

Sanctioned: what benefit?

A report on how sanctions are operating
from the experience of Scottish Citizens
Advice Bureaux



**citizens
advice
scotland**

Citizens Advice Scotland - July 2014

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Chief Executive Foreword

You can't work in a Citizens Advice Bureau (CAB) these days without knowing the effect of sanctions on some of the most vulnerable people who come through our doors.

Being sanctioned means your Jobseekers Allowance or Employment and Support Allowance benefit money is stopped. From a minimum of a week to as long as three years. That is the money that you live on. The money that you use to heat your home, feed and clothe yourself and your family, pay your bills, pay for travel, to get to the JobCentre and to, look for work.

Can you imagine what it must be like to have that money taken away? To do without an income? Take it one step further and think about what it would mean to have your income stopped and not know why, not know for how long, and not know what you can do about it.

That is the reality faced by many of the clients CAB see every day. For some they don't know why, for others they may know why but it was due to unavoidable circumstances. Circumstances such as being unable to access or use computers or missing appointments they had not been notified for, or because they didn't receive a letter. Others simply don't understand a complex sanctions regime which is not communicated clearly or simply. The result though is that people are left bereft of their income and not sure where to turn.

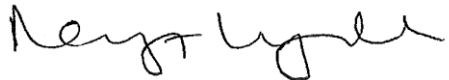
This is where CAB come in. Bureaux help people navigate a complicated system, unpick bureaucracy and poor communications, help clients appeal unfair decisions, and let them know where they can get emergency help in terms of hardship payments if they qualify and food parcels for them and their families, how they can reinstate other benefits that may have been wrongly impacted by the loss of JSA or ESA such as housing benefit.

And as the numbers of people being sanctioned increases - and it has increased massively in the last few years - so do the numbers turning to CAB for help. Clients are presenting in crisis and desperation; who have gone without food, who have switched off their energy supplies leaving them unable to cook and heat their homes and who are suffering from stress and often ill-health – with existing conditions exacerbated further.

Which is why Citizens Advice Scotland wants to see major changes to the sanctions system starting with a fundamental review of the system. We also want to see smaller changes that could be done right now which would help people enormously with understanding the system such as having clearer and more consistent communications and decisions, and how they can appeal decisions, avoid future sanctions, and receive hardships payments. And critically, we believe that no-one should be left without any income. Every person should be able to eat and heat their homes.

This report not only gives the details of these recommendations to the system, but also why we need it. It provides an analysis of the current system, its impact on clients and provides case studies from our CAB. Real life stories of circumstances which I find absolutely unacceptable for anyone to have to live with.

I hope this report will prove to be a stark warning about the changes that are urgently needed to be made to the sanctions regime and show why CAS will continue to campaign for those changes on behalf of the citizens of Scotland.

A handwritten signature in black ink, appearing to read 'Margaret Lynch', written in a cursive style.

Margaret Lynch
Chief Executive
Citizens Advice Scotland

Executive Summary

During 2013, nearly 900,000 sanctions were applied to Jobseekers Allowance (JSA) and Employment and Support Allowance (ESA) claimants. The rate of JSA sanctions has more than doubled since 2010.

This has resulted in a significant rise in the number of sanctions cases coming in to bureaux in Scotland. Client cases and adviser experiences suggest that there are many problems in the sanctions regime.

In April 2014, Citizens Advice Scotland undertook a survey of bureau advisers, who have frontline experience of the sanctions regime, to gauge how sanctions are impacting on bureaux and clients. The results of the survey show that:

- **Sanctions are increasing** – 94 per cent of bureau advisers believe they have seen an increase in people coming to bureau in the last two years because of a benefit sanction.
- **Sanctions do not serve their purpose** – 95 per cent disagreed that sanctions help clients find employment. Many are unaware of the reason for their sanction.
- **Sanctions can put clients into significant hardship** – 97 per cent of advisers say that clients are skipping meals as a result of a sanction, while 94 per cent say that clients are requesting food parcels. A similar number say clients are going without electricity/gas following a sanction.
- **Claimants are not receiving notice of sanctions** – 60 per cent stated that clients do not usually or never receive notification of a sanction prior to their money stopping.
- **Sanctions are being imposed where claimants have good reasons for not meeting their requirements** – 97 per cent of advisers say that from cases they see, sanctions decisions are not taking into account 'good reasons' that clients have in not meeting their requirements.
- **Many clients seem unaware of their right to challenge decisions** – 92 per cent of advisers say that the process of appeals and hardship payments has not been clearly explained to clients by the Jobcentre.

Our evidence suggests that the loss of income brought about by a sanction is causing severe hardship, a rise in the number of food parcel referrals, is putting tenancies and debt repayments at risk, and in some cases is having a severe impact on claimants' health and wellbeing.

To operate effectively, CAS believes that a sanctions and conditionality regime must be transparent and well communicated, take into account individual circumstances, and be fair and consistently applied. CAS has made a number of recommendations which we believe would help make the system work more effectively and more fairly for claimants. These are set out in detail at the end of the report.

CAS has seven key recommendations which need to be implemented as a matter of urgency:

1. There needs to be a fundamental and public review of the purpose of the sanctions regime.

2. A claimant should never be left with no income at all.

Sanctions should cut benefit by a proportion rather than the entire amount of benefit to ensure people can meet essential living costs. At the very least people should be able to eat and heat their homes.

3. The Department of Work and Pensions (DWP) should ensure that clear written communications about conditionality breaches are provided to claimants in every case.

Claimants must be informed in writing when a sanction referral is made, when a sanction is imposed, its duration and the reasons for it.

4. The DWP should ensure that in every sanctions referral consideration is given to whether a claimant had “good reason” for any sanctionable action.

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.

5. Claimants should receive written notification at least ten working days prior to a sanction being applied.

6. All claimants should receive a written warning at the first breach of the Claimant Commitment before escalating to a sanction.

7. The process of stopping and reinstating direct deductions from benefit following a sanction should be reviewed for its impact on legal and financial arrangements and the possible consequences of the stopping of payments for claimants.

Introduction

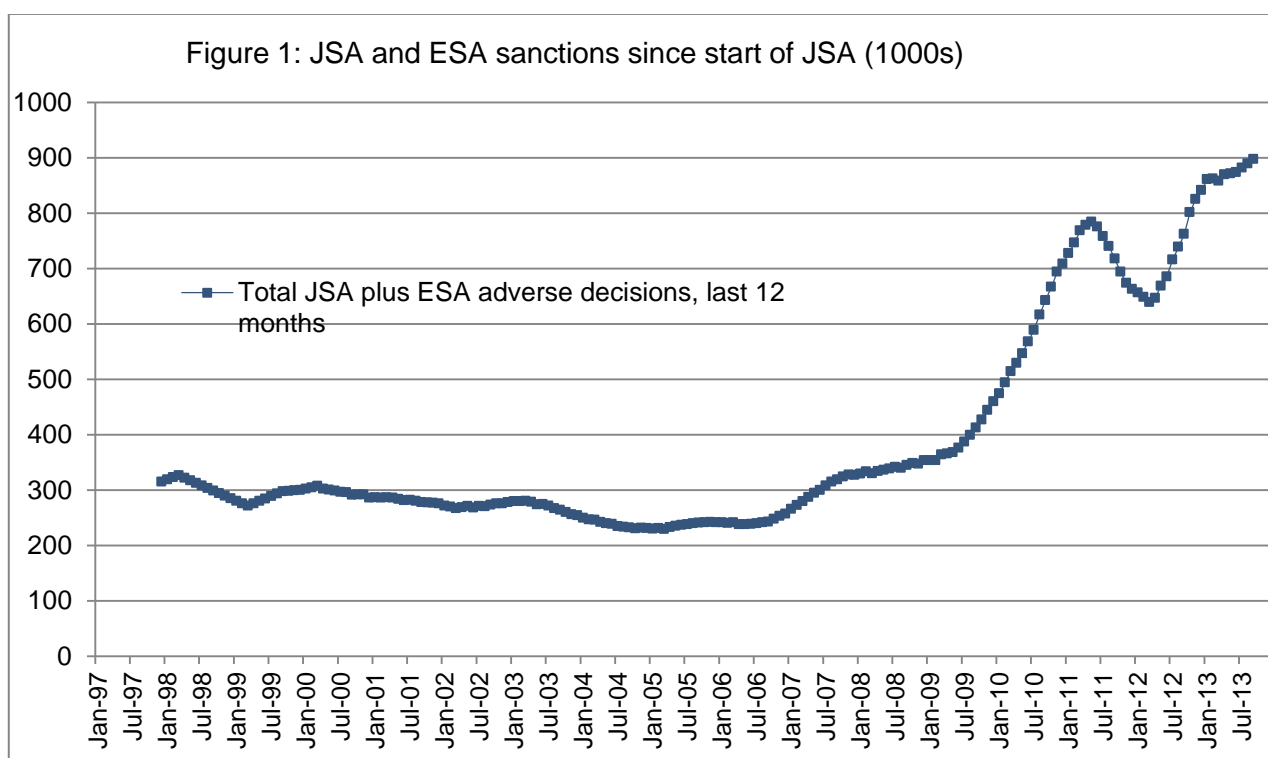
Welfare and benefits issues remain the biggest area of work for the Scottish citizens advice bureaux (CAB) network. In 2013/14 it made up 37 per cent of bureau work, and bureaux dealt with 324,000 benefit issues. It is also an increasing area of work. Total Benefit and Tax Credit issues for CAB have increased 7 per cent in the last three years.

Over the past four years, there has been a huge increase in the number of sanctions applied to people who are out of work through unemployment or ill health. 898,000 JSA and ESA sanctions were applied to Jobseekers Allowance (JSA) and Employment Support Allowance (ESA) claimants during 2013. The vast majority (871,000) of these were JSA sanctions.

Figure 1 shows how the rate of sanctions for JSA and ESA (which came into being in 2008) have changed since 1997.

Calculations by Dr David Webster of the University of Glasgow show that in 2013, 5.4 per cent of all JSA claimants were sanctioned every month (rising to 6.5 per cent for the final three months of the year). That compares to an average rate between 1997 and 2010 of 2.4 per cent.

The number of ESA sanctions have also increased. In June 2011, 0.06 per cent of relevant ESA claimants were sanctioned that month. Two and a half years later in December 2013, this had increased to 0.86 per cent (4,800 sanctions)¹.



