

## **CO-OPERATIVE & COMMUNITIES SCRUTINY COMMITTEES**

### **Minutes of a meeting of the Co-operative & Communities Scrutiny Committee with Members of the Budget & Finance Scrutiny Committee held on Monday, 12<sup>th</sup> May 2014 at 6.00pm in Meeting Room 3, Darby House, Lawn Central, Telford TF3 4JA.**

**PRESENT:** Councillors A. McClements (Chair) N. England, A. Jhawar, J. Pinter, J. Seymour, K. Tomlinson and co-optee J. Ellis.

Also attending: Members of the Budget & Finance Scrutiny Committee Cllrs. S. Reynolds (Chair), K. Austin, G. Reynolds, and co-optee R. Williams; Cllr. Hilda Rhodes, Cabinet Member Customer Services, Libraries & Transport; A. Astley, Assistant Director Customer & People Services; L. Higgins Benefits Service Delivery Manager; S. Jones, Scrutiny Officer.

#### **CCSC-05 MINUTES**

**RESOLVED** – that the minutes of the meetings of the Co-operative & Communities Scrutiny Committee held on 19<sup>th</sup> March 2014 be confirmed and signed by the Chairman.

#### **CCSC-06 APOLOGIES FOR ABSENCE**

Cllr. J. Thompson and Budget & Finance Scrutiny Committee Members Cllrs. N. Dugmore, R. Evans, K. Guy, C. Mollett and Co-optee F. Robinson.

#### **CCSC-07 DECLARATIONS OF INTEREST**

None

#### **CCSC-08 WELFARE BENEFIT REFORMS**

The Chair introduced the purpose of this item as being for the Co-operative & Communities and Budget & Finance Scrutiny Committees to receive a report on the full year impact of the welfare benefit reforms. An interim report had been presented to the joint committees on 3<sup>rd</sup> September 2013. A response supporting the retention of the Council Tax Support Scheme for 2014/15 had been submitted and had been referenced in the recommendations to Cabinet in December 2013 and subsequently agreed by Council. Since then, the Co-operative & Communities Scrutiny Committee had agreed two further issues around debt provision and benefit sanctions for the work programme.

The Chair welcomed the Assistant Director and Benefits Manager back to the committee and they gave a detailed presentation on the welfare benefit reforms one year on.

## **1. Housing Benefit Changes**

### **1.1 Social Sector Size Criteria (Spare Room Subsidy / Bedroom Tax)**

In addition to the information in the slides the following points were made:

- Late changes - the allowance for non-dependents serving in the armed forces only applied if they were on operations and not in barracks which means frequent changes in eligibility for some families; the allowance for disabled children had not been extended to disabled adults; all those qualifying for exemption because of the loophole in legislation had been contacted and notified.
- The case load had reduced by 39% between the first analysis in December 2012 and the introduction of the changes in April 2013. This was a higher rate of reduction than national and regional averages of around 28-32%. Supported accommodation was exempt; the properties which had been re-classified were Wrekin Housing Trust properties where WHT provided floating support.
- The overall amount paid out in housing benefit over the year had reduced by £1.7m as a result of the changes.
- Many tenants affected by the social sector size criteria had said they preferred to remain in their property and absorb the shortfall themselves.
- Housing benefit expenditure in the social rented sector had reduced in 2013/14 for the first time in years. Expenditure in the private rented sector had increased but not above the norm.
- The increase in conversions to HMOs to meet the demand for smaller properties meant landlords were able to attract more income but also meant there was an overall increase in the amount of housing benefit paid out. There could be issues with quality of accommodation and anti-social behaviour associated with HMOs.
- Common themes for appeals were the definition of a bedroom and the minimum size of a bedroom. A minimum size had not been set for housing benefit purposes and it was up to the landlord to decide the designation of a room not the benefit assessor. There had been some successes in Scotland on first tier appeal challenges on the definition of a bedroom where rooms were used for other purposes. The first tier decisions were being challenged by DWP in higher tribunals and the decisions made there will test the interpretation of the legislation and have an impact by setting precedents. The first challenge in Telford and Wrekin was due to go to tribunal in the next 2-3 weeks.
- RSLs had seen an increase in rent arrears amongst tenants affected by the change – all affected tenants had been offered help and some had chosen to stay in the property but were now sliding into arrears.

### **1.2 Discretionary Housing Payment (DHP)**

In addition to the information in the slides the following points were made:

- Unallocated funds are returned to DHP so the budget was constantly monitored to ensure money is maximised in supporting local people.
- The majority of applications were made within the first 3-4 months of the welfare

benefit changes being introduced.

- The most frequent reason for applications was the social sector size criteria.
- The most frequent reason for DHP awards was to help with short-term rental costs for people under-occupying while they secured a smaller property.
- For disabled people with adaptations in many cases moving was not an option.
- Other reasons for awards included people currently under occupying but about to have a baby or parents who need rooms for children not living with them full time.
- Landlords in the social rented sector had been very proactive in supporting tenants and most applications were made by the social landlord on behalf of the tenant. This was helpful because over the year they had been able to identify tenants who were falling into arrears and DHP had been applied retrospectively to put tenants on the right footing to move ahead. DHP could also now be used to help pay deposits under certain criteria where it would enable the tenant to move to suitably sized accommodation which they could fully fund.
- Tenants in arrears had been trapped by not being able to register on Choose Your Home and following negotiation WHT had agreed to waive the restriction.
- Choose Your Home was being disbanded in June and there would no longer be a single waiting list or pool of stock. There was a need to be conscious that this did not become a barrier for tenants affected by needing to register on multiple lists.

