could not be introduced because of "competing priorities in the Parliamentary timetable".<sup>250</sup> But we have good reason to believe that under Universal Credit this change could be made via secondary legislation, which takes up very little parliamentary time. For example, under sections 26(8)(a) and 27(9)(a) of the Welfare Reform Act 2012, the Secretary of State could make provision in regulations for no reduction in benefits to be made for a first sanctionable offence and the claimant to get a warning instead.<sup>251</sup>

115. On 21 May 2018, the Minister announced that the Department had identified a trial they could introduce without requiring legislative changes. It was therefore "exploring the feasibility" of issuing written warnings instead of sanctions for a first sanctionable failure to attend a Work-Search Review.<sup>252</sup> But in the evidence we received there was still strong agreement that this policy should be rolled out more widely.<sup>253</sup> Some witnesses highlighted factors that would be key to the success of any 'yellow card' system. For example:

- Citizens Advice Newcastle stressed that a yellow card system would need to be established in regulations, not be discretionary, to ensure consistent implementation.<sup>254</sup>
- The Shaw Trust said that a warning must be clearly communicated to the claimant via their preferred method of communication, "taking into account the fact that for many individuals with mental health conditions, skills, learning or language barriers, this may not be a written letter".<sup>255</sup>

249 Committee of Public Accounts, Forty-second Report of Session 2016–17, [Benefit sanctions](#), HC 775, Matthew Oakley, "[Independent review of the operation of Jobseeker's Allowance sanctions validated by the Jobseeker's Act 2013](#)", July 2014

250 HM Treasury, "[Treasury Minutes Progress Report](#)", Cm 9566, January 2018

251 Welfare Reform Act 2012, [section 26](#) and [section 27](#)

252 HC Deb, 21 May 2018, [col 32WS](#)

253 See for example, Gingerbread ([ANC 0080](#)), The Law Society of Scotland ([ANC 0073](#)), Citizens Advice ([ANC 0067](#)), Employment Related Service Association ([ANC 0066](#)), Centrepoint ([ANC 0060](#)), Child Poverty Action Group ([ANC 0056](#)), Feeding Britain ([ANC 0072](#)), Joseph Rowntree Foundation ([ANC 0068](#)), The Shaw Trust ([ANC 0086](#)), Waltham Forest Stand Up for Your Rights ([ANC 0082](#))

254 Citizens Advice Newcastle ([ANC 0051](#))

255 The Shaw Trust ([ANC 0086](#))

- Gingerbread suggested that the warning should trigger a meeting between the claimant and their work coach. This would provide an opportunity to check the claimant understands their conditionality and the rules around sanctions and to adjust their Claimant Commitment if necessary.<sup>256</sup>
- CPAG noted that any warning should be “wiped” from a claimant’s record if they had good reason for failing to comply.<sup>257</sup>

116. We constantly hear that the benefits system is being reformed to reflect the world of work. But in what workplace would a first mistake be met with the harshest penalty? In the workplace, we would reasonably expect to receive a warning in the first instance. This should also be true of the benefits system. We therefore welcome the Government’s announcement to trial warnings instead of sanctions for the first time a claimant fails to attend a Work Search Review; but the scope of this trial is limited. The Department must therefore treat it as an opportunity to learn lessons while working towards rolling out this policy to all claimants subject to conditionality. We are not convinced by the Department’s assertion that this change requires primary legislation. We believe it could be introduced via secondary legislation, in which case the issue of Parliamentary time is irrelevant.

117. *We recommend that the Department explore all options for allowing a warning, instead of a sanction, to be issued in response to any claimant’s first sanctionable failure. It should set out these options in its response to our report, identify the simplest approach, and commit to introducing the necessary legislation by May 2019. The policy should be based on lessons learnt from the recently announced pilot. The Department must ensure that under both the pilot and subsequent policy reforms:*

- *the warning must be communicated clearly via the claimant’s preferred method of communication, which may not be a written letter; and*
- *a warning must automatically trigger a meeting between the claimant and work coach. At this meeting the work coach must ensure the claimant fully understands the rules around conditionality and sanctions. They must also review the Claimant Commitment, including considering whether any easements should be applied.*

### **Decision-making and the burden of proof**

118. As already explained, decision-makers must judge whether a claimant’s failure to comply with their conditionality was reasonable.<sup>258</sup> The DWP explained that this should be based on information provided by the work coach about the claimant’s individual circumstances, including any complex need or vulnerability, and any explanation provided by the claimant for why they failed to comply.<sup>259</sup> Evidence to our inquiry highlighted two main flaws with this process.

119. First, witnesses noted that, unlike work coaches, decision-makers did not know the claimant and lacked insight into their circumstances gained through a personal

256 Gingerbread ([ANC 0080](#))

257 Child Poverty Action Group ([ANC 0056](#))

258 Department for Work and Pensions ([ANC 0083](#))

259 Department for Work and Pensions ([ANC 0083](#))

relationship. In written evidence, Dr David Webster described consideration of sanction referrals by decision-makers as “perfunctory” and “bound to be ill-informed” because they had no contact with the claimant.<sup>260</sup> He said this “virtual rubber stamp” was demonstrated by the fact that 96% of JSA referrals for ‘not actively seeking work’ resulted in a sanction.<sup>261</sup> Luke O’Donnell felt decision-makers were “far removed” and had “no idea what is going on”. He said:

[Decision-makers] need to communicate more with your work coach because you do build a relationship with your work coach. Your work coach knows you and knows your case ... They understand what is going on and can advise. They can say, “Come on. Don’t be ridiculous. Applying a sanction in this case is silly”.<sup>262</sup>

