

Citizens Advice Scotland Briefing: Benefit Sanctions Regime (Entitlement to Automatic Hardship Payments) Bill Second Reading



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Citizens Advice Scotland (CAS), our 61 member Citizen Advice Bureaux (CAB), the Citizen Advice consumer helpline, and the Extra Help Unit, form Scotland's largest independent advice network. Advice provided by our service is free, independent, confidential, impartial and available to everyone. Our self-help website Adviceguide provides information on rights and helps people solve their problems.

In 2014-15 the Citizens Advice Service network helped over 323,000 clients in Scotland alone and dealt with over one million advice issues. With support from the network clients had financial gains of over £124 million and the Scottish zone of our self-help website Adviceguide received approximately 5.4 million unique page views.

Summary

Our evidence shows that too often the current system of benefit sanctions is leaving many of our clients facing destitution and crisis. While Citizens Advice Scotland does not in principle object to the use of sanctions in appropriate cases as a last resort, we strongly believe that no one should ever be left without any income at all. People should be able to meet essential living costs and, at the very least, be able to eat and heat their homes.

The current system of hardship payments, which is intended to ensure that people are not left unable to afford basic necessities such as food and accommodation, is failing to fully mitigate the risk of severe hardship arising from sanctions. In particular, the two-week waiting period for most claimants, as well as the application process itself, often means that people are left without any income and have to rely on other emergency support, such as food banks, borrow money from family and friends or take out formal loans, including payday loans.

While CAS believes that an independent review of the entire sanctions regime is needed as a matter of urgency, this Bill would address some of the key problems with the current hardship payments system and should reduce the number of people facing severe hardship as a result of benefit sanctions.

Hardship payments

Bureau advisers are at the frontline and see how clients are affected by the current sanctions regime. In 2014/15, bureaux dealt with 3,283 new sanctions issues. Over recent years, sanctions have increased significantly in length, severity and number. Our evidence shows that too often sanctions are applied unfairly and without warning or explanation, leaving people with little or no money for long periods. The loss of income brought about by a sanction has left many bureau clients facing severe hardship.

In 2014, we asked bureau advisers their views on how the sanctions regime was working.ⁱ Many reported that the sanctions regime was having an adverse impact on the health and wellbeing of clients. Over 90% of advisers said they had seen clients having to skip meals or request food parcels as a result of a sanction. Many clients also go without gas or electricity or turn to formal loans, including payday loans, to survive. Sanctions can also put other support or arrangements at risk, including tenancies, rent or council tax arrears repayments and other debt repayment plans.

Sanctions currently remove all of a claimant's Jobseeker's Allowance (JSA) and the personal allowance component of a claimant's Employment and Support Allowance (ESA). The Department of Work and Pensions (DWP) administers a system of discretionary hardship payments. A claimant may be eligible for a hardship payment if they can show that they would be unable to afford essential items such as food, heating and accommodation if no payment were made.

JSA hardship payments are paid at the rate of 60% of the claimant's JSA personal allowance, or 80% where the claimant or a member of their household is pregnant or seriously ill. ESA hardship payments are paid at the rate of 60% of the claimant's ESA personal allowance.

Most hardship payments are only payable from the **15th day of a benefit sanction period**. Vulnerable JSA claimants (those who can prove that they are a member of a defined group e.g. people with dependent children, people with a chronic medical condition) and all ESA claimants can receive a hardship payment from day one of a sanction period.

Problems with the current system of hardship payments

Data from the DWP shows that, since the introduction of the more severe sanctions regime in October 2012, around 764,000 hardship payment awards have been made.ⁱⁱ Analysis by Dr David Webster of the University of Glasgow suggests that there has been a huge increase in the number of hardship payments following the introduction of the more severe sanctions regime.ⁱⁱⁱ

Our evidence shows that there are a number of problems with the current system of hardship payments which need to be addressed to ensure that the system fully mitigates the risk of severe hardship arising from sanctions.

Two-week waiting period

We have seen a number of cases where the two-week period before any hardship payment is payable has left clients facing destitution, often having to rely on other forms of support such as food banks or the Scottish Welfare Fund. Many claimants are already struggling financially before a sanction was applied, and find it extremely difficult to meet basic living costs while waiting for any hardship payment.

- An East of Scotland CAB reports of a client who was dismissed from his job and began claiming JSA. He was subsequently sanctioned for three months for leaving his previous employment. Because of the wait for any hardship payment to be made, he had to be referred to a food bank.

- ▶ An East of Scotland CAB reports of a client whose JSA was sanctioned for three months after he stated the truth in response to an application question on previous drug use. He was told in a letter that he had failed to apply for that job. While waiting for a hardship payment to be made, the client was struggling to make ends meet and had to be given a food voucher.
- ▶ An East of Scotland CAB reports of a client whose JSA was sanctioned because he was dismissed from his previous job. The two-week wait for any hardship payment to be payable left the client without any money. He was given a food bank referral and made an application for a Crisis Grant.
- ▶ An East of Scotland CAB reports of a client with mental health problems who due to a misunderstanding about his signing-on day was sanctioned for four weeks for missing an appointment. He applied for a hardship payment but would not get that for two weeks and in the meantime had no money for food or gas and electricity. He was referred to a food bank.

The lack of income brought about by a sanction, exacerbated by the two-week waiting period for any hardship payment, can also significantly hinder claimants from fulfilling their job-seeking conditions, potentially leading to further, and longer, sanctions.

