

Citizens Advice Scotland Briefing on sanctions

March 2014



Citizens Advice Scotland (CAS), our 61 member bureaux and the Citizen Advice Consumer helpline form Scotland's largest independent advice network. Advice provided by the Scottish CAB Service is free, independent, confidential, impartial and available to everyone. Our website, Adviceguide, also provides the public with upto-date information on a range of topics.

Welfare and benefits issues remain the biggest area of work for the Scottish citizens advice bureaux (CAB) network. It is also an increasing area of work. Total Benefit and Tax Credit issues for CAB have increased 7.2% in last three years and in 2012-13 it made up 38% of CAB work. CAB are working to support people across Scotland with current welfare changes and doing our utmost to mitigate the negative impact of changes and benefit cuts.

This briefing focuses on the reasons why bureaux clients are being sanctioned, and looks at whether the sanctions regime is meeting the aim of ensuring claimants undertake appropriate activity to get them into employment. At the end of the briefing is a short description of how sanctions work.

Overview

Citizens Advice Scotland (CAS) has seen a significant increase in the number of JSA sanctions issues being dealt with in bureaux in the last few years. Between 2011/12 and 2012/13 there was an 18% increase in JSA issues dealt with in bureaux. This was largely driven by the increase in sanctions issues, which rose by 43%. Based on the first three quarters of 2013/14, CAS is projecting a similar increase to around 20,000 JSA issues dealt with in bureaux this year. We again believe this increase to be largely due to sanctions, which make up nearly one in five (18%) of all JSA issues, amounting to around 3700 sanctions issues.

For the first time in 2013/14 we have started to record ESA sanctions statistics. By the end of this period we expect bureaux will have dealt with around 800 ESA sanctions.

CAS is not automatically opposed to sanctions. However our position remains that sanctions must only be used as a last resort for those who have consistently and deliberately refused to engage with jobseeking requirements without good reason. If sanctions are to be used, then we believe they should be applied appropriately and consistently and with discretion. It is clear that the current operation of the sanctions regime is not in line with these principles.

CAS strongly believes that there needs to be a fundamental and public review of the purpose of the sanctions regime. This review should examine the reasons behind the huge increase in sanctions in recent months and years, the effectiveness of the current regime in meeting its stated purposes, and what relationship there is between sanctions, food poverty and destitution.

Recommendations

As you will see from the following pages there are many reasons why people turn to their local CAB for advice and support when they are sanctioned. Communication is a major problem between clients and the JCP. There are a number of changes that could be made to make the process better for clients, more clear, accessible and transparent. Here are CAS recommendations.

1. People should get a written warning at the first breach of the Claimant Commitment before escalating to a sanction to make sure the sanction acts as a deterrent and not a punishment.

2. Claimants must be notified formally as soon as there is a query about a disallowance or sanction which could lead to their benefit being stopped.
3. Claimants should receive written notification at least ten working days prior to a sanction being applied, and should be told then of the reason for the sanction.
4. Outgoing phone calls and texts from the DWP to claimants should display a recognisable number, or ideally a name such as "Jobcentre Plus" so that claimants know who the communication is from.
5. The initial letter and explanations of the process to ESA claimants must be improved so that claimants are clear about the requirements on them and the consequences of not meeting them.
6. DWP should examine communication practice across Jobcentres to ensure communication procedures are carried out consistently and all claimants receive the correct information in a timely manner.
7. We would like to see specific attention paid to how the issues set out here (including IT access for jobsearch, notifications of appointments, how to meet the associated costs of jobsearch requirements following an initial sanction, and the clarity over whether targets for jobsearch tasks are on a weekly or fortnightly basis) are communicated and handled when working out a Jobseekers Agreement or Claimant Commitment with jobseekers, both on an individual claimant level and as a broader policy direction.
8. The DWP should gather good practice of Jobcentres communicating in effective and innovative ways with claimants, and look at how it can be rolled out more widely across the country.
9. In order for the DWP to comply with its duties under the Equality Act 2010, they should ensure that they proactively identify claimants who have a disability under that Act, particularly clients with conditions that may affect their capacity to understand and comply with the requirements placed on them. DWP must put in reasonable support and adjustments to ensure that they do not get penalised by the sanctions regime for a reason relating to their disability.
10. More effort must be put into communicating to claimants why jobsearch requirements are meaningful, or requirements should be revised to ensure they do genuinely support people to find work.
11. Sanctions should only be applied appropriately, with discretion and as a last resort, to deter people from consistently and deliberately refusing to engage with jobseeking requirements.
12. There needs to be a fundamental and public review of the purpose of the sanctions regime. This review should examine the reasons behind the huge increase in sanctions in recent months and years, the effectiveness of the current regime in meeting its stated purposes, and what if any relationship there is between sanctions, food poverty and destitution.
13. Scottish Welfare Fund guidance should clarify that grants can be awarded where a claimant has been sanctioned if the claimant needs money to meet the living expenses of dependent children, or if there are other circumstances which means a claimant is particularly vulnerable.