From Webster, D (2014) Briefing: The DWP's JSA / ESA sanctions release 19 February 2014²

¹ Webster, D (2014) Briefing: The DWP's JSA / ESA sanctions release 14 May 2014

² The steep rise and then dip in sanctions during 2011/12 is likely to be due to a sharp rise in sanctions referrals after Work Programme providers gained the power to refer jobseekers for sanctions, followed by a fall as administrative problems within the system came to light (David Webster, personal communication).

Not only are the numbers and rates of sanctions increasing, but towards the end of 2012 the penalties associated with sanctions also became significantly more severe. The first level JSA sanction has risen from one week to one month, and the maximum duration of a sanction rose from six months to three years. The penalties are set out in more detail in Box 1 below.

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 per cent increase in JSA issues dealt with in bureaux. In the last year there has been a further 26 per cent increase, with the number of JSA issues dealt with rising from 17,000 in 2012/13 to over 21,000 in 2013/14. We believe sanctions are a key driver in this rise, and in the last year bureaux dealt with 3,800 sanction issues, making up 13 per cent of all JSA issues³.

In addition to JSA sanctions, for the first time in 2013/14 we have started to record ESA sanctions statistics. Through 2013/14 Scottish bureaux dealt with 873 ESA sanction issues.

This report focuses on whether the sanctions regime for JSA and ESA is operating in a fair and responsible way, and what impact sanctions are having on claimants. It is based on a survey of bureaux advisers⁴ and on evidence drawn from the 4,700 sanctions advice issues clients brought to bureaux last year.

94 per cent of bureau advisers in our survey believe they have seen an increase in people coming to bureau in the last two years because of a benefit sanction, and 88 per cent say they have seen an increase in people coming due to a benefit disqualification as a result of non-compliance with conditions.

98 per cent have seen an increase of people with a query about their compliance with benefit conditions coming with no income.

When asked, bureau advisers suggested that people under 25, disabled people, and single people were most likely to be affected by sanctions.

³ CAS changed how we record sanctions issues in 2013/14 to make our recording more specific, which means we cannot compare sanctions rates for previous years.

⁴ Survey carried out online in April 2014 and received 51 responses from different types of advisers (generalist, benefits specialist, managers, session supervisors, etc) in over 30 CAB offices across Scotland (17 local authority areas).

BOX 1: What is a benefit sanction?

Benefit claimants have to meet certain requirements to receive their benefit (known as conditionality), and if they do not they may receive a sanction or their entitlement to benefit may cease altogether. When someone's JSA or ESA doesn't get paid this could be for a number of reasons:

- If they have failed to meet the basic requirements for the benefit, including signing on for JSA, not actively seeking work or not being available for work, their benefit may have been **disallowed** if they have not given reasons within five days. This is sometimes called disentitlement, and it means they no longer have a benefit claim with the DWP.
- Or they may have received a **sanction** if they have not met the actions in their Claimant Commitment; have not done something their Jobcentre adviser told them to; or are deemed to not be actively seeking work or not available for work and have provided a reason within five days, which is deemed to be 'not acceptable'.
- Or their benefit payments may have been **suspended** pending investigation of a query about one of these things

In certain circumstances a claimant can have their benefit claim disallowed, and then once they reclaim they receive a further sanction.

A benefit sanction means that a claimant's benefit payment is not made for a specific period of time.

| | JSA | ESA – for people currently unfit to work but likely to become fit |
|---|---|---|
| Sanction duration | Between 4 and 156 weeks (3 years) | Between 1 and 4 weeks plus indefinite period |
| Sanctioned amount | Usually entire benefit – typically £72.40 a week | Personal allowance - £72.40 a week (left with £28.75 a week) |
| Requirements for continued receipt of benefit | <ul style="list-style-type: none"> • Actively seeking work • Available for work • Requirements in Claimant Commitment (or Jobseeker's Agreement) | As set out in action plan: <ul style="list-style-type: none"> • Attend work-focused interviews • Attend work related activity (e.g. work placements or work experience) |

Sanctions also apply to a range of other benefits, including Universal Credit, Income Support, Incapacity Benefit and Severe Disability Allowance.

PART I: Examining the system

The Government says that sanctions are in place because, in the words of Employment Minister Esther McVey:

“Jobseekers have a responsibility to do everything they can to get back into work. We are ending the something for nothing culture.

“People who are in a job know that if they don’t play by the rules or fail to turn up in the morning, there might be consequences, so it’s only right that people on benefits should have similar responsibilities. We always make the rules very clear – it’s only right that there is a penalty if people fail to play by them.”

The DWP statement continues:

“Sanctions are used as a last resort and the DWP has put in place a comprehensive monitoring regime to ensure that sanctions are always and only applied where appropriate to do so.

“The decision to impose a sanction is taken by an independent decision maker – and everyone has the right to appeal. Crucially, people are always made aware of their right to appeal before any sanction is imposed.”⁵

If conditionality is to be used within the benefit system, then CAS believes that the ultimate goal must be to ensure that jobseekers and other benefit claimants are taking steps which will lead them towards sustained employment. They should be proportionate to the “offence” and should be operated as a last resort to ensure that claimants are seeking employment in exchange for their benefit. People should not be left with absolutely nothing to live on.

In this section we examine whether the system is operating in this way.

⁵ DWP press release “Benefits sanctions –ending the something for nothing culture (13 November 2013) <https://www.gov.uk/government/news/benefit-sanctions-ending-the-something-for-nothing-culture>

Why are claimants sanctioned?

According to DWP figures, the most common reasons for JSA sanctions was failure to actively look for work and failure to participate in an employment programme such as the Work Programme, designed to help people look for work. A third reason was for missing a meeting at the Jobcentre.⁶

Analysis by Dr David Webster shows that Work Programme providers generate 86 per cent more sanctions than they do job outcomes. He also points out that historically the biggest reason for a sanction has been voluntarily leaving a job, or being dismissed for misconduct but “since the start of the recession, they have hardly featured at all, and this continues to be the case” (p4)⁷.

In introducing the tougher sanctions regime in 2012, the DWP stated: “Jobseekers who are ready to work hard and want to get on in life will get all the support they need through Jobcentre Plus... the rules will be clearly explained to all claimants from day one so that they are in no doubt that if they do not comply they will not get their benefit.”⁸

When advisers were asked what the most common reasons for clients getting sanctioned, the top three most common reasons are not doing enough job search, problems with IT or digital access, and not receiving notification of meetings (Table 1 below). These first two reasons are often related: the DWP is increasingly moving to “digital by default”. Jobcentres are keen for claimants to do their jobsearch through the Government’s online Universal Jobmatch system, as this makes it easy to monitor claimants’ jobsearch activity⁹.

Table 1: Most common reasons for clients getting sanctioned in CAB adviser experience

- | | |
|----|---|
| 1. | Not doing enough jobsearch activity |
| 2. | Problems with IT / digital access |
| 3. | Not receiving notification of meetings |
| 4. | Not doing jobsearch activity they have been told to do by their adviser |
| 5. | Failing to attend Jobcentre meetings following notification |

However, a CAS survey of bureau benefit clients in 2013 found that 36 per cent of respondents said they never used the internet and a further 11 per cent said they hardly ever used it¹⁰. A large proportion of the sanctions cases bureaux report to CAS concern clients who have been sanctioned because of problems accessing IT, often where the claimant does not have the skills or IT access to meet the Jobcentre’s requirements.

► **A West of Scotland CAB reports** of a client who is not computer literate and is receiving assistance with this from both her son and her sister, as she does not have a computer at home or a laptop. She came to CAB because she felt the Jobcentre staff member was rude, insinuating that she did not appear to be actively seeking employment. She was informed that her benefit may be sanctioned at her next appointment, unless she has developed her computer skills to enable her to access Universal Jobmatch.

⁶ DWP press release 13 November 2013 op cit.

⁷ Webster, D (2014) Briefing: The DWP’s JSA / ESA sanctions release 19 February 2014

⁸ DWP press release (22 October 2012) “Choosing a life on benefits is no longer an option”

<https://www.gov.uk/government/news/choosing-a-life-on-benefits-is-no-longer-an-option>

⁹ Jobcentres are one part of the Department of Work and Pensions’ (DWP) benefits delivery operation, which includes Jobcentre Plus offices, Benefits Delivery Centres and Customer Contact Centres.

¹⁰ CAS (2013) Offline and left behind

“A vast majority of people [coming to bureau] do not have access to, or skills to use a computer. There is also a lot of people who are unable to afford a phone. I don’t think these issues are something which is taken into account enough when looking at the claimant agreement and the ability for them to complete tasks. For example, a client was told to phone up and apply for a local job but he did not own a phone, and another client was told to complete a jobsearch on Universal Jobmatch seven days a week and the client did not have access to a computer but did use the local library when he could but the library was only open 6 days and he was not always able to get on and use a computer because of the volume of other users.”¹¹

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 Universal Jobmatch failing to record a claimant’s jobsearch. There has also 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. Recently there have been suggestions that the DWP is thinking of scrapping Universal Jobmatch¹².

- ▶ **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.
- ▶ **A West of Scotland CAB reports** of a client who is on JSA. He has no computer at home and needs to go to the library for help to use one. He was informed today when he attended the Jobcentre that he was being considered for a sanction and that ‘it did not look good’. He would get no money on Wednesday when his next benefit payment was due until a decision was made about a sanction. The client was then sanctioned for not doing an adequate job search. He cannot use a computer and needs to go to the library for help. There is no offer of support for him.
- ▶ **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. 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.

¹¹ All quotes in this survey are from bureaux advisers taking part in the sanctions survey, unless stated otherwise.

¹² <http://www.theguardian.com/money/2014/mar/16/dwp-jobs-website-universal-jobsmatch>

Bureaux also regularly send cases through to CAS where clients have been sanctioned for failing to attend a meeting they were not aware of. In these cases it is the client's responsibility to demonstrate why they have good reason for not attending the appointment.

“A common theme seems to be that [a] client was not aware of a meeting they missed and were sanctioned for missing it. The fact that DWP say they sent the notice is considered to be evidence that the client received it.”

“Many clients receive notification of meetings at very, very short notice – particularly in respect of meetings previously scheduled that the Jobcentre have changed at short notice. Also many clients contact Jobcentre Plus to give reasons as to why they are unable to sign on or why they will be late. These are seldom documented on their case, causing significant problems when we try to challenge a sanction as verbally they have been told everything is fine, however sanctions are implemented and there is no record that [the] client has been granted a change to their claim cycle.”