120. Second, it is up to the claimant to prove why they *should not* be sanctioned rather than for the decision-maker to prove why they *should* be sanctioned. Furthermore, claimants can only challenge a sanction once the decision to impose it has been made. Tony Wilson argued that this did not “observe the rules of natural justice”.<sup>263</sup> He explained:

You sanction first and then you require the individual to submit evidence to prove that they didn’t cheat, rather than requiring the accuser to prove that they did. The burden of proof is the wrong way [around].<sup>264</sup>

121. The Public Law Project agreed, stating “it is a system of imposing a punishment immediately, without adequate opportunity for claimants to provide explanations or objections until after a sanction has already been imposed”.<sup>265</sup> The Law Society of Scotland suggested that claimants should be presented with the evidence for why a sanction is being imposed and should be able to challenge it before the sanction takes effect.<sup>266</sup> It said that another “compelling incentive” to get decisions right in the first place was:

The not insignificant cost to the taxpayer of dealing with the consequential appeals to the First-tier Tribunal, which in 2016–17 amounted to £103 million (which does not include the cost to the DWP of undertaking MR reviews).<sup>267</sup>

**122. Universal Credit is built on a personal relationship between work coach and claimant. Yet the decision to impose a sanction is made by someone who has never met the claimant and who cannot be expected to understand fully the circumstances that led to them to fail to comply. While we understand the importance of an independent decision-maker, we believe the process would benefit from the insight of the claimant’s work coach.**

**123. Sanctions must be a last resort and claimants should be able to challenge the decision before it is imposed. It is in the Government’s interest to get the decision**

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260 Dr David Webster ([ANC 0019](#))

261 Dr David Webster ([ANC 0019](#))

262 Q122

263 Q32

264 Q32

265 The Public Law Project ([ANC 0037](#))

266 The Law Society of Scotland ([ANC 0073](#))

267 The Law Society of Scotland ([ANC 0073](#))

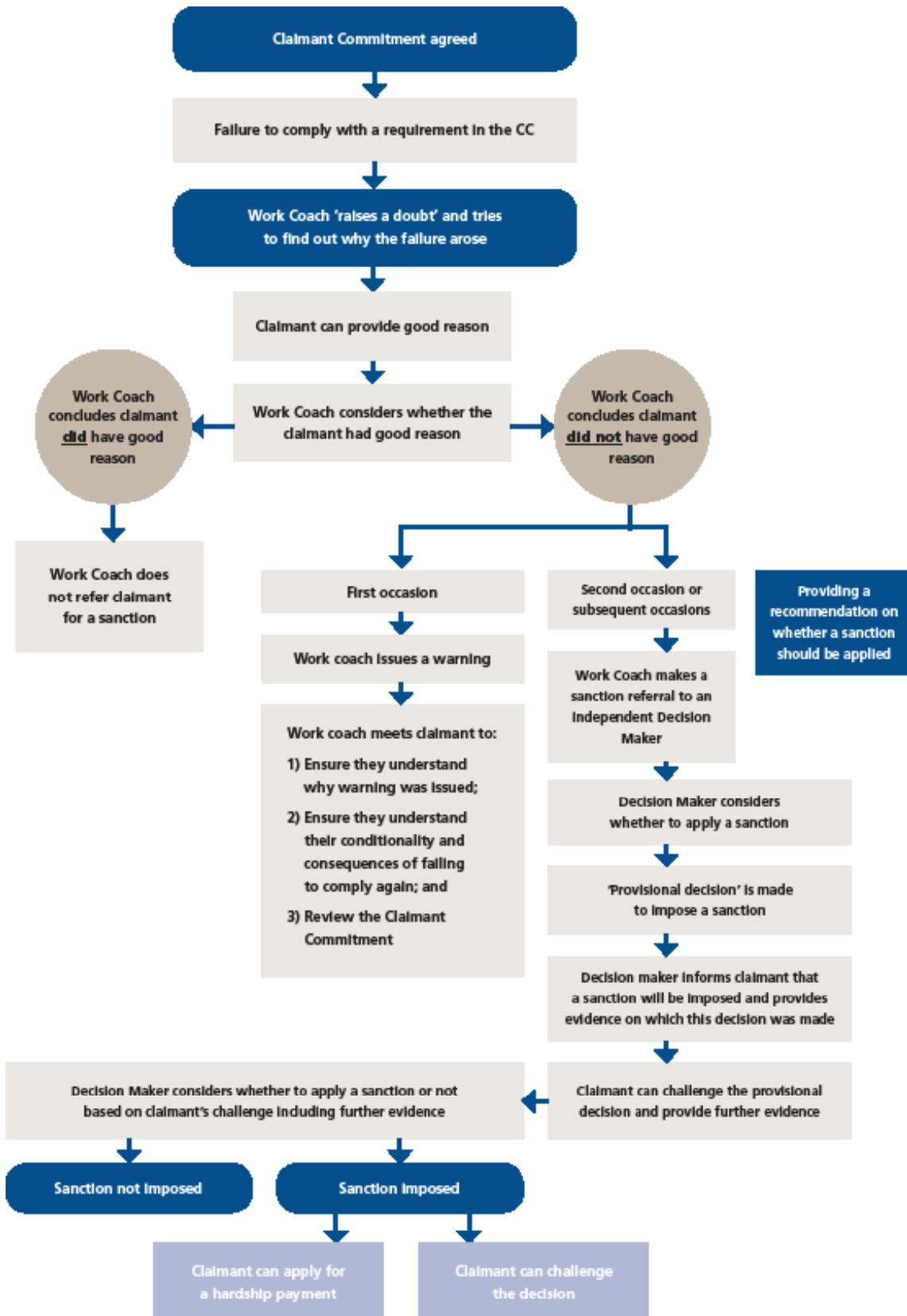
right first time. Not only would it minimise the administrative burden of challenges but, more importantly, it would mitigate the potential harm caused by an incorrectly imposed sanction.