Communication deficit

Bureaux often see clients who are sanctioned for not attending meetings yet say they have had no notification of meetings. In some cases this is because the DWP has failed to process information they have been provided with. (DWP advisers have told bureaux it can take up to ten working days for DWP to process a change of address).

***A West of Scotland CAB reports** of a client who came in about emergency assistance. He has been sanctioned for missing a meeting and is appealing on the basis that he did not receive notification. Now the client has no money. He has pawned his phone to get food. He can only be contacted by letter or email, although he has no power at home to*

use his computer and has no access to a vehicle or public transport at present because he has no money.

A South of Scotland CAB reports of a client who has had his ESA benefit stopped for one month because he did not inform them of his change of address. He moved two months ago and his key worker completed a removal pack, which included a change of address for benefits. The DWP say they have not received this information.

In some cases poor communication from the Jobcentre makes it very difficult for a claimant to understand what is expected of them.

A West of Scotland CAB reports of a client who has been sanctioned for a month for missing his signing on day. He had been told by Jobcentre staff that the Jobcentre was shut due to a fire and he would be informed by letter when it was open. He went to a different Jobcentre later that week to sign on and was told by staff that his original jobcentre was open. He was too late to go to there that day and so signed on the next. He received a 4 week sanction for this.

A West of Scotland CAB reports of a client who was sanctioned twice for not filling in his jobsearch diary properly. The Jobcentre advisers changed the requirements for the diary on a weekly basis. One week it was satisfactory, the next week too much information, the next week too little information. He was also told that he was not allowed to apply for more than three jobs a day. His requests to speak to a supervisor were repeatedly denied, as was his request to have someone accompany him. On one occasion he was locked in a room after becoming emotional. The sanctions were overturned on appeal.

Offline and left behind – IT-related sanctions

Bureaux in Scotland have seen a very large number of cases where clients are being sanctioned because they have failed to use IT correctly to do their jobsearch. Many of these clients have no IT skills and / or no access to the internet.

CAS conducted a survey of Scottish CAB benefits clients and found that only 54% have an internet connection at home, and less than a quarter (24%) feel able to apply for jobs or benefits without help¹. Some are undertaking training to gain the necessary skills and help them do their jobsearch, but may still get sanctioned in the meantime. These clients understand that they need to develop their IT skills but the requirements placed on them at this stage are unrealistic and mean sanctions are inevitable.

In other cases clients report practical problems, such as not being able to access the internet either at home or in public settings such as libraries for sufficient times each week to meet the jobseeking requirements, or problems with the Government's Universal Jobmatch system failing to record a claimant's jobsearch. Jobcentres are keen for claimants to do their jobsearch through Universal Jobmatch, as this makes it easy to monitor claimants' jobsearch activity through it. However, there has been considerable criticism of the system for hosting jobs which are out of date, fake, or inappropriate. Some estimates suggest that this represents one in five jobs on the site. Most recently there have been suggestions that the DWP is thinking of scrapping Universal Jobmatch².