- ▶ **An East of Scotland CAB reports** of a client who was sanctioned at the beginning of April for missing an appointment with her Work Programme provider. However the client did not receive the letter about the appointment until 7th March and the appointment was for 6th March. She has attended two further Work Programme appointments since then, and she also has sent a letter explaining this, but a sanction has still been applied until 29th April 2014.
- ▶ **An East of Scotland CAB reports** of a client and partner who came in to enquire about their joint ESA. The client has been placed in the Work Related Activity Group and missed an appointment at Jobcentre Plus (JCP). The client says that she was not notified and normally receives a letter, due to her memory problems. When the client spoke to her JCP adviser, she was told that they didn't write to her, but they told her about her appointment at her last one; therefore, they would be sanctioning her. The client suffers from a number of mental and physical conditions, some of which are the side effect of cancer treatment in the past.
- ▶ **A West of Scotland CAB reports** of a client who has been signing on for his JSA every Tuesday for over a year. When he went today to sign on as usual, he was told that he had been handed a letter on his previous signing-on day (18th March) stating that he had an additional appointment on the 21st. As he had not turned up on the 21st, his claim for JSA was stopped and he would have to reclaim. Client is adamant that he did not receive a letter, if he had, he would certainly have turned up.
- ▶ **An East of Scotland CAB reports** of a client who has come to bureau because she has been told she is at risk of receiving a sanction. She had called her Work Programme provider on the Monday to find out when her next Work-Focused Interview would be and was told Wednesday. She called again on Wednesday to double check, and was told the appointment was actually the previous day. The adviser also said that he will have to pass on to the Jobcentre that she missed her appointment and that this could result in a sanction of her benefits.

From cases of these types of sanctions seen in bureaux, both of these reasons are usually difficult or impossible for clients to comply with, and therefore appear to be unreasonable justifications for sanctioning.

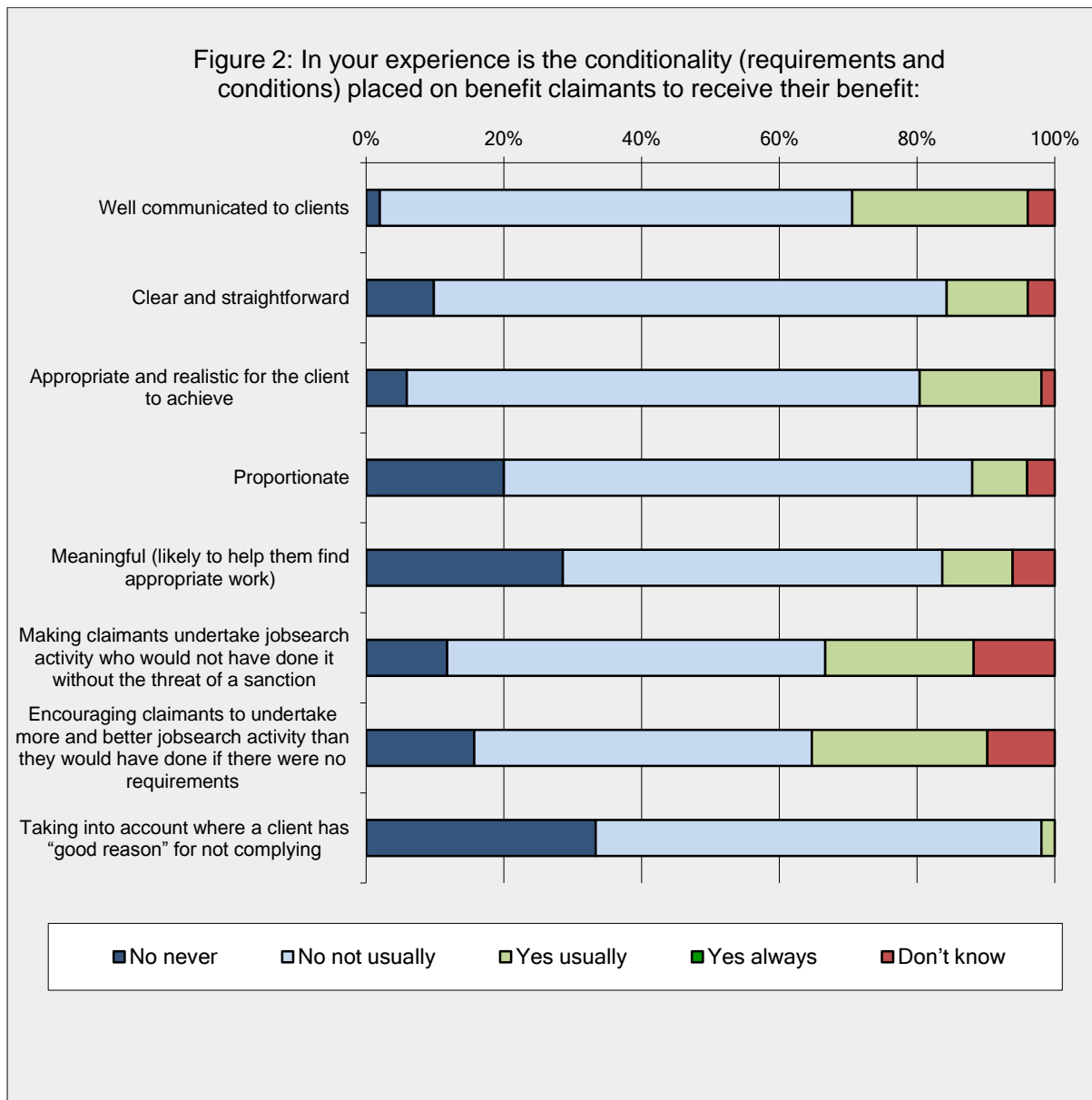
How do sanctions work in practice?

Bureau advisers are at the frontline of seeing how clients are affected by the benefits system. We asked advisers their views on how the requirements and conditions placed on benefits claimants are working.

Figure 2 demonstrates that in a range of areas, the majority of bureau advisers believe that the sanctions regime is not operating effectively. These different areas are discussed in more detail in the coming pages.

We believe that the procedures relating to the application of sanctions must:

1. Be transparent and well communicated
2. Take into account individual circumstances
3. Be fair and consistent



1. Transparent and well communicated

Claimants must be clear what the requirements are and under what circumstances they will face a sanction. Yet this is not the experience of bureaux advisers surveyed. 84 per cent of advisers believe that requirements on claimants are not clear or straightforward, and 71 per cent feel that conditionality is not well communicated (Figure 2 above).

“Clients do not understand the full impact of sanctions and reasons why they can be sanctioned until it happens 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 or 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 or 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. 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, although the client has not received it.

Bureaux advisers feel that the majority of benefit claimants do not understand the requirements and conditions on their benefits. Over half (52 per cent) feel that JSA clients do not usually understand, and more than four out of five (82 per cent) believe that ESA claimants do not usually, or never, understand the requirements of their benefit.

“Often [the] client did not understand the extent of the commitment they agreed to comply with in their Jobseeker’s Agreement. Many people who fail the ESA medical assessment (i.e. who are not entitled to ESA) are just too ill to be offered any kind of jobs.”

“ESA clients in WRAG [the Work-Related Activity Group] often do not understand that they have to prepare for work.”

- ▶ **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.

Understanding the system

As boxes 1 (above) and 2 (below) demonstrate, the procedures relating to breaches of requirements and benefits conditions are very complex. There can be considerable confusion as to what has happened to a client's benefit.

BOX 2: When does a sanction start?

Benefits are usually paid every two weeks in arrears. The exact day depends on the claimant's National Insurance number. When a sanctions referral is made a DWP decision maker will investigate the referral. If they decide to sanction the claimant, usually the sanction is backdated to the day after the last payment. Sometimes the payment will be suspended while a decision maker investigates the query.

For example, Paul is paid his JSA on the Monday 1st. On Thursday 4th Paul does his jobsearch but does less that day than is required in his Claimant Commitment. He has his next Jobcentre appointment on Thursday 11th, and when his Jobcentre adviser sees this in his job diary, they raise a sanction referral with a decision maker for not actively seeking work. He is told he may receive a sanction. While a decision is being made, his next benefit payment on Monday 15th is suspended. On the 21st a decision is made to sanction Paul for 4 weeks. This is backdated to start on Tuesday 2nd, the day after his last payday.

The sanction runs for four weeks, ending on Tuesday 30th, the day after his usual payday. Paul then has to wait two more weeks to his next benefit payday on the 12th of the following month to get any money. In total it is six weeks since he last received any money.

96 per cent of bureau advisers believe that bureau clients are not clear about the difference between a benefit sanction, a disallowance and a suspension. This is problematic because each one has different implications for the action they need to take as a result.

35 per cent of bureau advisers felt that the DWP advisers they speak to are not clear about the difference between these different benefit stoppages. In some cases this is because DWP advisers are not clear with the language they use when talking to claimants and CAB advisers.

“Terminology is difficult, especially when DWP advisers mix them up and we try to establish exactly what has actually happened.”

“I being an adviser am very aware of the differences ... and I am an ex-DWP employee so have good knowledge of the benefits system... However when I call through to the local [DWP] Benefit Delivery Centre, the advisers I speak to do not always make it clear about what these things mean in layman's terms, they seem to rely on their scripting which could often confuse other benefit claimants and not really make it clear to them about the situation they may be in.”

- ▶ **An East of Scotland CAB** reports of a client who was sent to the bureau by the Jobcentre to apply for a hardship payment (which actually has to be claimed through the Jobcentre). The Jobcentre told him his JSA has been sanctioned, but a letter he has received from DWP is not clear on this point – it makes no reference to a sanction or to a disallowance. The bureau rang the Benefits Office to discover the client's position and was told that he was on "two weeks disallowance" which usually leads to a sanction but this has not been decided yet. *[Comment: This is likely in reality to be a two week suspension pending a decision as to whether to disallow the benefit. If it was actually a disallowance he would not be able to claim a hardship payment.]*

In other cases, bureau advisers feel that the DWP officials may not fully understand the system themselves.

“Jobcentre staff seem to be ill informed on sanctions and ill equipped to answer queries on these.”