### **1.3 Overall benefit cap**

In addition to the information in the slides the following points were made:

- Only 2 of the households affected had been awarded DHP on a short-term basis and both had now ended.
- The national government think that the overall benefit cap is one of the main drivers for more people going into work. There were no local figures and this would need to be analysed.

At the end of these sections Members asked the following questions:

- Cllr. Seymour questioned why housing benefit cost more in the private rented sector than in the social rented sector when the bedroom cap had been around for some time in the private rented sector. The Benefits Manager explained that a bedroom calculation for housing benefit purposes had been introduced into the private rented sector in 2008. A tenant's need for bedrooms was assessed and capped and the amount of benefit agreed at the start of the year. Tenants in the private sector had not then been affected by the introduction of the social sector size criteria. Rent in the private sector was higher than for equivalent accommodation in the social rented sector, so a 3 bedroom property in the social sector could be cheaper than a 2 bedroom property in the private sector. A family moving from a 3 bed property in the social sector to a 2 bed property in the private sector could be paying more in rent even with the cap on rooms in the private sector. Cllr. Seymour asked in that case whether the answer was to increase the amount of stock of the right size in the social sector and the Benefits Manager said yes, but there was no direct cost to the Council although increases impact on the housing benefit bill nationally.

- Cllr. Tomlinson asked whether bedrooms for children away at university were exempt from the spare room subsidy. The Benefits Manager said that benefit could be paid for the additional bedroom if it was the student's intention to move back into the home as their primary property at the end of their study and for the most part benefit had continued to be paid for students' bedrooms. If the student has a permanent home elsewhere or lives with a partner the bedroom is no longer exempt and the spare room subsidy is removed. Cllr. Seymour wanted to know how we would know and the Benefits Manager agreed that it was almost impossible to police.
- Cllr. Tomlinson asked how many of the 2,204 households affected by the social sector size criteria had chosen to remain in their properties and absorb the extra cost. The Benefits Manager said around a third had said they would stay in the same property but some had fallen into arrears over time. They would need to re-survey the group to quantify exact numbers but it was important not to assume that all those affected wanted to move.
- Cllr. Tomlinson commented on the size of the caseload between 2011/12 and 2012/13 and the Benefits Manager said that this was at the height of the recession and when the changes had been introduced. Also from 2011 social landlords were able to charge 80% of market rent so increases in the private sector had driven rent increases in the social sector.
- Cllr. Tomlinson asked what costs the Council would incur as a result of legal challenges. The Benefits Manager said that the benefits appeal process was already well established and embedded and that all the costs were built into the benefit system. DWP steps in to defend all appeals although if a challenge went to a second tier appeal there could be some costs associated with legal experts. The Assistant Director said that from the Council's point of view, the question we have to ask ourselves is whether we have applied the legislation fairly. She could not comment on the specific case in Telford and Wrekin which was due to go to tribunal but said that the appeal could help to clarify the legislation. Cllr. Tomlinson asked whether DHP had been used to help the appellant. The Benefits Manager said it had been and the Assistant Director said they had been supported though other means but for the customer it was a point of principle.
- Cllr. Tomlinson asked if disabled people were under-occupying an adapted property and could not afford the extra cost whether the Council would have to fund adaptations to a smaller house to enable them to move. The Benefits Manager said that this had not happened so far because DHP was almost always awarded to people who needed a room for a person with a disability. If new grant funding was available, the costs of adapting a smaller property could be assessed, and in the long term there was no certainty about DHP funding but the Council would continue to assist with DHP year on year.
- Mr. Ellis commented that one of the government's reasons for the reforms was to rebalance overcrowding and under-occupancy in the housing market. He wanted

to know the position in Telford and Wrekin, whether there were any concrete figures on the shortfall of one bedroom properties or evidence of a surplus of larger properties created by people downsizing. The Benefits Manager said nationally there was some evidence of large properties sitting empty but this was not the case in the borough. There was as much demand for family homes as smaller and single units. Mr. Ellis said there should be concrete numbers to feed into the Local Plan Shaping Places which had just been released for consultation on housing development site allocations and the figures needed to be fed into the plans. The Assistant Director assured Mr. Ellis that this had been done and they had given a presentation to the senior management team so they were aware of the challenges from a revenues and benefits perspective and the need for certain types of properties to serve customers. The challenge was also to get this over to the RSLs. Telford & Wrekin as a “Business Winning, Business Supporting” Council was also exploring the option of buying into the social rented sector and it was felt that the climate was such that there was potential for the Council to invest in this area. Mr. Ellis said he was pleased to hear this and asked if HMOs were being considered to fulfil the demand for smaller properties. The Benefits Manager said Revenues & Benefits had requested more one bed-roomed properties and the Assistant Director said they were more likely to develop self-contained units and this was one of the business opportunities being explored by the Council. Mr. Ellis requested that the Committee be kept updated on progress.