A West of Scotland CAB reports of a client who was sanctioned for four weeks. When she went to the Jobcentre to sign on, the adviser could not get into Universal Jobmatch.

¹ CAS (2013) Offline and left behind
²

The client was told to return later. When she did, another adviser spent a further ten minutes trying to get into the system. The client had applied for 24 jobs in the two weeks, but one had been deleted from the system (although it was recorded in the job log she is also required to fill out). She was told immediately she had been sanctioned, given a sheet of paper and told to phone the number on it in three days' time to see if she would get any money.

A South of Scotland CAB reports of a client who has been sanctioned for "not fully complying with his JSA obligations". His reasons for not complying were that he spent two days a week doing community services and the other three days he had to go to the local library to use the computer. Availability at the library is limited because the area has high unemployment and so there is a huge demand for the computers. He finds it difficult to go to the main town to get to the Jobcentre as he is required to because he has so little money to live on.

Unaffordable jobsearch requirements

Some clients are unable to meet jobseeking requirements because they cannot afford the costs of their jobsearch. Often this is the result of a previous sanction. Someone who is sanctioned must continue to sign on and meet their jobsearch criteria. If someone has no income they may find it difficult or impossible to pay for the public transport necessary to get to the Jobcentre or to access the internet within the community in line with their requirements. They may not be able to afford to operate a mobile phone or a landline, and therefore have no means to receive communications from the Jobcentre or contact employers.

A West of Scotland CAB reports of a client who has received another JSA sanction. The Jobcentre adviser told him he had not telephoned enough times the previous week. The client says he has a mobile phone and cannot afford to keep it topped up to call five to six firms a week. He goes to the library every day to send emails or apply for jobs online, but the Jobcentre adviser does not think this is sufficient as he could come into the Jobcentre, even though this is a three mile walk away for the client. He has no food, gas or electricity.

Whether or not these clients understand that they could be sanctioned for not complying with jobseeking requirements, they are not in a position to be able to comply because of previous sanctions.

Notifying claimants of a sanction

CAB have seen a number of cases where clients have received letters informing them of the sanction dated after the sanction has started, or occasionally after the sanction has finished.

An East of Scotland CAB reports of a client whose JSA had been sanctioned, although he did not know why. A letter dated 13 November showed he had been sanctioned on 22nd October, then again from 5 November for three months. He had been sent on a two week course with a Work Programme provider starting the 21st October and had completed the course. The bureau called the Jobcentre who explained that he had been sanctioned for failing to do enough to actively seek work (decision dated 6 November). A further three month penalty was added on 13 November, although it was not clear why. The client has dyslexia and is seeking psychiatric help for either a learning disability or mental health problem. He struggles to manage his own money without help and is extremely distressed by the situation.

CAS understands that in some cases the delay in sending the letter may be while a decision is being made about the sanction, and the sanction is then backdated to the start

of the benefit suspension. Whatever the reason, the failure to give claimants warning of the application of a sanction before it is applied causes unnecessary hardship and can leave claimants without food, power, and lead to debt and rent arrears. To prevent this, **claimants should receive written notification at least ten working days prior to a sanction being applied, and should be told then of the reason for the sanction.**

Does the sanctions regime support compliance with jobseeking requirements?

Many of the clients seen in Scottish CAB do not know why they have been sanctioned. Sometimes they can find it hard to get this information from the DWP.

***An East of Scotland CAB reports** of a client who has been sanctioned for 4 weeks from the end of November 2013. He has been attending a Work Programme scheme. He says he has never missed an appointment, and this letter is the first notification he has had of any problem. He does not understand the sanction, had no prior notification and now has no money.*

***A West of Scotland CAB reports** of a client who had received a sanction but no one at the Jobcentre would tell him why. He then went to the Jobcentre who told him it was because he had not turned up for an interview. He told them he had turned up to the interview and they lifted the sanction.*

If claimants do not know why they have been sanctioned, and the DWP is not able to tell them, it undermines the purpose of sanctions, that is, to encourage jobseekers to comply with the requirements placed on them.