- ▶ An East of Scotland CAB report of a client who was sanctioned due to having three different periods of sickness within 12 months. He has not eaten since Monday and requested a Food Bank voucher. When DWP was contacted they stated the client's claim had been stopped and he must phone the New Claims Department to reclaim. Following phone calls to the New Claims Department and the Jobcentre it emerged that the original information from the DWP was incorrect as the client's claim is still open.

Informing claimants about a sanction

Because of the process that the DWP use to apply sanctions, benefits stop before a sanction decision is made, and then a sanction is backdated. The Jobcentre adviser should tell the claimant that a sanction referral is being made. Three out of five (60 per cent) of advisers say that in their experience, clients do not usually or never receive notification of a sanction prior to their money stopping.

- ▶ **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.

“Clients are not aware of a problem until there is no money in their bank account in the experience of this bureau. No one is writing to them at all in some cases.”

Recommendation: All claimants should receive a written warning at the first breach of the Claimant Commitment before escalating to a sanction.¹³

Once a sanction has been applied, 90 per cent of bureau advisers surveyed say that clients do not usually or never understand why they have been sanctioned, and 92 per cent believe that before coming to the bureau, clients do not usually, or never, understand how to prevent further sanctions in the future.

“Notifications about sanctions are often not received, when this happens and you enquire with your local JCP or try to contact through a local Benefit Delivery Centre you're often told that they do not have access to any notation that explains why the sanction was imposed.”

“It is usually not clear exactly why someone has been sanctioned; even the Jobcentre cannot always say.”

¹³ At present a written warning has to be given prior to applying a sanction in very limited circumstances (see Regulation 70A(4) of the Jobseeker's Allowance Regulations 1996).

- ▶ **An East of Scotland CAB reports** of a client who has been sanctioned for four weeks. 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.
- ▶ **An East of Scotland CAB reports** of a client who recently received a letter from the DWP to say that she has been sanctioned for a two week period because she did not satisfy the criteria of looking or being able to look for work. The client doesn't understand this, as she carried out her job search as normal with additional help from JCP such as fast-track courses. She thinks it has something to do with some medical appointments, including one the day before the sanction started, but she isn't sure. Her work diary shows her job search for the period in question and has details of several applications and job-searching activities. The CAB spoke to the DWP, who said the client had been sanctioned for *two* two-week periods, both due to the client failing to meet the condition of looking/being able to look for work. They were unable to give more information on the reason for the sanction.

From the experiences of bureaux it is clear that the system of sanctions is complex and not well understood by claimants. Nor is it clearly communicated by the DWP, meaning that claimants can find themselves sanctioned without notice and without reason.

Recommendation: CAS believes that 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.

We have a number of further detailed recommendations which we believe would improve the process of communicating with claimants. These are set out at the end of this report.

2. Taking into account individual circumstances

In order for conditionality to operate as a means of getting claimants to take steps towards meaningful employment, sanctions should only be applied where a claimant could reasonably have been expected to meet the conditions and has not. Yet 80 per cent of bureau advisers surveyed feel that the conditionality on claimants is not usually or never appropriate and realistic for them to achieve (Figure 2 above).

Where a query is raised about a possible “sanctionable action” by the claimant, the claimant usually has five working days to show “good reason” for what they did. It is their responsibility to prove that they did not breach their benefit conditions. In the meantime their benefit payment is often suspended.

Although good reason is not defined, the DWP Decision Makers’ guidance¹⁴ says Decision Makers should take into account all relevant information and contains a long list of factors which may contribute to good reason, including domestic violence, problems with mental health, homelessness, domestic situations including short notice caring responsibilities, domestic emergency or bereavement or factors related to a disability.

However, as Figure 2 (above) shows, 97 per cent of advisers say that from cases they see in bureaux, conditionality requirements are not taking into account “good reason”.

“Decision Makers appear to give no regard to individual circumstances and issues.”

“There appears to be no flexibility in sanctions and no account taken of [the] client’s explanation of the difficulty they have had in complying.”

- ▶ **An East of Scotland CAB reports** of a client who was in receipt of ESA (work group) but had not attended an interview at a Work Programme provider, resulting in sanctions, with his benefit reduced to around £11 per week. This was despite producing a doctor’s certificate saying he was not fit to travel as he had been diagnosed with terminal cancer of the liver and investigations were being currently undertaken on a prognosis as to whether he had 6 to 24 months to live. The client had been confined to bed for the past three days and requested use of a CAB phone to contact ESA to determine his award. The client completed the phone call but received no help from the DWP, merely being given the standard story that he had missed his interview and had been sanctioned. No account was taken of the medical certificate. The impression was given that the DWP adviser was “reading from a script” from which he could not deviate nor offer alternative advice. A food parcel was arranged.

¹⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/296129/dmgch34.pdf

- ▶ **A West of Scotland CAB reports** of a client who had his ESA sanctioned as he failed to attend a meeting with the Work Programme provider. He is a former member of the armed services and has recently had his medication changed so he can begin to work with his Community Psychiatric Nurse and Combat Stress [a charity], as the client suffers from Post-Traumatic Stress Disorder and is extremely forgetful. On the morning he was due to attend the Work Programme he forgot he had an appointment with his Support Worker to see how he was coping with the changes in his medication. He phoned Working Links and explained the situation which was accepted and a new appointment provided. Despite this the client has been sanctioned. The bureau has assisted him in requesting a mandatory reconsideration and were advised that this could take up to two weeks. However, we are now ten weeks down the line and no decision has been made.

Recommendation: CAS believes the DWP should ensure that in every sanctions referral consideration is given to whether a claimant had “good reason” for any sanctionable action. Sanctions should only be applied appropriately, with discretion and as a last resort.

3. Fair and consistent decision making

While it is important to take into account individual circumstances, it is also important that sanctions decisions are consistent so that claimants are clear about when they are likely to face a penalty. But consistency of decision making was an issue raised by a number of advisers in our survey.

“We have instances where there is a lack of consistency in decision making between different jobseekers. For example a client was sanctioned for being ten minutes late for an interview with Jobcentre Plus whereas in another part of [the local authority area] a client in a similar situation was not sanctioned.”

“Variation between different job centres is an issue and within the same job centre between advisers. Sometimes one wonders if there are targets for advisers to reach, i.e. make sure you sanction at least so many people this week. The process often appears to be arbitrary.”

Many of the cases seen in bureaux appear to be unfair, with claimants penalised for things that are outwith their control. Moreover, the penalties are often extremely harsh compared to the level of offence.

- ▶ **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 there that day and so signed on the next. He received a four week sanction for this.
- ▶ **An East of Scotland CAB reports** of a client who has had his ESA sanctioned. He attended his appointment but was left sitting which caused him a lot of pain. When this became too much for him he went to the reception desk and explained what was wrong and that he couldn't wait. As he had already signed in he says the girl said she would let the person he was seeing know. He then requested another appointment and received a letter with this information. The client attended this appointment and then a few days later his benefit was sanctioned.

In some cases bureaux are finding that clients are being told to do things by Jobcentre staff which seem to make little sense. If they fail to do these things they face a sanction. For example, once a jobseeker has found a job, if they need to continue claiming benefit until their job starts, they must continue to jobsearch, or face a sanction or disallowance.

84 per cent of advisers believe that conditionality requirements on claimants are not likely to help them find appropriate employment (figure 2).

“[The] local job market is very limited [and] restricted; clients are under pressure to apply for jobs which they are effectively disqualified from due to lack of experience and relevant qualifications.”

- ▶ **Citizens Advice Direct reports** of a caller and husband who have a joint claim for income-based JSA. He was sent by the Jobcentre for an interview for a security guard position, even though he doesn't have a security licence. At the interview, he was sent away by the prospective employer, as soon as they discovered he didn't have a licence. DWP have now sanctioned him for failing to attend the interview.

- ▶ **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 [a fortnight], 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.
- ▶ **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.
- ▶ **A CAB¹⁵ reports** of a client who was fleeing domestic violence and an arranged marriage. She had been living locally until five days ago when she had to move after a Jobcentre Plus adviser posted her CV online and her brother traced her using this information. The client said that she had told the adviser at the Jobcentre that she was fleeing domestic abuse and a previously arranged marriage and didn't want her to post her details online but said that her adviser informed her this had to happen and was intimidating her with a threat of benefits being sanctioned.

A recent report from the PCS Union¹⁶, which represents many Jobcentre staff, found that 82 per cent of Jobcentre staff surveyed say that in the last 6-12 months they have experienced pressure from managers to increase the number of claimants referred to decision makers, and 62 per cent say they have experienced pressure to do so in cases they felt were inappropriate for a referral.

We recognise that Jobcentre staff are often under pressure and may have to deal with difficult situations. However bureaux advisers often say that clients report difficult relationships with their Jobcentre advisers with staff being dismissive or rude. Jobcentre staff need to have support and training to understand the issues claimants are currently facing and to support them appropriately.

“There are differences between Jobcentres and also advisers at the same Jobcentre. Some actually do their job competently and with respect for clients, other advisers are unprofessional and unnecessarily discourteous with clients.”

“Application of sanctions is inconsistent. Clients rarely understand the reasons for sanction and usually have no prior warning. Some Jobcentre advisers appear very enthusiastic about sanctions and have acquired a reputation as being vindictive.”