- Cllr. S. Reynolds asked about the exemption of bedrooms for foster children between placements. The Benefits Manager said the exemption applied when a foster child was living in the home and for 52 weeks between placements.
- Cllr. S. Reynolds asked whether the short-term DHP awards made while people looked for smaller accommodation were time limited. The Benefits Manager said the majority of awards were made for 3-6 months depending on individual circumstances and what and when changes could be made to the household budget. People could be assisted short term while they made changes to their budget for example by cancelling satellite/cable television contracts or downgrading mobile phone contracts. If there were genuinely no other savings options they could be assisted for longer.
- Cllr. S. Reynolds asked if people were actively encouraged to move from the social sector to the private sector to get a smaller property. The Benefits Manager said people were signposted to all options but they were conscious that it could be a big leap for tenants who have rented the same property in the social sector for many years so they were not pushed or forced.
- Cllr. England asked if data could be profiled at ward level. The Assistant Director said data was not broken down by ward and it would take a lot of time and work to disaggregate but it could be provided. It was agreed that Cllr. England would e-mail details of what he would find useful after the meeting.

- Cllr. G. Reynolds asked whether an overall saving had been made nationally from the removal of the spare room subsidy or whether savings had been outweighed by increases to the DHP budget. The Benefits Manager said there had been national impact studies which showed there had been an overall saving but less than anticipated. The Assistant Director said the Joseph Rowntree Foundation had done some work on the impact of the reform and a copy of the report would be circulated to the committee after the meeting.
- Cllr. G. Reynolds asked how potential national policy changes which may arise from a change of government are factored into long-term planning. The Assistant Director said there was only ever certainty of confirmed grant allocations but in terms of the longer term plans for investment in the housing market, it would take time for any changes to work through the system and there would continue to be a demand for one bedroom properties from younger people.
- Cllr. Seymour asked whether any of the appeals were from adults with disabilities who needed a room to store equipment so the room was not being used as a bedroom. The Benefits Manager said under the current interpretation of the legislation the room would be classed as a bedroom – even if it was being used to store equipment for a disabled child – but these issues were being challenged through appeals. Cllr. Seymour asked if the appeals were only in Scotland and the Benefits Manager said they were happening across the country. The Assistant Director said that they receive daily briefings and any changes in legislation resulting from the appeals would be reported back to the committees.
- Mr. Ellis asked who decides whether a room is counted as a bedroom or not. The Benefits Manager said it was decided by the landlord – if they deemed a room to be a storage room it would not count for benefit purposes. In the private rented sector it was not so much of a problem because as discussed earlier in the meeting the housing benefit calculation was agreed up front so people in the private rented sector were not penalised for having extra bedrooms. In the social sector the amount of benefit was dependent on the number of bedrooms which is determined by the landlord. There was some evidence that appeals by tenants on the grounds that a room was used as a study or for storage and should not be counted as a bedroom were being upheld by first tier tribunals.
- The Chair gave an example of a parent who needed rooms for children to stay in during access periods who had been distressed by the removal of the subsidy for the rooms. The Assistant Director said that this was one of the challenges but DHP is paid in cases where there is a safeguarding issue.
- The Chair asked if there was a correlation between tenants in arrears and use of food banks. The Assistant Director said there was not enough intelligence as yet to link the two things. The Benefits Manager said that the social landlords refer tenants in arrears to the CAB so they can be linked in and there had been a huge increase in the use of the food banks.

- The Chair asked questions on behalf of Ms. Robinson (co-optee) who had sent apologies but wanted questions to be asked in her absence. Ms. Robinson wanted to know about fraud investigation and recovery work carried out by the Council, whether the Council pays housing benefit directly to landlords where tenants are not paying their rent or possibly de-frauding benefit and whether there has been a reduction in the number of private landlords renting properties to benefit claimants as a result of the benefit changes leading to a loss of available housing in the private rented sector. The Benefits Manager said that they had seen the opposite in the private sector with landlords responding to the benefit changes by buying up properties and attracting more benefit claimants and more were getting direct payments than they used to. The Assistant Director said that detailed information about fraud had not been prepared for this meeting but could be brought to a future meeting. Mr. Ellis commented on the fact that rent increases in the private sector had pushed up rent in the social sector and that one drives the other.
- Cllr. Tomlinson asked whether there had been any cases of people in arrears declaring themselves bankrupt so their arrears were written off and the Benefits Manager said he was not aware of any cases where someone had declared themselves bankrupt because of the welfare changes.

## **2. Council Tax Support**

In addition to the information in the slides the following points were made:

- The burden of the reduction in funding had fallen mainly on working age non-protected customers and single people on JSA with no other income or tax credits had found it most difficult to absorb the changes.
- Collection rates were slightly below target but the overall amount collected was up by £4m.
- Members were reminded that the Council Tax Support scheme was funded from Council money and not DWP money.
- The scheme would be reviewed and changes would require full public consultation.

At the end of this section Members asked the following questions:

- Cllr. Seymour asked what was meant by “non-passported” recipients. The Benefits Manager explained that people in receipt of other benefits (pension credit, income support, income based JSA and ESA) have already been assessed and have an automatic entitlement to Council Tax Support so the Council does not need to assess them for changes in circumstance – they are “passported” recipients. “Non-passported” recipients are those not in receipt of these benefits who do not have an automatic entitlement who are assessed by the Council for changes which affect how much they receive. The results of the Council Tax discount amnesty still had to be analysed but it was estimated £50-60k worth of changes had come forward. There was a new focus on Council Tax Support and Single Person’s Discount fraud investigation. Fraud work had traditionally focused on housing benefit because the amount of money involved was much

higher, but had been re-focused on Council Tax Support because although lower value, recovery directly benefits the Council.