124. *We recommend that when a work coach refers a claimant for a sanction, they are required to include, in the information they send to the decision-maker, a recommendation on whether a sanction should be imposed. This should be based on their knowledge of:*

- *the significance of the claimant's failure to comply with conditionality;*
- *their understanding of the claimant's circumstances; and*
- *their assessment of the likely impact a sanction would have on the claimant's financial and personal well-being.*

125. *Based on this recommendation and the other information provided, the decision-maker should make a "provisional decision". This decision must be communicated clearly to the claimant, together with the evidence on which it is based. The claimant should then have 30 days either to challenge this evidence or actively opt not to provide further evidence. If the claimant has not confirmed receipt the decision-maker must make further efforts to contact them.*

The figure below shows the process with our recommendations incorporated.



## 7 Hardship payments

126. Professor Michael Adler told us that “being sanctioned is not necessarily the end of the line”, as claimants could apply for a hardship payment.<sup>268</sup> This is a reduced rate payment, usually 60% of normal benefit rate, to those deemed at risk of severe financial hardship following a benefit sanction. Independent decision-makers consider whether someone should receive a hardship payment. Their decision depends on whether the person meets certain criteria, including if they have access to any other financial support and there is substantial risk that their household would be left without essential items, such as food, clothes and heating were a payment not made.<sup>269</sup>

127. Different rules apply to JSA, ESA and UC. The main difference is that under UC hardship payments must be repaid, albeit without interest, which was criticised by much evidence to our inquiry.<sup>270</sup> The Scottish Association for Mental Health told us it saw “no rationale for hardship payments to be repayable”.<sup>271</sup> Dr David Webster said repayments were “a tall order when their very payment indicates that the claimant has nothing left”.<sup>272</sup> And Citizens Advice argued that repayments created additional financial pressure, which may “distract [claimants] from looking for work or regaining financial stability after a sanction”.<sup>273</sup> But the Minister said the rationale was twofold: to ensure fairness between those who received a hardship payment and those who did not; and to incentivise claimants into work, as repayments were written off if the claimant sustained employment for 26 weeks above an earnings threshold.<sup>274</sup>

### Repayment rates

128. The repayment of hardship payments is capped at 40% of the claimant’s UC standard allowance. But the National Association of Welfare Rights Advisers, a professional body, told our inquiry into Universal Support that debts, including hardship payments, “are generally recovered at the maximum allowed”.<sup>275</sup> Their members found that the 40% rate was applied “too often without consultation with the claimant about whether they can afford it”.<sup>276</sup>

129. 40% is the same amount by which a claimant’s benefit is reduced when they have been sanctioned and are in receipt of a hardship payment. Dr David Webster said “this means that for claimants receiving hardship payments, UC sanctions are in effect 2.5 times as long as their normal length”<sup>277</sup> (see the figure below). CPAG was also concerned that the recovery of hardship payments would put people off applying for them in the first

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268 Professor Michael Adler ([ANC 0025](#))

269 House of Commons Library, [Benefit sanctions](#), November 2015

270 See for example: Citizens Advice Scotland ([ANC 0076](#)), Scottish Association for Mental Health ([ANC 0069](#)), Citizens Advice ([ANC 0067](#)), Crisis ([ANC 0065](#)), Child Poverty Action Group ([ANC 0056](#))