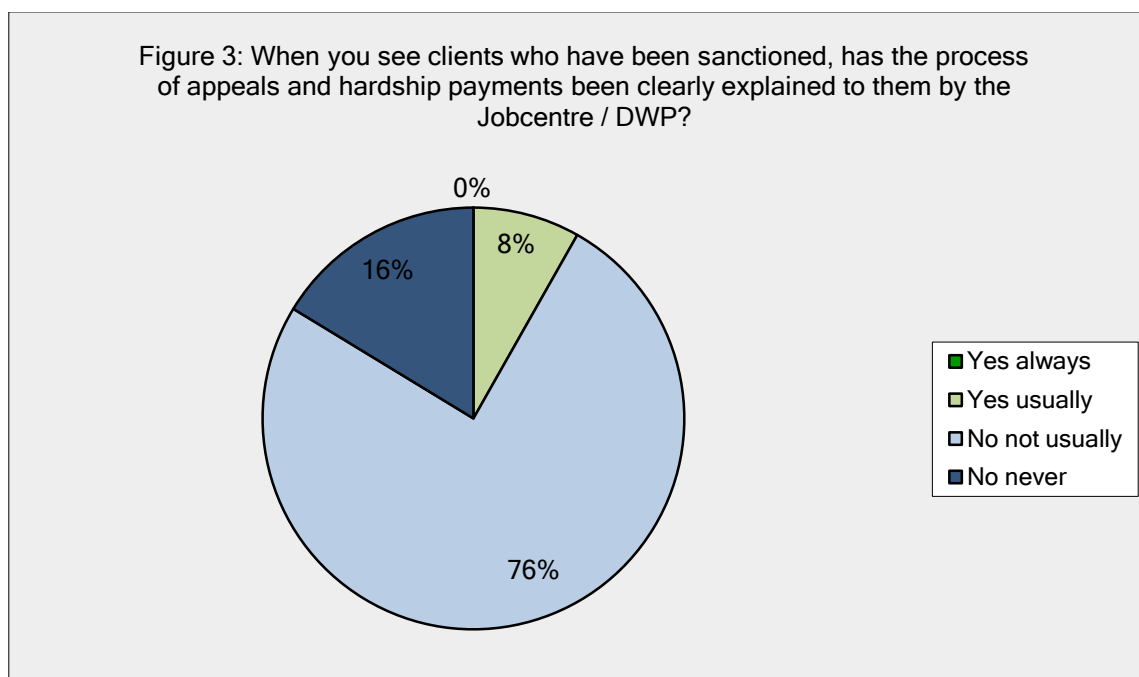
¹⁵ Area not named to protect client confidentiality.

¹⁶ Results of the PCS Membership Survey on Conditionality and Sanctions (1 May 2014)
http://www.pcs.org.uk/en/department_for_work_and_pensions_group/dwp-news.cfm/results-of-the-pcs-membership-survey-on-conditionality-and-sanctions

PART II: After a sanction **Challenging decisions**

Challenging a sanctions decision involves first a “mandatory reconsideration” of the decision by the DWP, followed by an appeal to tribunal. Around 31 per cent of sanctioned claimants requested reconsideration in 2013, and 3 per cent of sanctioned claimants appealed to tribunal¹⁷. As Figure 3 below shows, bureaux advisers say that generally the process of appeals and hardship payments have not been explained clearly by the Jobcentre to clients.

“Without being advised [by the bureau] very few seem to know they can challenge the decision.”



We asked advisers if they saw clients who chose not to challenge sanctions decisions, and why this was (Figure 4 below).

The primary reason for not challenging is that clients don't think it will have a positive outcome. Other reasons include not knowing how to, it taking too long, or that clients have other immediate priorities.

“Getting food is main issue. Process takes too long.”

“They are often aware that the process will impact negatively on their health and this is a serious consideration for many clients.”

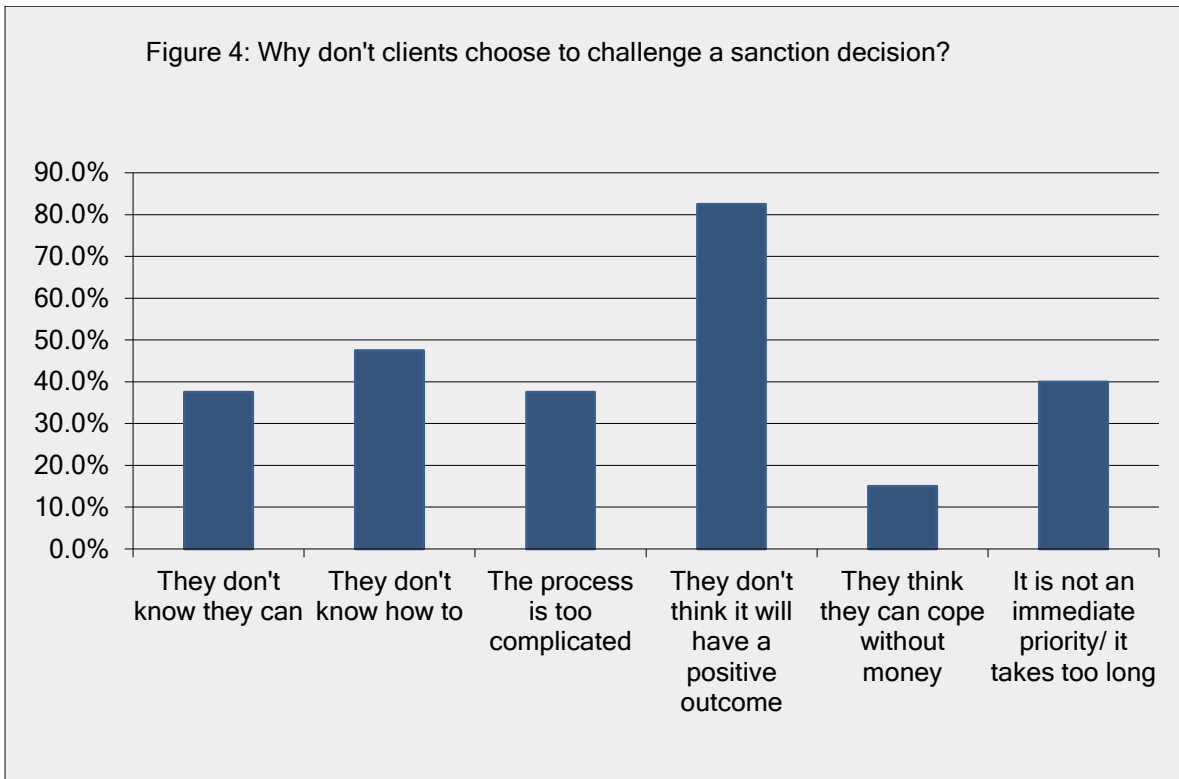
“Most clients feel that the process [of challenging a sanction decision] is too lengthy and that they will reach the end of the sanction period before any decision is made.”

¹⁷ David Webster *op cit.* 14 May 2014

Some clients do not challenge because they are fearful of consequences.

“JSA claimants are fearful.”

“JSA claimants – very few [challenge a sanction decision] – fear factor, they just want some money.”



Mandatory reconsideration

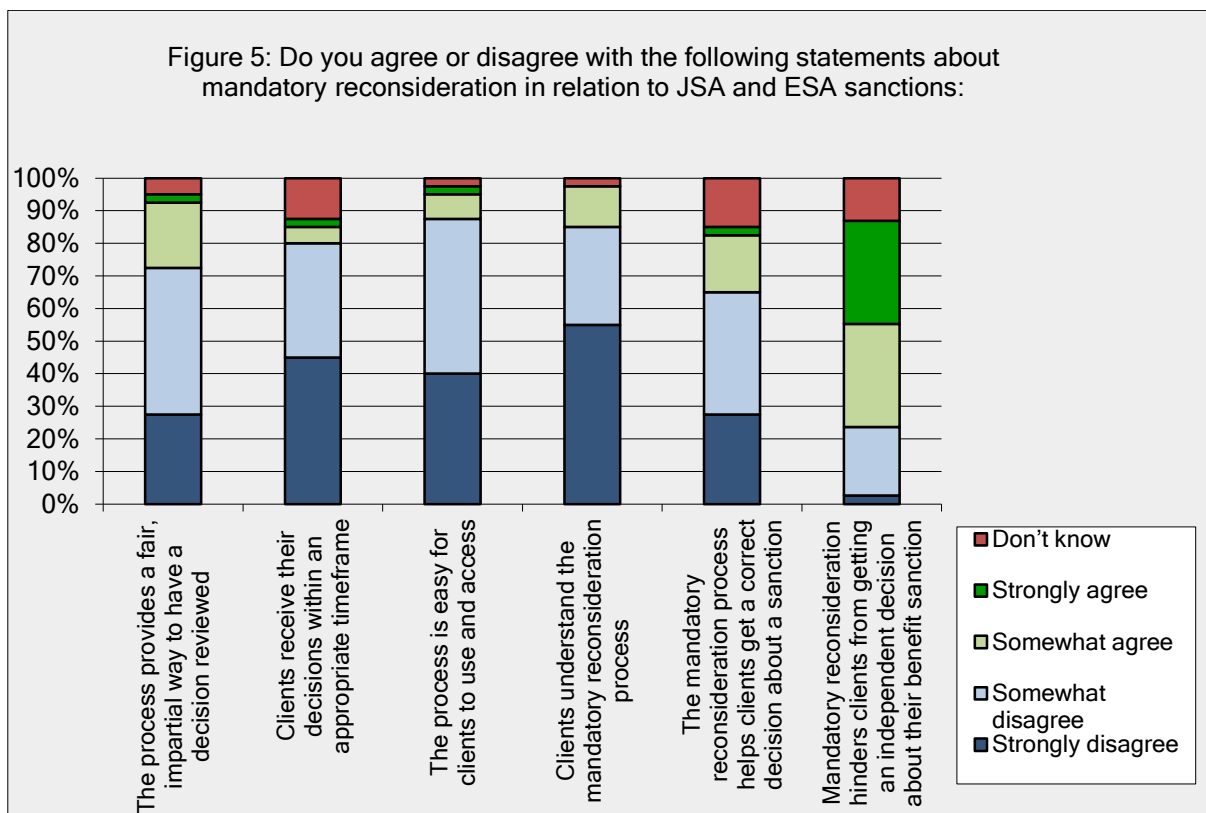
In October 2013 the Government made it a requirement that claimants had to request a reconsideration of the decision, known as a mandatory reconsideration, before they could go to appeal to get a decision which was independent of the DWP.

There are strict timescales for claimants to adhere to within which they can request a mandatory reconsideration. On the other hand, there are no requirements for the DWP to respond within a set timescale to a request for a mandatory reconsideration. As a result, just eight per cent of advisers feel that clients receive their decisions within an appropriate timeframe, and 63 per cent believe that mandatory reconsideration hinders clients from getting an independent decision about their benefit sanction. This is shown in Figure 5 below. The DWP aims to deal with mandatory reconsiderations within 14-16 working days, but bureaux are seeing cases taking many months.

- ▶ **A South of Scotland CAB reports** of a client who came to bureau at the end of May who has been waiting on the outcome of two mandatory reconsideration of sanctions to his JSA which were requested at the beginning of December – six months ago. On calling the DWP they said it looked like a decision had been made on one and the sanction still applied. The other reconsideration was still pending. The client has had no notification. The bureau asked the DWP adviser how to proceed, and he responded that they should give it some more time. The client has mental health problems and has now claimed ESA because he cannot cope with the requirements of JSA.