- Mr. Ellis asked about the redesign of the CTS scheme and whether the committee would be consulted. The Assistant Director confirmed that the working group had been reconvened to review the scheme and scrutiny would be consulted on any proposed changes. The Benefits Manager said that legislation required a 12 week public consultation on any changes to the scheme and changes would need to be agreed by full Council by 31<sup>st</sup> January 2015.
- Cllr. S. Reynolds noted the 42% increase in the number of summonses issued compared to the same period in the previous year. She wanted to know what amount had to be outstanding to trigger a summons and whether summonses were viable for very small amounts. The Assistant Director said that debt was pursued through letters and phone calls before being escalated to a summons. A summons was usually issued when debt accumulated to about £70 which depending on the amount involved could take several months. The approach could be considered as part of the review of the scheme but was in line with other authorities.
- The Chair asked if the Council Tax discount amnesty was a one-off or if it would be repeated and the Assistant Director said they would analyse the results and review expenditure to establish if there was a net saving to the Council. If it had been successful they would consider another amnesty for next year. The Benefits Manager said one group who had come forward were pensioners who had not previously reported changes to private pensions.

### **3. Local Crisis and Resettlement Assistance**

In addition to the information in the slides the following points were made:

- The announcement of the withdrawal of funding from April 2015 had not been anticipated and was a challenge - £100k had been earmarked for a scheme for 3 years and proposals would be put to Cabinet in October.
- The LGA continued to lobby government on behalf of local authorities and scrutiny would be kept up to date with any changes and would be involved in any proposals pre-Cabinet.
- They were seeing an increase in the length of benefit sanctions from 4 weeks to 3 months. The reasons appeared unfair from the customer point of view. 70% of cases had appeals outstanding. Decisions were rarely reversed and if they were it took weeks to reinstate the benefit. The CAB had said that the number one reason for people seeking help was benefit sanctions. Under new rules some people could be required to sign-on daily which was anticipated would increase the level of sanctions.

At the end of this section Members asked the following questions:

- Cllr. Seymour noted that one of the explanations given by customers for benefit sanction was that they had been attending a job interview they had arranged

themselves and she commented that the person could have informed the Jobcentre about the interview. She asked whether DWP had been asked for their views on the benefit sanctions. The Benefits Manager said they had not asked for information on an individual case level but had not seen decisions reversed. Locally the Jobcentre Plus manager had accepted that the regime had become more stringent and easier for sanctions to be imposed and that DWP's strategy was to make claiming benefit as challenging as possible to force people into action, and in this respect DWP may claim that it was working. The Assistant Director said that the welfare reforms were all about making work pay. They would share the data with DWP and ask them for a response and report back. There was a risk of people who have their benefit sanctioned falling back on the Council and this issue required high level discussion and would be raised at Local Strategic Partnership level. The Chair asked whether scrutiny could help and the Assistant Director said a letter from the committee to support lobbying could be helpful. Cllr. Tomlinson said she could understand the logic of sanctions but was concerned about the impact on people who were genuinely trying to find work and on adults with learning disabilities. Her church had done a lot to support people via the Food Bank in Dawley and she would support scrutiny support for lobbying. The Chair agreed that scrutiny should support lobbying. Mr. Ellis commented that DWP seemed target driven and not solution driven.

- Mr. Ellis asked whether any surplus from this year's Local Crisis Assistance funding could be rolled forward to next year and the Assistant Director replied that it was within the Council's gift to roll forward.
- Mr. Ellis asked whether the DWP member of staff seconded to the Council could be used to exert influence back on DWP. The Assistant Director explained that the secondment had been made for 12 months as part of the targeted work to tackle youth unemployment and would then return to DWP. Mr. Ellis asked whether the secondment had made a constructive difference and the AD assured him that they had.
- In light of the withdrawal of Local Crisis and Resettlement Assistance funding Mr, Ellis asked whether there was any risk to DHP funding which had been increased this year. The AD said that there were no guarantees and that was why they could only plan 12 months ahead with certainty and Mr. Ellis pointed out there was uncertainty about the funding because of the election.

#### **4. Future changes and challenges**

The main future challenge was Universal Credit (UC). UC had been rolled out in small parts to a small number of people in pilot areas – between 20,000-30,000 - and had not replaced housing benefit yet. The national roll-out had been pushed back to 2017-2019. A proposal had been discussed nationally to stop all benefits to under 25s. From July all housing benefit fraud investigation units would merge into a single unit under DWP to look at fraud across the system. The authority would retain investigation of Council Tax Support fraud.

- Mr. Ellis asked how centralised or local the new fraud service would be and the Benefits Manager said that this was still unclear.

When there were no further questions there was a discussion about further scrutiny work. The Assistant Director said that previously it had been helpful to bring proposals to scrutiny as a cross-party committee and the service would like help in three areas:

1. The Community Loan Scheme as an alternative to pay-day lenders and loan sharks
  2. The design of the Crisis Support Scheme to replace the Local Crisis & Resettlement Assistance scheme
  3. Any proposed changes to the Council Tax Support scheme for 2015/16
- Each item could be brought to scrutiny for pre-Cabinet input.

The Chair proposed that the committee look at all the issues suggested and asked members if they had any other ideas they wished to raise. The Chair said she was interested in the wider issues around debt and suggested the committee look at this in more detail. Cllr. S. Reynolds said she had been involved with credit unions in the past and wanted to be kept involved in any work related to credit unions. Mr. Ellis suggested that a pro forma could be developed to help people with budgeting and on-going support. Cllr. England said they would need to refine what was needed. The Assistant Director said the Council provided funding to the CAB to provide debt advice which was supported by the surplus from the Crisis Assistance funding which would be impacted once the funding was withdrawn. The Chair said that the Committee had a role to play in the on-going monitoring of the impact of the welfare reforms.