271 Scottish Association for Mental Health ([ANC 0069](#))

272 Dr David Webster ([ANC 0019](#))

273 Citizens Advice ([ANC 0067](#))

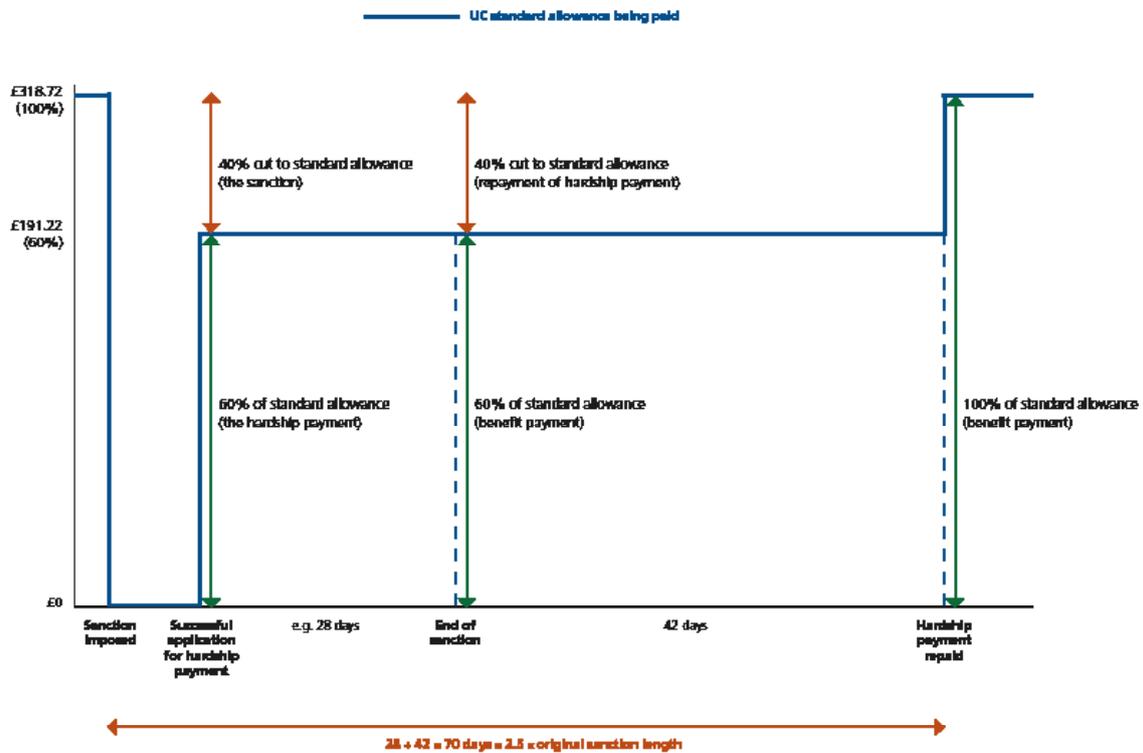
274 Q278

275 National Association of Welfare Rights Advisers ([UCR 0262](#))

276 National Association of Welfare Rights Advisers ([UCR 0262](#))

277 Dr David Webster ([ANC 0019](#))

place,<sup>278</sup> which was the case for Samantha. She told us that while she initially applied for a hardship payment, she saw it as “just more debt” and became anxious about the size of repayment deductions. For that reason, she did not apply in subsequent months.<sup>279</sup>



130. The Department’s evidence to our Universal Support inquiry said that the repayment caps reflect the need to balance the cost of recovery with affordability.<sup>280</sup> But the Minister told us that the motivation behind recovery of hardship payments was not financial.<sup>281</sup> In fact, he confirmed in his letter of 4 September 2018 that there had been no assessment of departmental savings resulting from the policy.<sup>282</sup>

131. **Hardship payments are made to those who would otherwise be left with nothing. A claimant who has lost 100% of their standard allowance because of a sanction can receive 60% of that allowance as a hardship payment. In effect, this is a reduced rate sanction of 40%. We understand the Government’s rationale for recovering this money. But as this is apparently not financially motivated, and the people repaying hardship payments are necessarily on the brink of poverty, we struggle to see how a repayment cap as high as 40% is justified.**

132. *We recommend that the Government issue revised guidance to all work coaches, and if necessary amend regulations, to ensure recovery of hardship payments is only ever at a rate that is affordable for the claimant, no matter how low, with the default*

278 Child Poverty Action Group ([ANC 0056](#))

279 Samantha ([ANC 0085](#)), Q88

280 [Letter to the Chair from Alok Sharma MP, Minister of State for Employment](#), 23 June 2018

281 Q278

282 [Letter to the Chair from Alok Sharma MP, Minister of State for Employment](#), 4 September 2018

*being 5% of the claimant's standard allowance. This action is needed in addition to, not instead of, the longer-term review of recovery caps recommended in our report on Universal Support.*

# Conclusions and recommendations

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## Evidence on the effectiveness of sanctions

1. At best, evidence on the effectiveness of sanctions is mixed, and at worst, it shows them to be counterproductive. The Coalition Government had little or no understanding of the likely impact of a tougher sanctions regime when it was introduced in 2012. It said the policy would be reviewed on an ongoing basis to understand its impact and the extent to which it was achieving its objectives. But six years later, it is none the wiser. The lack of any such evaluation is unacceptable. Furthermore, without evidence to support the significantly longer sanctions introduced, or data to understand the behavioural impact of escalated sanctions for repeated failures, the policy appears to be nothing other than arbitrarily punitive. The high rate of sanctions under Universal Credit only increases the urgency with which the Government must understand fully the effect of the 2012 reforms. Crucially, if such research suggests changes are required, the Government must be prepared to respond accordingly. (Paragraph 23)
2. *We recommend that the Department urgently evaluate the effectiveness of reforms to welfare conditionality and sanctions introduced since 2012 in achieving their stated policy aims. The Department should commission an independent review of its methodology for this work. We further recommend that higher level sanctions should be reduced to two, four and six months for first, second and subsequent failures to comply, until the Department can present robust evidence that longer sanctions would be more effective at moving people into work.* (Paragraph 24)
3. It is one thing for a sanction to result in short-term hardship as a consequence of breaching an agreed work-related requirement. It is something else entirely for a sanction to affect someone's physical and mental well-being, drive them into debt and leave them on the brink of destitution. We agree that research to understand the impact of sanctions would be complicated, but we do not agree that this is a reason for the DWP not to try. There is too much at stake not to. (Paragraph 30)
4. *We recommend that the Department include in the evaluation we have recommended an assessment—to whatever extent is feasible—of the impact sanctions have on claimants' financial and personal well-being, as well as on wider public services. It should take expert advice on how to achieve this and consider commissioning external research if necessary.* (Paragraph 31)

## Vulnerable claimants

5. Children play no part in a failure to comply with conditionality, yet when a sanction is imposed they feel the effects just as acutely. Any positive effect a sanction might have is outweighed by the risk that children's welfare becomes the collateral damage. This risk is all the more real for children in single parent families. While it is welcome that a record proportion of single parents are in work, we are concerned about the devastating impact sanctions can have on this vulnerable group of claimants and

their children. In the absence of more robust evidence that sanctions themselves are driving the positive trend in single parents' employment outcomes, it is hard to justify the risks they pose. (Paragraph 36)