“Often have to make a raft of phone calls before being able to help establish situation.”

“When writing in to have a reconsideration made, often it is claimed that they have not received anything from the claimant. JCP advisers are either unwilling or unable to help out claimants during sanctioned periods.”



- ▶ An East of Scotland CAB reports of a client who had been sanctioned and did not understand why. She wanted to dispute the sanction. The DWP adviser could not provide further details but tried to arrange an appointment for the client at the Jobcentre to discuss and lodge the dispute. However, as the client doesn't have any money to get to town, this was not suitable.

Getting an independent decision

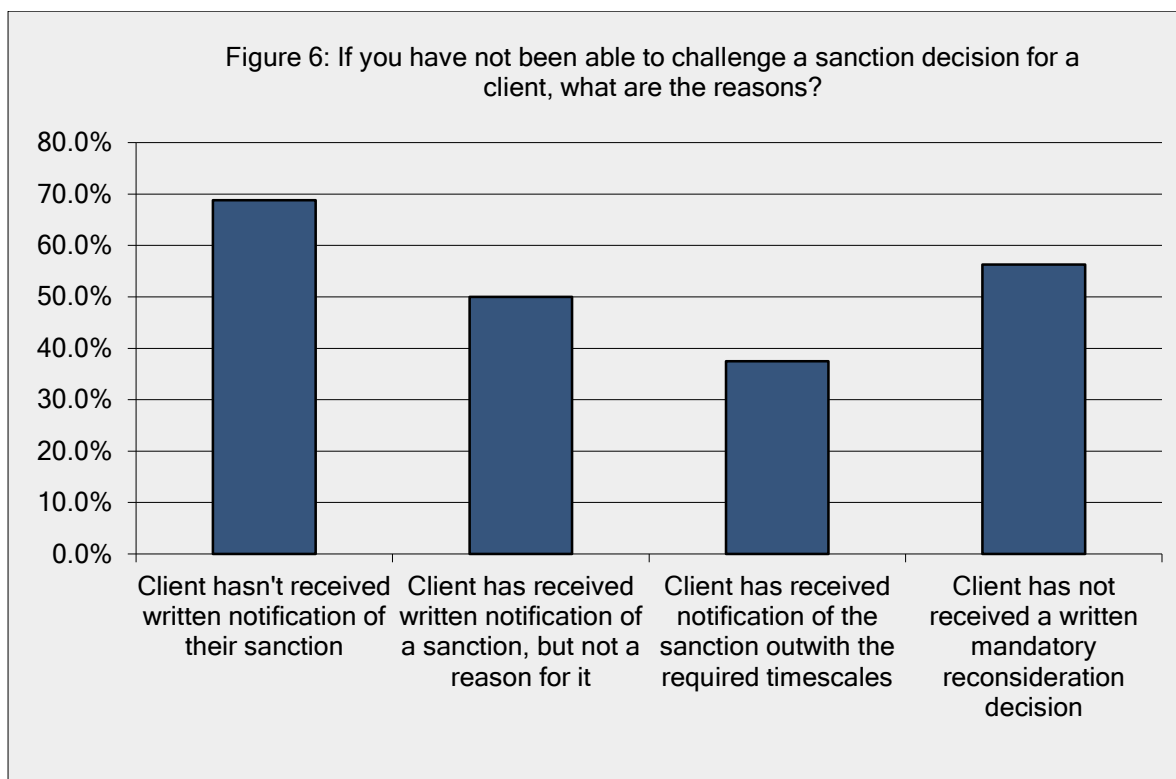
To get a decision about the fairness of a sanction which is independent of DWP decision making processes, the claimant must appeal to a tribunal.

Half (49 per cent) of bureaux say there are cases where they have been unable to help a client to appeal. Figure 6 (below) shows that the most common reason for this was that the client had not received written notification of their sanction from the DWP, followed by a failure to receive a written mandatory reconsideration decision from the DWP.

It is concerning that such a large proportion of bureau respondents report that they have been unable to help clients appeal to an independent tribunal because of DWP failures to provide written notifications.

“I am a Tribunal representative. The appeal submissions from DWP are of a very poor standard in comparison to other benefit appeals. The submissions come over as very officious and are not well justified.”

“I experienced difficulties with one client where DWP refused to write to her and she only has a mobile phone with a patchy signal at times. She arranged a timed outcome telephone decision call and DWP did not ring her at the agreed time on the landline number she gave. It was only when adviser spoke to a [DWP] Decision Maker on her behalf that an agreement to write to her with the decision was given.”



Recommendation: Claimants must continue to have access to a process for challenging decisions which is independent of the DWP. The new mandatory reconsideration process should be thoroughly reviewed after a year of operation.

Interaction with Housing Benefit

A benefit sanction should not directly impact on a claimant's Housing Benefit claim. Nevertheless 88 per cent of advisers say that claimants who have received a sanction go on to have issues with their housing benefit claim. This may be because of the complexity of suspending the benefit prior to a sanction decision being made, and because of the way the DWP communicates the change in benefit situation to the Housing Benefit department.

“Sanctions’ are often preceded by ‘disallowance’ – not usually made clear and always means Housing Benefit stops.”

“When X is sanctioned / has benefit disallowed DWP simply inform HB [the Council Housing Benefit department] that X is no longer in receipt of benefit. HB has no way of knowing whether X has found employment or been sanctioned [or disallowed]. Unless X is aware of the interaction between DWP benefits and HB, X is unlikely to approach the local authority to say that s/he has no income due to a sanction. In time arrears can build up and Court action can follow. Tenancies can be lost. Surely quite simple to advise X when disallowing / sanctioning that if they are in receipt of HB they need to inform their local authority that they have no income for that period?”

“I myself and other clients have had problems with Housing Benefit due to...the decision dates the local authority receives on their customer information system not matching up with the actual date of sanctioning.”

There can be other more complicated interactions between sanctions and local authority benefits, as this case demonstrates:

- ▶ An East of Scotland CAB reports of a client who came into the bureau as she had received a demand notice from her council for £15.98 for Council Tax. The client had been told that this is due to her son being sanctioned (JSA) for one month. Her son lives with her, but only gives her money for food. The client receives a pension and Pension Credit. The client's letter did not specify why the payment demand was issued, but on phoning the council, the adviser said that the demand was issued because her son was classed as a non-dependent that was liable for Council Tax while he was sanctioned and so a deduction was made.

It is perhaps unsurprising therefore that 90 per cent of advisers surveyed say that when clients come to the bureau following a sanction, they do not usually or never understand there may be implications for their Housing Benefit.

“People do not always realise that they can still claim Housing Benefit.”

“One client was told she would not be entitled to housing benefit for the sanctioned period.”

“Clients receive auto-generated letters from the Housing Benefit department advising benefit stopped. Clients don't understand why or what to do. Takes time to resolve issue and in meantime, landlords are contacting client regarding rent arrears. Have found local authority tenants are not offered support or assistance with Housing Benefit claim and are told to contact CAB who will deal with it.”

Coping with no income

Hardship

Hardship payments, which are usually around 60 per cent of a person's JSA, can be made by the DWP to people who are considered to be "lacking the necessities of life". Unless a claimant is considered to be vulnerable (for example, pregnant, responsible for children under 16, disabled, etc), they cannot apply for hardship payments for the first two weeks of a sanction. Payments are made at the Jobcentre's discretion.

27 per cent of advisers say clients regularly turn to hardship payments following a sanction, and another 61 per cent say people sometimes turn to these as a source of support.

As figure 3 demonstrates (p22), the vast majority (92 per cent) of advisers say that the DWP are not clearly explaining the steps that people can take following a sanction, including accessing hardship payments.

- ▶ **An East of Scotland CAB reports** of a client who received a sanction, but no written decision. He did not find out about hardship payments until he moved to another area and reclaimed JSA at a different Jobcentre.

Even where a client can receive a hardship payment, it can take a considerable time to process it, causing further difficulties for claimants who the DWP have agreed are in hardship.

- ▶ **A North of Scotland CAB reports** of a client who came to bureau to find out if the hardship payment they have applied for has been processed. The bureau contacted the local Jobcentre who advised them that client's claim for hardship payment was in Wolverhampton [where DWP processes mail] and could take two to three and a half weeks to process, and for the Jobcentre to receive it back from Wolverhampton. The client asked if they could get a same day hardship payment if they went to the local Jobcentre to complete a new hardship payment form. The Jobcentre said that client would not be able to get a same day hardship payment, but if they go today to complete a new hardship payment form at the Jobcentre then they will scan it and send it to the right department. This will cut out the postage time of three days to get there and three days to get it back.

Surviving without money

A single JSA claimant will typically receive £72.40 a week. Claimants will often have very little money left by the time of their next payment. If a sanctions referral is made shortly before the next benefit payment is due, this can leave claimants with no money with very little notice. They then have to survive without any money for the duration of the sanction. (If it is decided that the claimant should not be sanctioned then any suspended money will be backdated, but this may still cause problems in the short term).

For the clients seen in bureaux this regularly leaves them in crisis, with no money to buy food, to top up pre-payment meters for heating or phone credit, to travel or to cover bills or debt repayments, or meet their Jobcentre obligations.

- ▶ **An East of Scotland CAB reports** of a client who had been sanctioned for missing an appointment with his Work Programme provider. He has had no money for six weeks and is destitute. He has been living on porridge for two weeks. He has been sent four separate letters for appointments in May and is troubled that if he doesn't attend all that he will be further sanctioned. The CAB phoned the Work Programme provider and established that there were only two appointments he was required to attend in May.
- ▶ **A West of Scotland CAB reports** of a client who has had his benefit sanctioned. His bank has taken most of his child tax credits in charges. The client has enough money to buy gas and electricity cards for the week. He only had enough money for bread and milk today but nothing else. Client would like to know if we can refer him to the Food Bank as he has no means of getting food for his two children this week.

Just over two thirds (68 per cent) of advisers say there is sometimes or regularly no formalised source of support available for people following a sanction.

“Client usually doesn't know what support is available until we go through it with them.”

“Clients are not always aware of assistance available until [they] contact CAB.”

“We would follow the statutory entitlement route – often there is no entitlement.”

“The process is not per se actually explained to them properly, rather that a form has been given to them that sets out the details on paper, but these documents could be better worded and supported by an adviser if they made sure that the claimant knows exactly what this means before they leave their local JCP. More often than not, the process of claiming hardship is not clearly stated to clients, neither is the fact that you will not receive any benefit payment for the first two weeks of a sanction.”