The Scrutiny Officer asked whether members wanted to look at fraud issues and the Assistant Director suggested this could be done later in the year once the other work was complete and the changes to the consolidation of fraud investigation services had been made.

The Scrutiny Officer checked whether members wanted to pick up on suggestions made earlier in the meeting to write a letter of support for lobbying on the withdrawal of the Crisis Assistance funding or benefit sanctions but it was agreed that this would not be done at this stage.

Members of the Budget & Finance Scrutiny Committee and officers left the meeting at the end of this item.

**RESOLVED:**

**That the three items suggested by the Assistant Director be incorporated into the work programme.**

**CCSC-09     CHAIR'S UPDATE**

- The Chair reminded members that the scrutiny committees were coming to the end of a two year work programme and the Scrutiny Management Board had agreed to a light touch refresh of the work programme to allow outstanding items to be completed before the 2015 elections. The Scrutiny Management Board would be considering a report on the work programme at the meeting on 16<sup>th</sup> May including new suggestions put forward for scrutiny by members of the Senior Management Team, a local resident and Mr. Ellis who had put forward a suggestion to scrutinise proposed changes to bus transport. The Board may make recommendations about priorities for scrutiny but it would be up to the committee to make final decisions about the work programme. The Scrutiny Officer explained that transport fell within the remit of the Housing, Economy & Infrastructure Scrutiny Committee which had agreed to include the transport review within its work programme but the Assistant Director Family & Cohesion Services would attend the Scrutiny Management Board meeting to explain the new approach to the transport review for members to determine the best approach for scrutiny. There was a discussion about this and it was agreed that the committee should be involved in the review of bus services because of the potential impact of changes on local communities. The Chair agreed she would report this to the Board at the meeting on 16<sup>th</sup> May and would report back at the next meeting.
- The Chair reminded members that the work of the committee on the management of community centres had been submitted for a Good Scrutiny Award and members would be updated once the short list was announced on or after 22<sup>nd</sup> May.

The meeting ended at 8.20pm

**Chairman:**.....

**Date:**.....



# Evidence



Response to the  
call for information for the  
Independent Review of Jobseeker's  
Allowance Sanctions

Citizens Advice  
January 2014

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## Introduction

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Citizens Advice welcomes the opportunity to respond to the independent review of benefit sanctions. In 2012/2013 Citizens Advice advised 2.1 million people on 6.6 million issues. In the last four quarters for which statistics are available, bureaux gave advice on almost three million enquires on benefits and tax credits. Sanctions and hardship payments issues account for almost ten per cent of the advice queries we receive for jobseeker's allowance (JSA). As such, we are ideally placed to provide evidence to this review.

On a daily basis bureaux see how communications and process failures across conditionality and sanctions obscure the policy intent and thus minimise its effectiveness. Many of these failures are preventable and easily remedied through small changes in process, notifications and guidance. When claimants experience unnecessary hardship as a result of poor communications they are unable to fulfil their requirements, moving them further from the labour market.

In the main body of the response we discuss the main communications failures and provide a series of recommendations to remedy or alleviate the problems caused by such failures. We have attached two appendices; Appendix A contains a selection of case studies from bureaux organised around the themes of the main document, and Appendix B provides the demographic data from bureaux with regard to people seeking advice about welfare benefit sanctions.

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## Summary

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Citizens Advice has identified three core themes across the communications failures experienced by claimants:

- communications failures that cause compliance failures
- communications and systems failures that cause inaccurate referrals and adverse decisions
- communications failures that create barriers to re-engagement

### **Communications failures that cause compliance failures**

- Good communication of mandatory activities can help prevent a compliance failure.
- Improving the timing, quality and type of communications could cause a reduction in compliance failures and a concomitant increase in behaviours associated with better labour market outcomes.
- People learn from and are engaged by information in different way. Using a range of communications types and styles will increase attendance and decrease compliance failures

Recommendations:

- JCP to be responsible for both referral and appointments communications for joining a back to work scheme
- All appointment letters to be issued a minimum of seven days in advance.

- Reminders to follow notifications by text (SMS), email or telephone.
- Face to face communications are vital to engaging claimants

### **Communications and systems failures that cause inaccurate referrals and adverse decisions**

- There are a range of failures in the communications and in the processes for collecting and sharing information between agencies that lead to claimants being erroneously referred for a compliance doubt, or going on to receive a sanction in error.

#### Recommendations:

- Providers and JCP to make clear to claimants that all attendance records are sent to the DWP and that the DWP will decide if reasons for non-attendance are acceptable.
- Providers to give claimants clear written guidance on absence procedures, and reinforce the message in face to face settings.