6. *The evaluation we have recommended must include an assessment of the role played by conditionality and sanctions in improving employment outcomes for lone parents. If a robust causal relationship is not found, there would be a strong case for the Department to end conditionality and sanctions for this group. In the meantime, the Government should amend regulations to ensure that a sanction rate of 20% applies to any claimant who is the responsible carer for a child under the age of five, or a child with demonstrable additional needs and care costs.* (Paragraph 37)
7. Care leavers acknowledge their responsibilities associated with receiving benefits. In return, the Government should acknowledge care leavers' challenging circumstances and consequent vulnerability. But care leavers are currently being let down by the system, with often devastating consequences. What is worse, the inability to identify care leavers under Universal Credit risks the Department losing sight of them altogether. 'Pinning' information—which is like sticking an electronic post-it note on someone's file—sounds like a good way for work coaches to communicate better the circumstances surrounding someone's claim. But it is not the same as having to identify routinely, through a simple tick box, whether someone is a care leaver. The Government has a duty to monitor the impact of its policies on all benefit claimants, but as a corporate parent, it has a unique and particular duty to promote the wellbeing of care leavers. (Paragraph 45)
8. *We recommend that the Department review any guidance or restrictions on working practices, including information sharing, between personal advisers and work coaches for care leavers. It should follow successful examples of joint protocols already in place and, in particular, should consider:*
  - a) *requiring work coaches never to apply a sanction until they have made contact with the claimant's personal adviser and taken into consideration the information they receive; and*
  - b) *enabling care leavers to give consent for their work coach to discuss any matter regarding their benefit claim with their personal adviser for a specified period of time.* (Paragraph 46)
9. *We further recommend that:*
  - *care leavers under the age of 25—in line with thresholds for the national minimum wage—only ever lose 20% of their benefit if sanctioned. This provision should be included in the amendment to regulations we have recommended the Government introduce in relation to responsible carers of young children; and*
  - *the Department introduce a specific marker for care leavers under Universal Credit to enable it to identify and monitor their experiences within the benefits system, including sanctions.* (Paragraph 47)

10. As with care leavers, the Department risks losing sight of disabled people if it does not introduce a specific marker under Universal Credit. It cannot rely on work coaches 'pinning' information. (Paragraph 51)
11. *We recommend that the Department introduce a marker for disability under Universal Credit.* (Paragraph 52)
12. The Government should be commended for its commitment to improving employment outcomes for disabled people and those with health conditions. But it presented no evidence that conditionality and sanctions are helping achieve this. We are not convinced by the Government's argument that exempting disabled claimants from conditionality would be doing them a "great disservice". Conditionality and sanctions neither work for disabled claimants, nor further the Government's objectives. We are convinced of the urgent need for change. (Paragraph 62)
13. *We recommend that the Department immediately exempt the following groups from conditionality and sanctions:*
  - *any claimant assessed by a Work Capability Assessment (WCA) to have limited capability for work;*
  - *claimants not found to have limited capability for work as a result of a WCA, but who have an impairment or health condition, including mental health, and who present a valid Fit Note stating that they are unable to work; where a valid Fit Note can be issued by a health or social care professional and should be presumed to continue for a set period unless there is good reason to think that someone's health has improved;*
  - *Universal Credit claimants awaiting a Work Capability Assessment who present a valid Fit Note stating that they are unable to work (as above).*

*We further recommend that the Government bring together experts and third sector representatives to consider how voluntary employment support could best be provided to these groups of claimants.* (Paragraph 63)

### Universal Credit and sanctions

14. We stand by our predecessor committee's conclusion in 2016 that in-work progression has the potential to be revolutionary in its ability to break the cycle of people getting stuck in low paid, low prospects employment. But this great opportunity could quickly be undermined if it is coupled with conditionality and sanctions, particularly if work coaches—the key agent here—have even greater and greater workloads. The Government's own research shows that the effect of sanctions is not conclusive. Any evidence that the threat of a sanction motivates claimants to comply is outweighed by the possible unintended consequences of a sanction, once imposed. The risks are even greater given that work coaches are not yet sufficiently trained or equipped to implement this policy consistently. In light of this, the Department would be unwise to press ahead with in-work conditionality. (Paragraph 76)
15. *We recommend that the Department does not proceed with its policy of applying conditionality and sanctions to in-work claimants until Universal Credit has been*

*fully rolled out. Even then, the policy should only be introduced on the basis of robust evidence that it will be effective at driving progress in work. In the meantime, it should focus its efforts on understanding better:*

- *The frequency and nature of support that is most effective to encourage in-work progression; and*
  - *The additional training and support work coaches need to deliver this programme successfully, including developing an understanding of how structural barriers for both employees and employers might affect in-work-progression. (Paragraph 77)*
16. The objective of a sanction is to incentivise people to move into work. But if someone is no longer able, or required, to look for work, the sanction serves no purpose. Worse, it imposes hardship upon people who are particularly vulnerable according to the Department's own assessment. Any message the DWP sends through the continued application of a sanction will be interpreted as unfair and punitive, and risks eroding the relationship between claimants and the Department. (Paragraph 81)
  17. *We recommend that sanctions are cancelled when a claimant's change in circumstance means they are no longer subject to the requirement that led to their sanction in the first place. (Paragraph 82)*
  18. In theory, sanctions should only ever withdraw a maximum of 100% of the UC standard allowance. Other elements, such as for housing and children should therefore be unaffected. But in reality, this is not always the case: when someone is already receiving less than 100% of their standard allowance, for example because of deductions as result of rent arrears, the sanction imposed is still for the full amount. When there is no more standard allowance to be withdrawn, the sanction necessarily eats into other elements, putting housing and the welfare of children at risk. This is clearly not the Government's intention and it requires urgent resolution. (Paragraph 84)
  19. *We recommend that any deductions from a claimant's standard allowance are postponed when a sanction is applied, for the duration of that sanction, to ensure other elements are protected. (Paragraph 85)*