We have seen a small number of cases where claimants feel that Jobcentres are varying the terms of the Jobseekers Agreement without telling them. This situation makes it impossible for the claimant to comply with conditions that are unknown to them.

***A West of Scotland CAB reports** of a client who has been sanctioned twice by DWP. He thinks this is because at his last signing on session he was advised that evidence of 6/7 job searches was no longer enough and he should be aiming for 12. He was told that he 'might' be sanctioned. This was the first time that he knew that the number of job searches required had increased: at his previous signing on he was told by a different adviser that 6/7 was enough. The client has not received a letter explaining the reasons for the sanction. Without that letter it is not possible to request a mandatory review, and since there is a four-week time limit the client may run out of time. The client later returned to the bureau as the Jobcentre had refused to give him written reasons for the sanction. The CAB adviser phoned the JSA helpline and was advised that the letter had been sent on 10th December, although the client has not received it.*

***An East of Scotland CAB reports** of a client who has been sanctioned for not applying for a sufficient number of jobs. He had previously been required to apply for 10-15 jobs, but this has been increased to 42 without any notice. He feels that this is the result of difficulties with one particular adviser, as he had not previously had difficulties at the Jobcentre. The client was advised to submit a formal complaint.*

We would like to see better notification of sanctions being applied. Bureaux regularly see clients who are unaware that they have been sanctioned: some advisers suggest this is the majority of sanctions cases they see. Clients come into bureaux to find out why their money has not arrived in their bank account, and it is only when the bureau calls the DWP

that they discover they have been sanctioned. In some cases the DWP adviser on the phone is not able to tell the client why they have been sanctioned.

Making requirements meaningful to claimants

It is important that the requirements placed on benefit claimants are meaningful and that jobseekers believe that they will genuinely increase their chances of finding work. Yet many of the cases seen in bureaux, and the examples in this briefing, seem to be about requiring claimants meeting targets and ticking boxes, rather than undertaking meaningful activity which will help them achieve sustainable employment. **If claimants do not feel the requirements are meaningful, then more effort must be put into communicating to claimants why they are meaningful, or revising the requirements to ensure they do genuinely support people to find work.**

A West of Scotland CAB reports of a client who sought advice after having been told his JSA had been sanctioned because he now had to record every job he looked at and not just those he applied for. The client has been claiming JSA for around two years, and thought he was complying with his Claimant Commitment by applying for around ten jobs a week. His JobcentrePlus Advisor has never told him that he should be doing anything else and the client is sure his copy of his Claimant Commitment doesn't say anything about recording every job he looks at.

Tense relationships between claimants and DWP

Some clients who come to CAB have a difficult relationship with their Jobcentre adviser. We have seen a number of cases recently where clients report feeling intimidated by their adviser. In these cases they may not feel able to negotiate with their adviser about the Jobseekers Agreement nor discuss any personal issues affecting their jobsearch, and this can cause great anxiety. The evidence is not conclusive, but some bureau advisers suggest that this may be an increasing trend.

A North of Scotland CAB reports of a client who is struggling to use her Universal Jobmatch account. She had never used a computer before becoming unemployed. The Jobcentre sent her on an IT course, but this was too advanced for her. She needed to learn how to switch the computer on, but it started straight away with how to use the web. She is very anxious because she has been berated by her Jobcentre adviser for getting things wrong. The worry of being sanctioned and the stress related to having to see the Jobcentre adviser is preventing her from sleeping at night and making her ill. She said that the adviser is so abrasive that her daughter has stopped signing on and the client is worried about what money her daughter will live on. The adviser has told the client to apply for any job, including jobs that she is not qualified for and would have no chance of getting in order to meet her Claimant Commitment.

A West of Scotland CAB reports of a client who attended a Jobcentre appointment. She was unable to answer some of the adviser's questions, and the adviser got a supervisor. The client was being asked how many jobs she had applied for, but she was doing preparatory courses to help her apply for jobs online and prepare a CV. Because these had not started yet, she answered the adviser's questions literally and said she was not looking for work. The adviser then told her to come back later in the day. The client felt very intimidated and humiliated and so did not. She then received a sanction.