### **Communications failures that create barriers to re-compliance**

- A number of communications failures make it difficult for claimants to re-comply with mandatory requirements and thus reduce the effectiveness of sanctions. These failures include:
  - Poor communication of the reasons for a sanction
  - sanctions being applied before notices are received
  - inadvertent termination of other non-sanctioned benefits
  - lack of information about other financial support
  - failure to flag up the reconsideration and appeals processes

#### Recommendations:

- Timely notifications: benefit payments should not be stopped until the sanction notification has been received
- The notification letter to be followed up by a telephone call which explains the correspondence
- Specific and personalised notifications are needed – these are paramount to the policy intent
- Information about alternative financial support that may be available and how to access it to be actively promoted and support to apply more accessible
- One piece of correspondence, one message: DWP to ensure unrelated issues are not conflated in a single notice

### **Demographic data of bureaux clients seeking advice for sanctions**

#### Gender:

- There is a greater propensity for men to seek advice at bureaux on sanctions than women
- While men made up 49 per cent of all clients seeking advice at bureaux, they accounted for 66 per cent of clients seeking advice about sanctions so that in 2013/14 36 per cent more males sought advice specific to JSA sanctions than sought other advice at bureaux

#### Age

- There is a greater propensity for people aged 50 – 64 years to seek advice specific to ESA sanctions than other age groups

- While the 50 – 64 years group accounts for 26 per cent of the Citizens Advice general client profile, they accounted for 45 per cent of advice queries for ESA sanction in 2012/13, which is 70 per cent more than the general client profile
  - Since 2010/11 there has been a steady increase in ESA sanctions advice sought by people between the ages of 50 and 64, despite Citizens Advice's general client profile showing little change
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## Evidence

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### 1. Communications failures that cause compliance failures

Good communication of mandatory activities can help prevent a compliance failure. Failure to communicate effectively with claimants, and between back to work scheme providers and the Department for Work and Pensions (DWP) or Jobcentre Plus (JCP), causes compliance failures. Improving the timing, quality and type of communications could cause a reduction in compliance failures and a concomitant increase in behaviours associated with better labour market outcomes.

Such sanctions have a detrimental impact on the claimant and their labour market journey, both financially and socially. A large number of these types of sanctions will be appealed, at a cost to the DWP.

#### 1.1 Inadequate communication of mandatory activity leads to non-attendance

The referral and appointment process for claimants to a back to work scheme is in two parts, managed by two different organisations. Claimants are initially notified of their referral to a scheme in a JCP letter. This letter states that benefit “could be affected” by failure to attend an appointment or activity with the provider. Scheme providers are subsequently responsible for notifying dates, times and venues of appointments or activities. There may be a considerable gap between the JCP letter advising a referral to a scheme has been made, and the follow-up correspondence from the scheme provider.

If the activity is mandatory (where failure to attend could potentially result in a sanction) there is a formal letter (a Mandatory Activity Notice) that the provider must use. Again, the text “... if you do not undertake the activities required in this notification your benefit could be affected” forms part of the notification letter.

DWP guidance for scheme providers suggests that letters should be sent a ‘reasonable’ amount of time before the appointment, and gives an example of one week’s notice. Follow-up, informal reminders may be issued, at the discretion of the scheme provider.

The timing, accuracy and clarity of these notifications are paramount. These elements of good communications work in concert and must be addressed together. Advisers in bureaux regularly see claimants who have received sanctions because of these types of communications failures. The timing of notifications is important. There are two aspects to consider: firstly, a notification must be sent far enough in advance to be received and acted upon by the claimant; and secondly, if there is a significant delay between the initial JCP referral letter and the notification from the scheme provider, then the claimant may not connect the two. Accuracy failings seen in bureaux include

notifications from providers which were incorrectly addressed and notifications which had incorrect details of the appointment (such as wrong date, time or location).

The clarity of the process and notifications is also central to achieving compliance. Failure to adequately convey that the activity is mandatory, and the specific consequences of non-compliance, means that some claimants will not prioritise the action. The claimant commitment goes some way to remedying this, but this clarity needs to be carried through all communications of mandatory activities.

Further to this, posting a letter does not guarantee that it will arrive in time, or at all. Few providers appear to follow up with informal reminders, such as text messaging, to reinforce or back-up a formal notification letter. Other sectors, such as health have had a positive experience of using informal appointment reminders. Recent research indicates that attendance at appointments is improved where a reminder is sent in the form of a text message or telephone call before the appointment. There are also positive cost implications, through reducing the waste in unused places and missed appointments.<sup>1</sup>

The initial referral of claimants from JCP to scheme providers should set out information about the claimants' qualifications, experience, availability, contact details, and specific needs.<sup>2</sup> After that, the responsibility is placed on the provider to check that the details they have been given are accurate using the 'provider direct' telephone service. DWP guidance recommends that providers check details after, for example, a claimant does not attend an initial mandatory appointment and before making a referral to a decision maker and appeals (DMA) office for non-compliance (that is, referring the claimant for a sanction). Poor initial client referral data is causing preventable compliance failures.

We have seen examples where the systems failures at JCP have led to incorrect or inaccurate information being given to scheme providers. This includes failure to provide accurate or complete information about current address and contact details, communication needs, availability restrictions, and health needs.

### **Recommendations:**

JCP should be responsible for communications at both stages of joining a back to work scheme - referral and appointments:

- The notification of the claimant's referral and initial appointment with a back to work scheme provider should come from the JCP. A single document should include the referral to the provider, details of the first appointment, and the need to comply.
- Clear information about the mandatory nature of the appointment, and the consequences of non-participation/attendance should be included. The principles and language of the new claimant commitment is an example of this type of clarity.

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<sup>1</sup> For example, Gurol-Urganci I, de Jongh T, Vodopivec-Jamsek V, Atun R, Car J (2013) 'Mobile phone messaging reminders for attendance at healthcare appointments (Review)' The Cochrane Library Issue 12, 2013 John Wiley & Sons, Ltd see <http://onlinelibrary.wiley.com/doi/10.1002/14651858.CD007458.pub3/abstract> (retrieved 10 December 2013)

<sup>2</sup> See [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/264168/wp-pg-chapter-4.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/264168/wp-pg-chapter-4.pdf) (para 14)

- This will ensure the JCP is responsible for the provision of accurate information about claimants and there is no confusion about the mandatory nature of the activity.