### Setting conditionality requirements

20. The Claimant Commitment is the bedrock of the sanctions regime and, if done well, it can be a powerful tool for driving positive engagement and minimising inappropriate sanctions. But if done badly, it becomes the root of ineffective, inappropriate and potentially deeply harmful sanctions. We do not doubt that work coaches are doing their best, but the model in which they currently operate makes it near-impossible for them to get it right every time, for every claimant. The system cannot rely on claimants knowing all available easements and pouring forth all the details of their personal lives to their work coach, who has neither the time nor the expertise to explore every potential avenue of a claimant's situation to understand if, and how, their conditionality should be flexed. (Paragraph 97)
21. *We recommend that the Department:*

- *develop a standard set of questions that work coaches routinely ask claimants when developing their Claimant Commitment. The questions should elicit information that identifies what, if any, easements should be applied conditionality requirements. They should be designed to cover all available easements and, together with accompanying guidance, simplify the decisions to be taken by work coaches, with the view of reducing inconsistencies;*
- *review and improve the information made available to claimants on easements available, including online and in jobcentres; and*
- *write to all jobcentres to encourage them to co-locate with local support services, particularly but not restricted to, those with expertise in homelessness and mental health. The letter should include case studies of successful pilots. (Paragraph 98)*

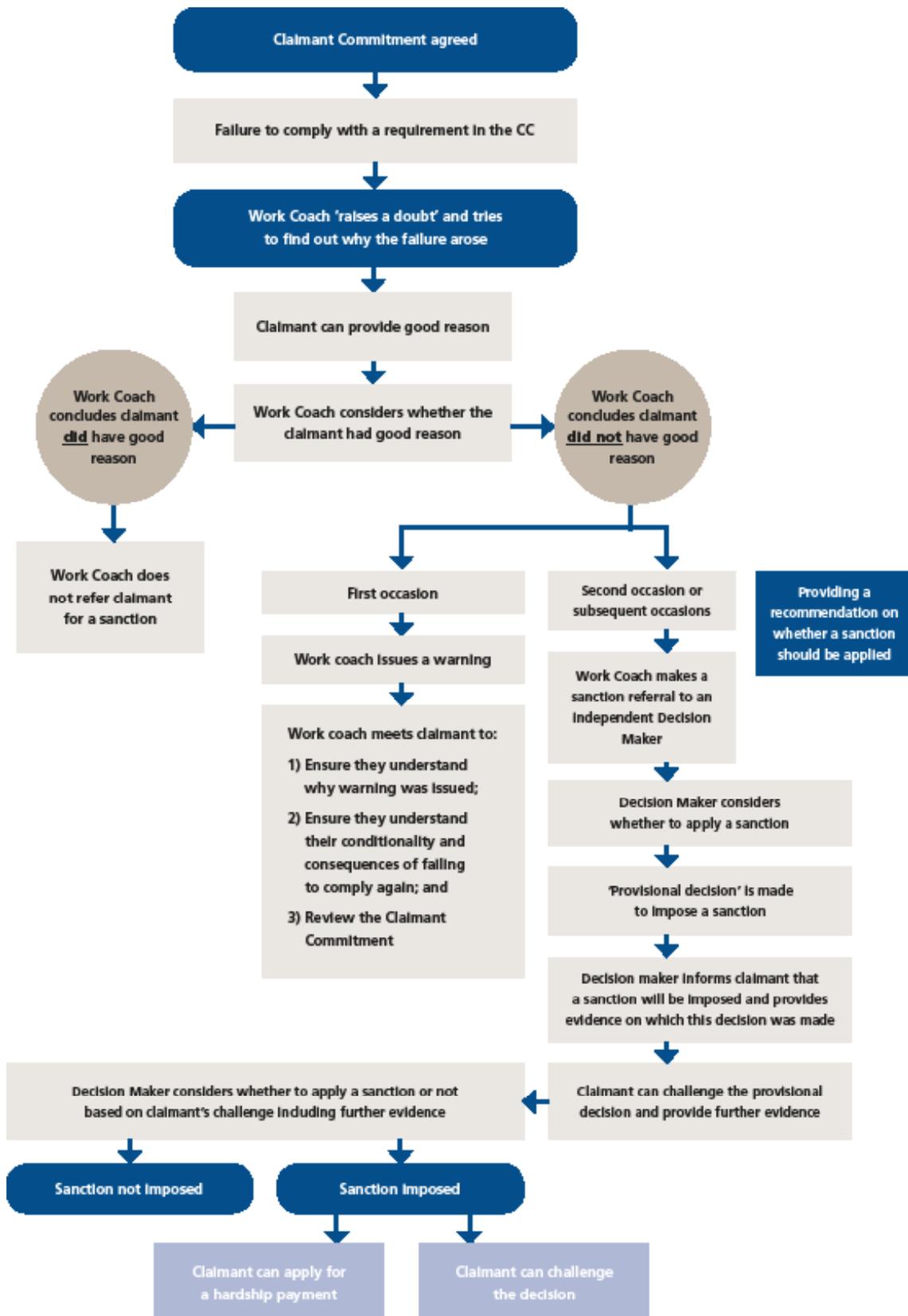
### Imposing a sanction - referrals and decisions