It is clear that in some cases seen by bureaux DWP communications are very poor and the full information is not provided to the claimant. Bureaux often see clients who come to check information provided by Jobcentre Plus, or where Jobcentre Plus have refused to

provide information and referred them to the bureau. We sometimes see cases where Jobcentre Plus have provided incorrect information.

***A West of Scotland CAB reports** of a client who had told the Jobcentre about the different jobsearch activities he had undertaken. The adviser hinted this may not be enough to satisfy conditions for the benefit and would have to refer it “upstairs”. He did not explain the possibility of sanctions or his options. The client was not informed that a sanction had taken effect until after it had done so. When he requested a hardship payment he was not made aware that he would have to sign on to trigger it. The client came to CAB to make sure he had the correct information.*

Accessing hardship funds and challenging decisions

Many clients seen in Scottish bureaux are not aware of hardship payments or of the right to challenge a sanction decision. They only find out about them when they come into bureaux seeking support to access food or energy. It is at that point that the bureau adviser finds out that the need has arisen as a result of a sanction and explains to them about hardship payments and the appeals or mandatory reconsideration process.

***An East of Scotland CAB reports** of a client who has been sanctioned after he forgot to inform the Jobcentre that he had a job interview (his first in 5-6 months) on his signing on day. He phoned and went into the Jobcentre the next day to explain. He received a sanction but no written decision and did not find out about hardship payments until he moved to another area and reclaimed JSA at a different Jobcentre.*

***An East of Scotland CAB reports** of a client who returned to the bureau because he has not been informed how long his sanction will last for. He also wanted to know whether his National Insurance credits would continue during the period of the sanction.*

Clients who come to bureau have very varied experience of how much information they receive about their jobseeking requirements, the sanctions process and what to do following a sanction. **DWP should examine communication practice across Jobcentres to ensure communication procedures are carried out consistently and all claimants receive the correct information in a timely manner.**

Some bureaux report that they are seeing clients who feel that their sanction is wrong but do not appeal it because it feels too much hassle, or because they are afraid of making their relationship with the Jobcentre staff worse, and that they can get by for four weeks. However, by letting the sanction go, they may not realise that should they receive another sanction in the future it may last for 12 weeks rather than just four, which would be much more difficult to manage. (And by which time they may no longer be entitled to support from a food bank, as many food banks limit the number of food parcels any one client can claim).

It is very important that claimants are notified formally where there is a query about a disallowance or sanction, as the benefit payment may be suspended immediately, and in some cases they will receive no more money until they “reengage” with the Jobcentre. Not only does this cause a financial emergency for the client, but when a client has not received notification of a benefit related appointment, they may not know that they should have engaged with the Jobcentre regarding that appointment until their next regular appointment. Again, bureaux often see clients who have not received letters, for example because of a confusion over their address, or because the DWP have not updated the claimant’s address on all their systems.

ESA sanctions

The migration of many claimants off Incapacity Benefit has meant many people with disabilities and long-term health conditions either coming under the conditionality regime of Employment Support Allowance, or even more worryingly, onto the much harsher conditionality regime of Jobseekers Allowance (JSA) if they are deemed fit for work.

A South of Scotland CAB reports of a client who has learning difficulties who is now applying for ESA. She has been on JSA but has found it very difficult to comply with the requirements, such as contacting employers and operating computers. This has resulted in a lengthy sanction. She has limited mental capacity, affecting her understanding and communication. The client has been told by JSA staff that she is lazy and not trying.

A South of Scotland CAB reports of a client who moved from ESA to JSA eight weeks ago. He has now received a four week sanction for not logging on to the JSA website 5 times a week and not approaching 10 potential employers. He has no internet at home or on his phone, and struggles with the cost of travelling into the nearest town each day to access a computer. He was not allowed to log on the day he attended the interview.