Minimum standards for communications – time frames and types:

- All appointment letters should be issued a minimum of seven days in advance.
- Reminders to follow notifications: Written notifications should be followed up with a reminder before the appointment, through text (SMS), email or telephone, as preferred by the claimant.
- Face to face communications are vital to engaging claimants. Before attachment to mandatory activity, JCP advisers/work coaches should explain the process, the reasons for the referral, identify which aspects are mandatory, the nature of the programme, and emphasise to claimants that their benefit may be subject to sanctions if they fail to attend any provider appointment or activity.
- Utilising a range of communications types and styles will increase attendance and decrease compliance failures. People learn from and are engaged by information in different ways, thus using a range of communications types and styles will increase the likelihood of an individual understanding and engaging with the message.

## **1.2 Poor communication of other requirements whilst participating in mandatory back to work activities leads to compliance failures**

Notifications to attend mandatory back to work schemes include the direction that claimants “still need to meet ... benefit conditions”. Despite this, many people receive a sanction for not providing evidence of work search or similar while they are attending a mandatory scheme. Many claimants with this type of sanction tell bureaux advisers that they were not aware they needed to look for work, ‘sign on’ or go to appointments at JCP, as well as attend a back to work scheme. This indicates that the direction to adhere to ‘benefit conditions’ may not be clearly understood by all claimants.

### **Recommendations:**

The use of different types of communications is also needed to ensure understanding of other conditions of benefit while on a back to work scheme. Both written and face to face communications are needed. Messages need to be reinforced and easily cross-referenced across the provider landscape (from JCP, to scheme providers and sub-contractors).

There is a wealth of research in the private sector and educational settings on how people engage with communications, and how this information translates into action. As much emphasis on this, as on the legal requirements of communications, is needed.

- Use the opportunity provided by the claimant commitment: the claimant commitment should be refreshed at the point the claimant joins a back to work scheme to reflect and reinforce mandatory requirements
- Greater clarity in notifications, particularly explaining what is meant by ‘benefit conditions’ or other jargon. The notification should also refer the claimant to their jobseeker’s agreement or claimant commitment for specific details.

- JCP advisers/work coaches and back to work scheme advisers should regularly back up messages about complying with other conditions of benefit before and during back to work scheme activity.

## **2. Communications and systems failures that cause inaccurate referrals and adverse decisions**

There are a range of failures in the communications and in the processes for collecting and sharing information between agencies that lead to claimants being erroneously referred for a compliance doubt, or going on to receive a sanction in error. In order for such cases to receive an adverse decision, a further failure must occur in the collection of good reason from the claimant by the DMA office.

### **2.1 Inadequate communication to claimants of process for notifying inability to attend mandatory activity leads to avoidable compliance failures**

The process for advising absence to a back to work scheme is confusing and poorly understood by claimants. When a claimant does not attend a mandatory activity, the back to work scheme provider is contractually obligated to make a referral to the DMA office within 24 – 48 hours. This is required regardless of the client's situation or reason given to the provider. Any question of good reason is for the DMA office to collect and assess.

The only exception to this is if the claimant contacts the provider in advance and asks for the activity to be rearranged, the provider has discretion to do so if the reason for the rearrangement is 'reasonable' and taking into account the record of engagement. Many claimants are unaware that the provider is required to make a referral to DMA even if they have called in.

People in this situation seeking advice in bureaux frequently describe having contacted their provider when they have been unable to attend and did not receive any indication that there would be further action as a result. If claimants were advised at this point that the provider must give attendance records to the DWP regardless of reasons given on the telephone claimants will be prepared to keep and provide proof to the DMA.

#### **Recommendations:**

- Providers and JCP to make clear to claimants that all attendance records are sent to the DWP and that the DWP will decide if reasons for non-attendance are acceptable.
- Providers to give claimants clear written guidance on absence procedures, and reinforce the message in face to face settings.

### **2.2 Inaccurate non-attendance referrals sent to DMA**

Because of the high stakes for participants it is important that providers maintain detailed and accurate attendance records. This does not always happen, and

inaccurate attendance records have led to cases where incorrect referrals have been made to the DMA office. Bureaux have also advised people who received a sanction for not attending an activity which was cancelled by the provider.

**Recommendation:**

Providers need to improve attendance recording and reporting procedures. The employment related support sector should devise and implement minimum standards for the recording and reporting of participant attendance.

**2.3 Poor inter- and intra-organisational communications leading to conflicting mandatory appointments and subsequent sanctions for missing one of these**

Participants remain subject to benefit conditions while on back to work schemes, which can include attending interviews or other mandatory sessions. Mandatory activities can be set by providers and by the JCP, and failure to co-ordinate across agencies gives rise to situations where claimants are mandated to be in two places at once; the resulting non-attendance at one of these mandatory activities leads to referral to the DMA for a compliance failure.

**Recommendation:**

- While claimants are participating in a back to work scheme, no further mandatory appointments should be set unless the claimant's availability has been confirmed.