22. We appreciate that the Government has a difficult job in weighing up the competing aims of allowing discretion to ensure flexibility and implementing rules to ensure consistency. A key decision is whether a claimant had ‘good reason’ for failing to comply with their conditionality. As it stands, this is a judgment call for work coaches. We do not doubt that most work coaches will consider this decision carefully, but getting it wrong can trigger unnecessary hardship for the claimant and unwanted bureaucracy for the Department. What is more, it inevitably leads to inconsistent treatment of claimants. This is an unnecessary and significant responsibility for work coaches and we heard too many examples of inappropriate and inconsistent sanctions to be convinced that this approach is working. Carefully drafted regulations on what constitutes ‘good reason’ would ensure work coaches make fairer and more consistent referrals. (Paragraph 109)
23. Once a work coach decides a claimant did not have good reason, they must refer them for a sanction. Similarly, once a decision-maker concludes the claimant’s actions were not reasonable, they must impose a sanction. In this respect, there is no flexibility. We recognise the arguments for there to be discretion not to impose a sanction, either with work coaches or decision-makers. But this would risk reintroducing the very inconsistency we wish to eradicate. What is more, we are confident that if the recommendations in this report are fully implemented, decision-makers would not find themselves even considering sanctions that would be inappropriate or disproportionate. (Paragraph 110)
24. *We recommend that:*
- *the Department introduce regulations on what reasonably constitutes “good reason”, having sought input from third sector organisations. Regulations should include, but not be restricted to:*
    - i) *failure of childcare;*
    - ii) *claimant travelling to or at work;*
    - iii) *failure of transport;*

- iv) *health-related emergency for the claimant or a dependent;*
  - v) *unforeseen requirement to fulfil a caring responsibility;*
  - vi) *attendance at an urgent health-related appointment;*
  - vii) *tending to affairs for up to two weeks following a bereavement;*
  - viii) *any other situation the work coach considers reasonable; and*  
*in relation to failure to accept an offer of work:*
  - ix) *availability and cost of:*
    - *childcare, and*
    - *transport;*
  - x) *other caring responsibilities; and*
  - xi) *the suitability of hours demanded by the employer and available flexibility; and*
- *any contracted provider of a mandatory work-related programme be given the ability not to refer a claimant for a sanction should the claimant provide good reason for failing to comply with a conditionality requirement. (Paragraph 111)*
25. It is not acceptable that claimants must endure a sanction for weeks on end while they await the outcome of a challenge, which may prove that the sanction was incorrectly applied in the first instance. (Paragraph 112)
26. *We recommend that the Department commit to a timeframe for making decisions at mandatory reconsideration and appeal. It should monitor success against this target and publish the data collected in the its annual report. (Paragraph 113)*
27. We constantly hear that the benefits system is being reformed to reflect the world of work. But in what workplace would a first mistake be met with the harshest penalty? In the workplace, we would reasonably expect to receive a warning in the first instance. This should also be true of the benefits system. We therefore welcome the Government's announcement to trial warnings instead of sanctions for the first time a claimant fails to attend a Work Search Review; but the scope of this trial is limited. The Department must therefore treat it as an opportunity to learn lessons while working towards rolling out this policy to all claimants subject to conditionality. We are not convinced by the Department's assertion that this change requires primary legislation. We believe it could be introduced via secondary legislation, in which case the issue of Parliamentary time is irrelevant. (Paragraph 116)
28. *We recommend that the Department explore all options for allowing a warning, instead of a sanction, to be issued in response to any claimant's first sanctionable failure. It should set out these options in its response to our report, identify the simplest approach, and commit to introducing the necessary legislation by May 2019. The policy should be based on lessons learnt from the recently announced pilot. The Department must ensure that under both the pilot and subsequent policy reforms:*

- *the warning must be communicated clearly via the claimant's preferred method of communication, which may not be a written letter; and*
  - *a warning must automatically trigger a meeting between the claimant and work coach. At this meeting the work coach must ensure the claimant fully understands the rules around conditionality and sanctions. They must also review the Claimant Commitment, including considering whether any easements should be applied.*
29. Universal Credit is built on a personal relationship between work coach and claimant. Yet the decision to impose a sanction is made by someone who has never met the claimant and who cannot be expected to understand fully the circumstances that led to them to fail to comply. While we understand the importance of an independent decision-maker, we believe the process would benefit from the insight of the claimant's work coach. (Paragraph 122)
30. Sanctions must be a last resort and claimants should be able to challenge the decision before it is imposed. It is in the Government's interest to get the decision right first time. Not only would it minimise the administrative burden of challenges but, more importantly, it would mitigate the potential harm caused by an incorrectly imposed sanction. (Paragraph 123)
31. *We recommend that when a work coach refers a claimant for a sanction, they are required to include, in the information they send to the decision-maker, a recommendation on whether a sanction should be imposed. This should be based on their knowledge of:*
- *the significance of the claimant's failure to comply with conditionality;*
  - *their understanding of the claimant's circumstances; and*
  - *their assessment of the likely impact a sanction would have on the claimant's financial and personal well-being* (Paragraph 124)
32. *Based on this recommendation and the other information provided, the decision-maker should make a "provisional decision". This decision must be communicated clearly to the claimant, together with the evidence on which it is based. The claimant should then have 30 days either to challenge this evidence or actively opt not to provide further evidence. If the claimant has not confirmed receipt the decision-maker must make further efforts to contact them.* (Paragraph 125)

The figure below shows the process with our recommendations incorporated.



### Hardship payments

33. Hardship payments are made to those who would otherwise be left with nothing. A claimant who has lost 100% of their standard allowance because of a sanction can receive 60% of that allowance as a hardship payment. In effect, this is a reduced rate sanction of 40%. We understand the Government's rationale for recovering this money. But as this is apparently not financially motivated, and the people repaying hardship payments are necessarily on the brink of poverty, we struggle to see how a repayment cap as high as 40% is justified. (Paragraph 131)
34. *We recommend that the Government issue revised guidance to all work coaches, and if necessary amend regulations, to ensure recovery of hardship payments is only ever at a rate that is affordable for the claimant, no matter how low, with the default being 5% of the claimant's standard allowance. This action is needed in addition to, not instead of, the longer-term review of recovery caps recommended in our report on Universal Support.* (Paragraph 132)

# Formal minutes

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**Wednesday 31 October 2018**

Members present:

Frank Field, in the Chair

Ruth George      Chris Stephens

Steve McCabe

Draft report (Benefit sanctions), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 132 read and agreed to.