It is not only JSA claimants who are referred to back-to-work schemes. Employment and Support Allowance (ESA) claimants who are placed in the Work Related Activity Group have to engage with work related support such as attending Work Focused Interviews. These people may have health conditions or disabilities that make it more difficult for them to meet requirements, and the consequences of receiving a sanction may be even more severe than for those who have better health. At present communications to ESA claimants are not clear enough that failure to attend these meetings could result in a sanction and/or loss of benefit. **The initial letter and explanations of the process to ESA claimants must be improved to make this clear.**

A West of Scotland CAB reports of a client who has been awarded the work-related activity component of ESA. He has ME, for which he has a letter from his doctor, saying he is unable to hold down a job. He was unwell last week and could not attend a meeting with the Work Programme provider, and informed them of this. Today he was at the Work Programme provider but was again feeling unwell. He spoke to them and explained, and they said if he went home the Jobcentre would sanction him. He called the CAB, who explained to him that as part of being in the work-related activity group he had to attend these meetings. The client did not know this and thought they were voluntary. The CAB explained that if he was sanctioned he would have to request a mandatory reconsideration and that he would get no money in this period. The client felt this was very unfair.

A West of Scotland CAB reports of a client who has autism and epilepsy receiving ESA. He has received a three month sanction for failing to attend the work activity group on several occasions. The client says he never received any letters telling him he had to do so.

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How do sanctions work?

Sanctions are currently primarily applied to Jobseekers Allowance (JSA) and Employment and Support Allowance (ESA). They can also be applied to Universal Credit.

In October 2012 the duration of JSA sanctions increased substantially. The duration of the sanction depends on the type of “offence” committed and the number of times it has occurred. For some offences a first sanction can last 4 weeks, a second offence 12 weeks, and a third offence 3 years.

In December 2012 the sanctions regime for ESA claimants became much more stringent. An ESA sanction now removes the entire personal allowance of £71.70 a week. (Prior to this the loss was usually £14 a week for the first four weeks.) The sanction lasts for an open-ended period until you are deemed to have re-engaged with your requirements, followed by a further fixed period sanction.

What does stopping someone’s benefit actually mean?

The processes by which a client might have their benefits “stopped” are extremely complex and there often appears to be confusion about it. While a decision is being made by DWP about whether a claimant has complied with the benefit conditions, the claimant’s benefit payment is often **suspended** immediately. If the claimant is deemed not to have met the requirements set out in their Jobseekers Agreement or Claimant Commitment³ they may be **sanctioned**, usually meaning they lose their benefit payment for a fixed period.

If a claimant is deemed to be not “actively seeking work” or has missed their signing on, their benefit claim could be “**disallowed**” or “**disentitled**” (because they are no longer meet the eligibility criteria to claim the benefit). When they reapply, they may then face a further sanction (often 13 weeks for a first time offence).

What happens when a claimant is sanctioned?

When a JSA claimant is sanctioned usually they will lose their entire benefit for the period of the sanction. Depending on what day the sanctionable action took place and on what day they are due to receive their benefit payment, they will lose their benefit either for the current payment period or for the following period.

Claimants can request a **reconsideration** of the decision. As of November 2013 these are a mandatory before a claimant can appeal a decision, although there is no set timescale in which the DWP has to deal with these. Around 31% of these are successful. Once they have received the reconsideration decision they can **appeal** the decision. Only around 2% of JSA claimants go to appeal, but currently around 87% of them successfully overturn their sanction.

A claimant may be eligible to apply for **hardship payments**, particularly if they are considered vulnerable, for example because they have dependent children, a long term health condition or disability. These are usually 60% of normal benefit. (The rules for hardship payments under Universal Credit are much more stringent: claimants have to show they have already made every effort to get alternative sources of support (eg applying to charities), and the payments are recoverable.)

In general, if a claimant has been sanctioned they cannot get support through the **Scottish Welfare Fund**. The exceptions are if they have dependent children, or they need support for a disaster or crisis unrelated to the sanction.