Advisers say that clients employ a range of strategies to survive without benefit income. Table 2 (below) shows that the most common regular strategies are to skip meals and request a food parcel. 64 per cent are also sometimes or regularly turning to other forms of charitable food support.

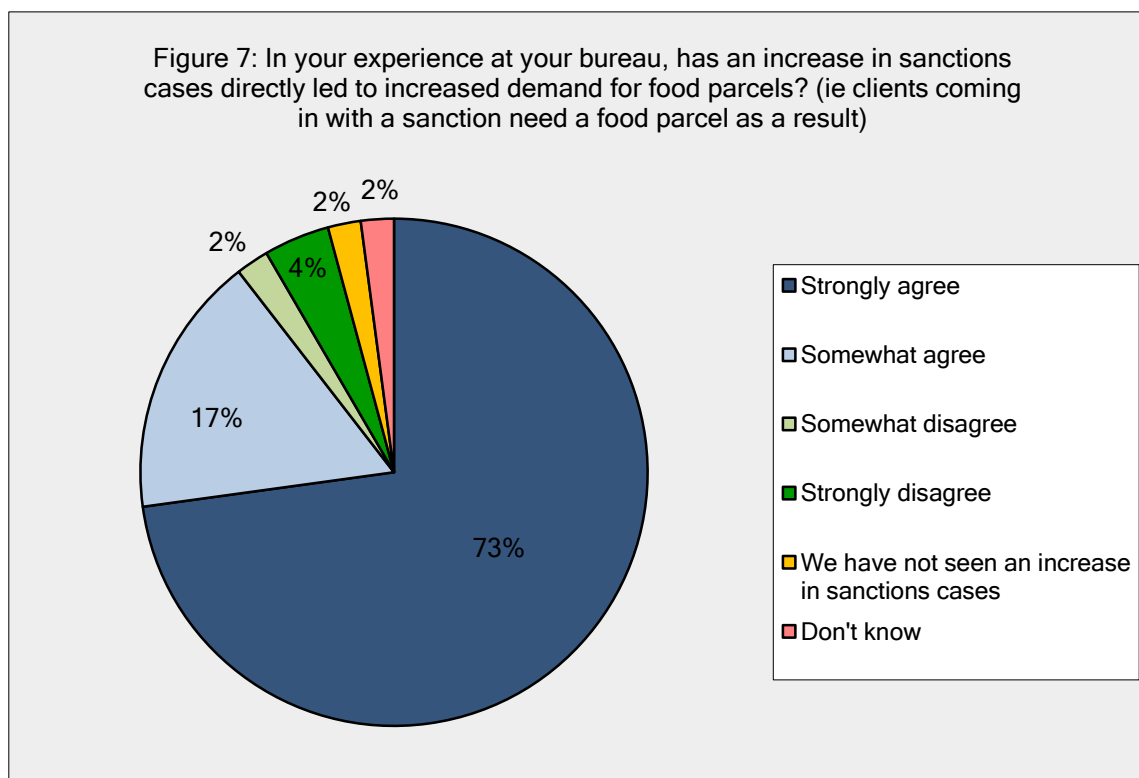
Many clients also go without gas or electricity, turn to family, friends or sources of charitable support. Worryingly, 77 per cent said that clients sometimes or regularly turned to formal loans to survive.

“Have also seen lone parents sending their children to stay with former partner or family members as [the] client cannot afford to feed them or heat and light [the] home. Have seen clients unable to wash clothing as they are limiting use of electricity.”

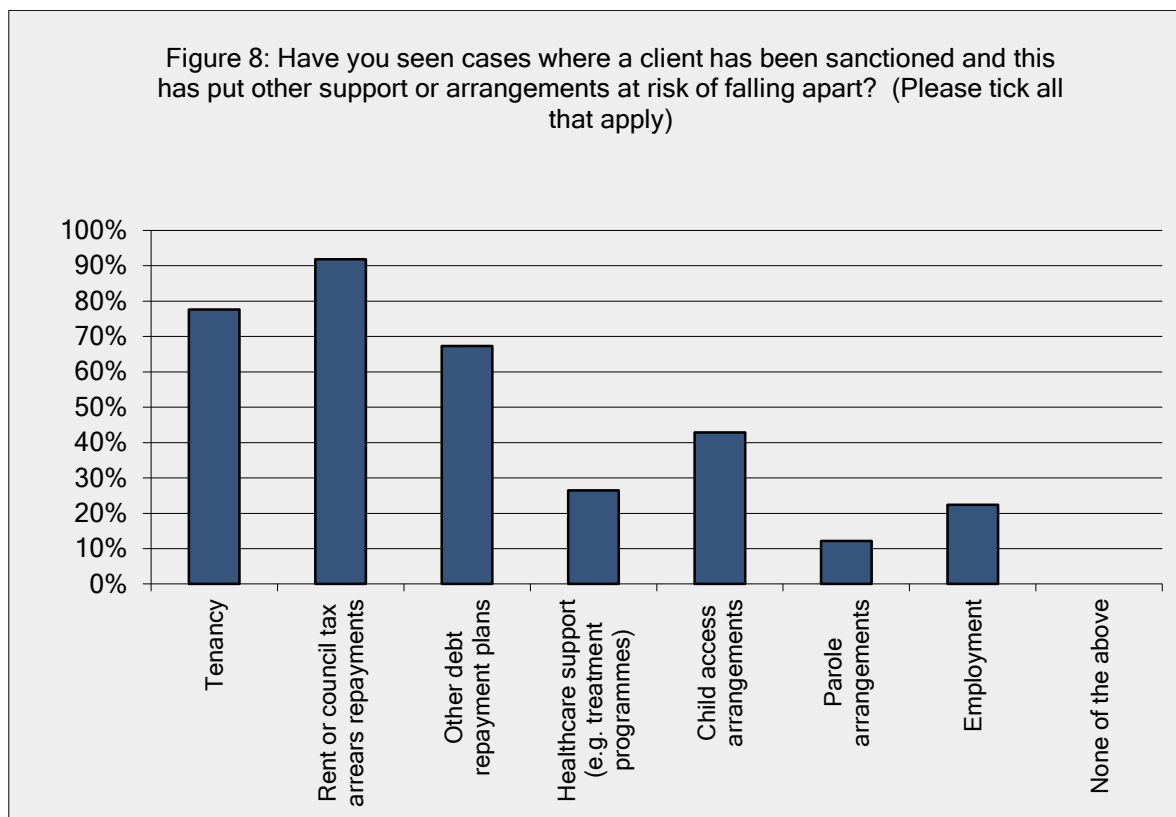
Table 2: Thinking about clients you have seen who have received a sanction, what steps do they take to manage without income? (Excluding 'don't know'. No respondents answered 'never'.)

| | Yes regularly (%) | Yes sometimes (%) | Not usually (%) |
|--|-------------------|-------------------|-----------------|
| Skip meals | 64 | 33 | 0 |
| Go without electricity / gas | 54 | 43 | 0 |
| Ask friends / family for financial help | 47 | 51 | 2 |
| Go to stay with friends / family | 23 | 37 | 35 |
| Request a food parcel | 63 | 31 | 6 |
| Use other local food support (eg soup kitchens, church lunches, etc) | 25 | 39 | 23 |
| Local charitable support (other than food support) | 31 | 23 | 31 |
| Take out a formal loan (including payday loans) | 13 | 64 | 21 |

90 per cent of advisers agree that in their experience, an increase in sanctions cases has directly led to increased demand for food parcels (Figure 7 below). In fact, bureaux recorded one food parcel issue for every 50 clients who come to bureau between January and March 2014.



Sanctions may also put financial and other types of arrangements at risk (Figure 8 below). More than nine out of ten (92 per cent) advisers say that they have seen cases where a sanction has put rent or council tax arrears repayment plans at risk of falling apart. Nearly eight out of ten (78 per cent) say they have seen cases where a sanction has put a tenancy at risk.



- ▶ **A North of Scotland CAB reports** of a client who attended bureau with his council support worker. He has significant debts to the local authority and is now at risk of eviction. He has no income because he has had his JSA sanctioned until 3 June. The sanction imposed has exacerbated his fragile financial status and caused him to incur arrears for housing and utilities. He has received his maximum of three food parcels. He is on anti-depressants but stopped taking them five days ago as they have to be taken with food. He wants the bureau's help to keep his home and wants to be able to eat and take his medication.
- ▶ **An East of Scotland CAB reports** of a client who called for advice because she had been informed that her ESA might be sanctioned (resulting in a loss of around £70 a week). The client is concerned about how she will pay her rent. She rents privately and pays £60 a fortnight in addition to the Housing Benefit she receives.

Some claimants who have debts outstanding may have direct deductions made from their benefit so that they pay these back. These can include rent or council tax arrears, court fines, benefit overpayments or child maintenance payments. If someone is sanctioned these payments will stop. This can have very serious consequences. If payments of a court fine stop, the claimant could be arrested, and failure to pay child maintenance payments can put access arrangements at risk and cause hardship for the children involved.

“A reduction or removal of benefits... can start a spiral of debt and possible court action for the claimants. This situation leaves people completely vulnerable and they have to take on debt or use other means to pay for food and heating and this is hard to get out of. It sets people up to fail.”

“Debt Arrangement Scheme repayments have been placed at risk... Have had clients who are under Social Work services and Social Worker threatening to take children into care as in their view client action caused hardship – were not aware of sanction issue until explained by adviser. Thought client used benefit money for drugs rather than food for child.”

Recommendation: The process of stopping and reinstating direct deductions from benefit following a sanction should be reviewed for its impact on legal and financial arrangements and the possible consequences of the stopping of payments for claimants.

Claimants still have to meet all the requirements of their jobseeking conditions while sanctioned, including attending appointments, contacting employers, jobsearching online, etc. This can become very difficult when claimants have no money, and can leave them at risk of further sanctions.

▶ **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.

Recommendation: A claimant should never be left with no income at all. Sanctions should cut benefit by a proportion rather than the entire amount of benefit to ensure people can meet essential living costs. At the very least people should be able to eat and heat their homes.

Emotional and health impact

Unsurprisingly, bureaux see many clients who find negotiating the system extremely stressful. They are not clear on how to avoid being sanctioned, and struggle to afford to live, particularly when they have little or no notice of their money stopping.