Summary agreed to.

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

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

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

[Adjourned till Wednesday 14 November at 9:15

## Witnesses

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The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

### Wednesday 16 May 2018

**Tony Wilson**, Director of Policy and Research, Learning and Work Institute; **Matthew Oakley**, independent reviewer of JSA sanctions; and **Dr David Webster**, Honorary Senior Research Fellow (Urban Studies), University of Glasgow.

[Q1–51](#)

**Jen Fidai**, Benefit claimant; **Luke O'Donnell**, Benefit claimant; and **Samantha**, Benefit claimant.

[Q52–131](#)

### Wednesday 20 June 2018

**Sumi Rabindrakumar**, Research Officer, Gingerbread, **Ayaz Manji**, Policy and Campaigns Officer, Mind, **Maeve McGoldrick**, Head of Policy and Campaigns, Crisis, and **Iain Porter**, Policy Officer, Poverty and Inequality, The Children's Society.

[Q132–164](#)

**Professor Peter Dwyer**, Director of Research for joint university project, **Anna Bird**, Executive Director for Policy and Research, Scope, and **Martin Williams**, Welfare Rights Worker, Child Poverty Action Group.

[Q165–202](#)

**Ed Boyd**, Managing Director, Centre for Social Justice, **Kirsty McHugh**, Chief Executive, Employment Related Services Association, and **Kayley Hignell**, Head of Policy (Families, Welfare and Work), Citizens Advice.

[Q203–235](#)

### Wednesday 27 June 2018

**Alok Sharma MP**, Minister of State for Employment, Neil Couling CBE, Director, Universal Credit Programme, **Iain Walsh**, Director of Labour Market Strategy & International Affairs and **Colin Stewart**, Area Director (North), Department for Work and Pensions.

[Q236–348](#)

## Published written evidence

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The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

ANC numbers are generated by the evidence processing system and so may not be complete.

- 1 Amanda Hammatt ([ANC0023](#))
- 2 Anthony Bain ([ANC0013](#))
- 3 Ben Geiger ([ANC0089](#))
- 4 British Psychological Society ([ANC0061](#))
- 5 Centrepont ([ANC0060](#))
- 6 Child Poverty Action Group ([ANC0056](#))
- 7 Citizens Advice ([ANC0067](#))
- 8 Citizens Advice Derbyshire District ([ANC0031](#))
- 9 Citizens Advice Newcastle ([ANC0051](#))
- 10 Citizens Advice Rossendale & Hyndburn ([ANC0058](#))
- 11 Citizens Advice Scotland ([ANC0076](#))
- 12 Citizens Advice Staffordshire North and Stoke-on-Trent ([ANC0052](#))
- 13 Coventry Citizens Advice ([ANC0049](#))
- 14 Crisis ([ANC0065](#))
- 15 Crisis ([ANC0092](#))
- 16 David Morgan ([ANC0004](#))
- 17 David Taylor ([ANC0010](#))
- 18 Department for Work and Pensions ([ANC0083](#))
- 19 Depaul UK ([ANC0070](#))
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- 21 Dr Aaron Reeves ([ANC0081](#))
- 22 Dr Ben Geiger ([ANC0063](#))
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- 24 Dr Rachel Loopstra ([ANC0078](#))
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- 30 Friends, Families and Travellers ([ANC0030](#))
- 31 Gingerbread ([ANC0080](#))
- 32 Gwent Welfare Reform Partnership (GWRP) ([ANC0047](#))
- 33 Homeless Link ([ANC0032](#))

- 34 Inclusion London ([ANC0026](#))
- 35 Jamie Hepburn ([ANC0084](#))
- 36 Joseph Rowntree Foundation ([ANC0068](#))
- 37 Law Society of Scotland ([ANC0073](#))
- 38 Leeds City Council ([ANC0028](#))
- 39 Luke O'Donnell ([ANC0095](#))
- 40 Mickey Taylor ([ANC0020](#))
- 41 Mind ([ANC0064](#))
- 42 Miss Samantha ([ANC0085](#))
- 43 MP Keith Brown ([ANC0091](#))
- 44 Mr Jagdish Chand ([ANC0077](#))
- 45 Mr peter humphreys ([ANC0074](#))
- 46 Mr Simon Ball ([ANC0001](#))
- 47 Mr Stephen Kerr ([ANC0040](#))
- 48 MRC/CSO Social and Public Health Sciences Unit, University of Glasgow ([ANC0062](#))
- 49 Ms Alice Walker ([ANC0006](#))
- 50 Ms Diana Trizna ([ANC0011](#))
- 51 Name Withheld ([ANC0005](#))
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- 61 NHS Health Scotland ([ANC0045](#))
- 62 North West Income Management Forum & Greater Manchester Housing Providers ([ANC0035](#))
- 63 Participation and Practice of Rights Project ([ANC0033](#))
- 64 Peabody ([ANC0034](#))
- 65 Portsmouth Tackling Poverty Strategy Steering Group ([ANC0042](#))
- 66 Presbyterian Church of Wales ([ANC0057](#))
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- 68 Public Law Project ([ANC0037](#))
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- 79 The Baptist Union of Great Britain, the Church of Scotland, the Methodist Church, the United Reformed Church and Church Action on Poverty ([ANC0043](#))
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