- ▶ A West of Scotland CAB reports of a client whose JSA was sanctioned after missing an appointment at the JobCentre. As a result, he did not have enough money to afford transport fares to his next appointment. He called the JobCentre to tell them this, but was sanctioned again (for three months) when he failed to attend that appointment. When he came to the bureau, he had no money for food but had been told by the JobCentre that he would not be able to apply for a hardship payment for a further two weeks. He was given a food bank referral and made an application to for a Crisis Grant.
- ▶ A West of Scotland CAB reports of a client whose JSA was sanctioned after he missed an appointment with the JobCentre due to his father's death. He was then sanctioned again after he missed a training session because he did not have enough money to afford transport. He called both the JobCentre and the training provider beforehand to see if he could have the date postponed until his hardship payment was made, but was told that this was not acceptable and he should borrow money for travel which would then be reimbursed. The client's health has worsened as a result and he was signed off as sick by his doctor for four weeks.

Application process

Too often, claimants are not told by the JobCentre about the availability of hardship payments or are not aware of how to access them. Even if they are, we have seen many clients who have been put off applying for a hardship payment because the application process itself can be onerous, particularly where a client is already experiencing hardship.

- ▶ A North of Scotland CAB reports of a client who had to make a 60 mile round trip at the cost of £14.00 to make an application for a hardship payment. In the meantime, he had no money for food and was facing severe hardship.
- ▶ An East of Scotland CAB reports of a client whose Universal Credit was sanctioned for missing an appointment with his work coach. He was told he would not receive any benefit for five weeks. However, he was not told that he could apply for hardship payments. The client had no money for food, gas or electricity and made an application for a Crisis Grant.
- ▶ A West of Scotland CAB reports of a client whose JSA was sanctioned for four weeks. He was not told by the JobCentre about hardship payments, and only found out that he would be eligible to apply when he came to the CAB.
- ▶ A North of Scotland CAB reports of a client whose Universal Credit was sanctioned for failing to attend an appointment. The client had no money to make the trip to the JobCentre to apply for a hardship payment. He had already had three Crisis Grants that year so could not get further support from the Scottish Welfare Fund. He was given a food parcel.
- ▶ A North of Scotland CAB reports of a client whose Universal Credit was sanctioned but was not told about the availability of hardship payments. On calling the Universal Credit line, the bureau adviser was told that they do not tell claimants about the hardship payments because usually they can rely on family.

Recoverability of hardship payments under Universal Credit

Unlike JSA and ESA hardship payments, the DWP can in some circumstances recover Universal Credit hardship payments once the sanction period has ended, by deducting amounts from future benefit payments, subject to some exceptions. This is likely to exacerbate claimants' existing financial problems and could cause significant distress and hardship for many.

- ▶ A North of Scotland CAB reports of a client who was claiming Universal Credit and had received a hardship payment after a sanction. He understood from what he had been told that he would have to pay back the hardship payment 'in one go', which would leave him with very little money after paying his rent. On telephoning both the JobCentre and the Universal Credit line, the bureau adviser was unable to get clarification on when repayment would be taken, whether that would be by instalments, and if so, how much would be taken at each instalment. This left the client in some distress about how he would manage over the coming months.

Benefit Sanctions Regime (Entitlement to Automatic Hardship Payments) Bill

CAS strongly believes that **no one should ever be left without any income at all**. People should be able to meet essential living costs and, at the very least, be able to eat and heat their homes.

We therefore support this Bill, which would address the issues discussed above by ensuring that:

1. Hardship payments are available from day one of a sanction period in all cases

The Work and Pensions Committee recommended last year that “*changes to the system are required to ensure that the risks of severe financial hardship are more comprehensively mitigated*” and, in particular, that “*the DWP make hardship payments available from day one of a sanction period in all cases, including JSA*”.^{iv} The Government accepted this in principle, but only proposes to consider extending the definition of vulnerability for the purpose of access to hardship payments from day one.^v

It is common sense that *anyone* deprived of all means of support is vulnerable, regardless of whether they are a member of a predetermined group. Therefore, the Government’s response does not go far enough to address the problems with the current system.

The Bill would ensure that hardship payments are available from day one of a sanction period in *all* cases.

2. Automatic payment

The Bill places the a duty to assess hardship on the Secretary of State, therefore removing the obligation on claimants to make an application which, our evidence has shown, can deter people from obtaining crucial support. The Bill would also ensure that hardship payments are made automatically upon a sanction until such time as a decision on hardship is made by the Secretary of State and any appeal has been exhausted.

3. Hardship payments are not repayable in any circumstances

The Bill removes the provision in the Welfare Reform Act 2012 which enables the DWP to recover hardship payments made under Universal Credit.

ⁱ *Sanctioned: what benefit?* Citizens Advice Scotland, July 2014
<http://www.cas.org.uk/publications/sanctioned-what-benefit>

ⁱⁱ *JSA and ESA hardship applications and awards April 2012 – June 2015* DWP, November 2015
<https://www.gov.uk/government/statistics/jsa-and-esa-hardship-applications-and-awards-apr-2012-to-jun-2015>

ⁱⁱⁱ *Briefing on the DWP’s JSA/ESA Sanctions Statistics Release, 11 Nov 2015 and Hardship Payments Ad Hoc Statistical Release, 18 Nov 2015* Dr David Webster, November 2015

^{iv} *Benefit sanctions policy beyond the Oakley Review* Work and Pensions Committee, March 2015 (paras 149-150) <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmworopen/814/814.pdf>

^v *REF Gov response Government response to the Work and Pensions Committee’s Firth Report of Session 2014/15: Benefit Sanctions beyond the Oakley Review* October 2015
<http://www.publications.parliament.uk/pa/cm201516/cmselect/cmworopen/557/557.pdf>