“Clients frequently are confused / upset by having benefits suspended / stopped while they do not really understand what they have done wrong.”

“Clients are approaching for advice in a distraught state. Have seen increase in number of clients who are threatening to take their own life or are approaching for advice after they have attempted and failed to take their own life. These clients generally require more support and time from advisers who are already under pressure of service demands.”

- ▶ An East of Scotland CAB reports of a client who is a single parent with two school age children. She also volunteers locally. The client was in receipt of JSA with several deductions from benefit in place. DWP contacted the client to say that she will now be sanctioned for 12 weeks for not applying for enough job vacancies and not complying with the Claimant Commitment. Due to the exceptional pressure the client was experiencing at that time, the sanction was an additional pressure she could not bear. The client attempted to take her own life that evening. Thankfully she was discovered and she was rushed for medical treatment. The client has significant debts mainly as a result of having to flee domestic violence. She is concerned that that her ex-partner may now apply for sole custody of the children.

Bureaux have seen cases where the stress of negotiating the benefits system can lead to a deterioration in clients' health

"They often become ill / more ill, which sends them into a spiral or means they are less able to seek work."

Finally, a story from a CAB adviser who has also recently experienced being sanctioned:

"As well as being an adviser for CAB, I myself have just come off of the end of a 3 month sanction.

Two days before the sanction was due to end I finally received a phone call from a DWP decision maker, which was prompted by an email from my JCP Adviser following my having sent in two letters asking for a Mandatory Reconsideration. The department claimed they have not received either letter, although one of the letters had actually been sent in via my local Jobcentre Plus office. After a five minute conversation with the Decision Maker, they decided that they would overturn the decision to sanction me and fully reinstated my entitlement to JSA, from the date it was sanctioned from, detailing that I would be paid back all the money I had not received during the sanction period. This should have included the initial two weeks for which I receive no payment at all and the remaining ten weeks of benefit at 40% of entitlement as I have been struggling away on the hardship money which is 60% of my entitlement.

The next day I had a Jobcentre Plus appointment, where I enquired about what payment had been issued to cover this period. Unfortunately the first four weeks of money had not been included in the arrears calculation so the arrears amount was incorrect. I am currently awaiting a call back to put this right.

Throughout my sanction period, I have still been expected to attend all appointments including my trips to the Work Programme which is a fifty mile round trip and look for work every day, contact employers daily, etc, as is the case when in receipt of a full entitlement.

I have lost weight during the last three months and have accrued a sizeable personal debt through borrowing from friends and family in order to meet my basic living costs, which include payment of my utility electricity through a pre-payment meter and paying my phone bill to ensure that I can still contact possible employers. The whole thing has had a detrimental effect on my health and I have become somewhat depressed during this period. Unfortunately I have had to suspend my [CAB] adviser duties as my own problems were getting in the way of me being an effective adviser which has seen a break in my ongoing voluntary work experience which should be a good thing with reference to my jobseeking but the department do not see things this way, they simply just seem to be concentrating on their targets of reducing jobless figures no matter what the effect on the claimant."

Are sanctions fulfilling their purpose?

The evidence from bureaux suggests that the sanctions regime is not operating in the ways set out at the beginning of this report. Sanctions do not appear to be being used appropriately or as a last resort, people are often not aware of the requirements on them, and in some cases it appears these requirements change without notice. Clients coming to bureaux are often not aware that they have been sanctioned, and can struggle to find out why.

The Government argue that the sanctions regime is to make claimants do everything they can to find employment. Yet around two thirds of bureau advisers feel that conditionality neither encourages clients to do more or better jobsearch activity (65 per cent), nor makes claimants do jobsearch activity who wouldn't have done otherwise (67 per cent) (figure 2).

- ▶ **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 Adviser 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.

Over half (54 per cent) of advisers disagreed that sanctions encourage clients to comply with benefit conditions, and 95 per cent disagreed that sanctions help clients find employment.

- ▶ **An East of Scotland CAB reports** of a client who 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 and received a sanction.

“This is not the way to help people who are making mistakes.”

A review of evidence on benefit sanctions by the Joseph Rowntree Foundation concludes: “The evidence suggests sanctions have relatively little to do with changing behaviour in practice, the majority punishing those who left work for ‘unacceptable’ reasons, or who failed to meet administrative requirements. Few act to remedy ‘bad behaviour’.”¹⁸

This raises questions about the proportionality of the conditionality requirements on claimants, and about the level of the penalties associated with breaches of conditionality. 88 per cent of advisers surveyed believe that the conditionality claimants are expected to meet is not proportionate.

Giving evidence to the Welfare Reform Committee at the Scottish Parliament, Dr David Webster of the University of Glasgow compared the penalties associated with JSA sanctions with the courts system:

¹⁸ Grigg, J., Evans, M. (2010) Sanctions within conditional benefit systems: a review of evidence. Joseph Rowntree Foundation, p49. <http://www.jrf.org.uk/sites/files/jrf/conditional-benefit-systems-full.pdf>

“If someone over the age of 25 is on JSA and they are sanctioned, the minimum fine is £286.80 and the maximum fine is £11,185.20. In the UK scale of fines, the level 1 fine is £200 and the maximum—the level 5 fine—is £5,000.

“Therefore, the JSA scale of fines runs higher than that which is available to the mainstream courts, yet claimants have none of the protections that an accused in the mainstream courts would have. I am referring to the presumption of innocence, the entitlement to legal representation and the fact that... in a mainstream court, before someone is sentenced, the sheriff will call for reports so that the sentence is appropriate. That is not done with a JSA claimant who is sanctioned.”¹⁹

84 per cent of advisers feel that sanctions discourage bureau clients from claiming benefit.

“I have had to try to persuade some clients to claim JSA as they are afraid of the system. I have had clients not apply for the benefit.”

- ▶ **A North of Scotland CAB reports** of a client who is struggling to use her online 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.

Since 2011, the DWP's performance measure in relation to Jobseekers Allowance has been people coming off the benefit, rather than numbers of people on JSA who have entered sustained employment, for example. People being disentitled from benefit, or ceasing to claim, contribute to the DWP's measure of performance.

Recommendation: CAS believes that there needs to be a fundamental and public review of the purpose of the sanctions regime. This 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, the relationship between sanctions and other penalties and current benefit performance measures, and between sanctions, food poverty and destitution.

¹⁹ Oral evidence to the Scottish Parliament Welfare Reform Committee, 1 April 2014

Conclusion

Speaking to the Scottish Parliament Welfare Reform committee in April, Neil Couling, Head of Jobcentre Plus²⁰, claimed that “my experience is that many benefit recipients welcome the jolt that a sanction can give them.”²¹

The evidence coming through bureaux suggests a different picture: that the sanctions regime is not well communicated to claimants, they do not understand the reasons for a sanction, their rights to challenge decisions are not explained, and decisions that are made are not taking into account where a claimant has “good reason” for not complying.

“In general sanctions seem draconian, and unpredictable; they do not take account [of] individual circumstances and are applied too casually.”

The result of being sanctioned is that claimants have no money for food, heating or other living essentials. For some bureaux clients this is putting tenancies and debt repayment arrangements at risk as well. This is causing extreme stress for some claimants.

Bureaux are seeing the impact through increased numbers of claimants coming with benefits issues, and increased demand for food parcels.

Overall, we believe the purpose and functioning of the sanctions regime needs to be publicly reviewed. In the meantime, some relatively small changes to the way that sanctions are administered could make a major difference in alleviating some of the hardship caused by the imposition of a sanction. We set out our full recommendations below.

²⁰ Jobcentre Plus is part of the Department for Work and Pensions (DWP). In running the benefit system, DWP run Jobcentre Plus offices, Benefits Delivery Centres and other Customer Contact Centres.

²¹ Neil Couling, evidence to the Scottish Parliament Welfare Reform Committee, 29 April 2014

Recommendations

1. 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, whether current guidance is being applied correctly, the relationship between sanctions and other penalties and current benefit performance measures, and what the relationship is between sanctions, food poverty and destitution.

2. Following a sanction a claimant should never be left with no income at all.

Sanctions should cut benefit by a proportion rather than the entire amount of benefit to ensure they can meet essential living costs. At the very least, people should be able to eat and heat their homes.

3. The DWP should ensure that clear written communications about conditionality breaches are provided to claimants in every case. Claimants must be informed in writing when a sanction is imposed, its duration and the reasons for it.

4. Claimants should receive written notification at least ten working days prior to a sanction being applied.

5. The DWP should ensure that in every sanctions referral consideration is given to whether a claimant had “good reason” for any sanctionable action. Sanctions should only be applied appropriately, with discretion and as a last resort.

6. People should get a written warning at the first breach of the Claimant Commitment before escalating to a sanction.

This is to make sure the sanction acts as a deterrent and not a punishment.

7. The process of stopping and reinstating direct deductions from benefit following a sanction should be reviewed for its impact on legal and financial arrangements and the possible consequences of the stopping of payments for claimants.

8. Claimants must be notified formally in writing as soon as there is a query about a disallowance or sanction which could lead to their benefit being stopped.

9. Claimants must continue to have access to a process for challenging decisions which is independent of the DWP.

The new mandatory reconsideration process should be thoroughly reviewed after a year of operation.

10. 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.

- 11. 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.**
- 12. 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.**
- 13. Specific attention should be 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) 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.**
- 14. The DWP should gather good practice of JobCentre communicating in effective and innovative ways with claimants, and look at how it can be rolled out more widely across the country.**
- 15. To comply with its duties under the Equality Act 2010, the DWP should 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, and put in reasonable support and adjustments so that they do not get penalised for a reason relating to their disability.**
- 16. More effort must be put into communicating to claimants why jobsearch requirements are meaningful, or jobsearch requirements should be revised to ensure they do genuinely support people to find work.**

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. We are champions for both citizens and consumers and In 2012/13 we helped over 314,000 people deal with over a million issues. Our financial gain for clients in this year was £121 million.

Our bureaux deliver frontline advice services through more than 200 service points across the country, from the city centres of Glasgow and Edinburgh to the Highlands, Islands and rural Borders communities. This network of dedicated staff and volunteers is ideal to represent and assist the consumers in Scotland in all transactions and services they operate in.

Our vision is paramount to all our goals in the consumer landscape as well as being simple but robust:

"A fairer Scotland where people as citizens and consumers are empowered and their rights respected."

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