**2.4 Failures in communications with claimants in the 'good reason' process leading to inaccurate adverse decisions**

Following the receipt of a referral for a compliance doubt a decision maker in the DMA office should contact claimants to collect information from their side of the situation. 'Good reason' is the term used by the DWP to describe the collection and assessment this information from a client with regard to a compliance doubt. The reasons provided in response should then be considered by the DMA office in the light of the guidance, and a decision made on the sanction. The guidance for decision makers on good reason for compliance failures is comprehensive.<sup>3</sup> Good reason can also be collected by the adviser/work coach in the JCP during an interview with the claimant.

Many people seeking advice in bureaux on sanctions state that they were not asked to provide good reason. This includes a failure to communicate to the claimant the importance of this process or conversation and its meaning, letters not received, and confusion about which agency is responsible – the provider or the JCP. Confusion about the responsible agency is particularly relevant for participants in back to work schemes who can be unsure why they have received a good reason request from JCP when they have already supplied the information to their scheme provider.

**Recommendations:**

The recommendations set out in 2.1 need to be implemented, and further to those:

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<sup>3</sup> See Decision Makers' Guidance Memo 37/12: JSA Sanctions after 22 October 2012 (para 70 et seq) [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/250845/m-37-12.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/250845/m-37-12.pdf) and Decision Makers' Guidance Chapter K2 – Good reason [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/246193/Chapter\\_K2\\_-\\_Good\\_reason.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/246193/Chapter_K2_-_Good_reason.pdf)

- Improve claimant understanding of the good reason process –
  - Revise wording of the good reason correspondence to improve its comprehensibility
  - Provide specific training to advisers for appropriate conduct of the ‘good reason’ conversation so that the importance and purpose of the discussion is clearly communicated to claimants
- Expand efforts to contact claimants to obtain their good reason. Not responding to a good reason request can have substantial consequences for claimants and thus it is preferable to err on the side of caution and assume if there has been no response that another way of contacting the claimant is needed. Thus, if there is no response to the ‘good reason letter’ within five working days, the DWP should attempt to contact the claimant by telephone or text message.

### **3. Communications failures that create barriers to re-compliance**

There are a number of communications failures that make it difficult for claimants to re-comply with mandatory requirements, and thus reduce the effectiveness of sanctions. These failures include:

- poor communication of the reasons for a sanction
- sanctions being applied before notices are received
- inadvertent termination of other non-sanctioned benefits
- lack of information about other financial support
- failure to flag up the reconsideration and appeals processes

These failures all create considerable demands on the time of the person sanctioned, in finding out what has happened, what they then need to do, as well as dealing with the impacts of not receiving benefit. This distracts from understanding what was and is required. It reduces the time available to the claimant to undertake the activities they are mandated to, which continue during a sanction period.

#### **3.1 Poor communication of the adverse decision and reasons for the sanction reduce learning intent of the policy**

In order for the learning intent of the policy to be realised it is necessary for claimants who receive an adverse decision to be appropriately notified and receive some warning that their benefit will stop. This does not happen in all instances. People seeking advice in bureaux frequently state that they have not had a letter to advise them of the sanction and only became aware that there was an issue when they did not receive their benefit payment.

Correspondence notifying the reason for the sanction gives the reason as a type of failure, rather than the specific failure. The use of benefit system jargon does not help claimants to understand why they have received a sanction. For example advising a claimant that the reason for their sanction was that they “could not be treated as actively seeking work” or “did not meet work search requirements” is straightforward for an adviser or decision maker, but is not necessarily clear to a claimant. It would be more helpful to the claimant and assist them to re-comply if the notification was specific to their exact situation.

It is not unusual for bureaux to advise claimants who have received grossly overdue notifications, for example, notifications dated 25 days after benefit was stopped.

Correspondence can also be extremely confusing. It is not helpful to the claimant to include multiple unrelated issues in one piece of correspondence – such as the sanction reason and end of contributory benefit notice in one letter makes each issue less comprehensible.

### Recommendations

- Timely notifications: benefit payments should not be stopped until the sanction notification has been received. The notification letter should be followed up by a telephone call which explains the correspondence. A model similar to the ‘decision assurance call’ made following a fit for work decision resulting from the work capability assessment could be looked to as an example.<sup>4</sup> This could make a qualitative difference to reengagement and re-compliance.
- Complete notifications:
  - notifications need to be specific and personalised
  - sufficient detail of the reconsideration and appeals process so that the claimant can commence this if needed
  - information about alternative financial support that may be available and how to access it
  - contact details should the claimant wish to ask questions,
- One piece of correspondence, one message: DWP should ensure unrelated issues are sent as separate correspondence

### **3.2 Poor communications can lead to the termination of housing benefit, which makes future compliance more difficult**

Failure to provide adequate information to claimants during the sanctioning process often leads to housing benefit/local housing allowance (HB/LHA) also being stopped when a sanction is applied, even though housing benefits are not subject to sanctions for labour market compliance failures. That HB/LHA is not part of the sanction is not always clear to claimants, and what action they need to take with regard to their HB/LHA is not explained.

The situation arises because, when a qualifying benefit such as income-related ESA or JSA is terminated, the local authority is advised and housing benefit is stopped. The communication to the local authority is not explicit about why the benefit claim has been terminated: it is a binary on/off notice. For many claimants they do not become aware of that the HB/LHA claim has also been terminated until they receive a notification from their landlord of arrears, or the HB/LHA payment is not received when expected. It is often rent arrears that causes clients to seek advice, rather than the sanction itself, per se.

The breakdown of a HB/LHA claim creates a barrier to re-compliance with labour market conditions by distracting the claimant from work search or other mandatory activity, particularly where rent arrears accrue. The time taken in efforts to address a threat of significant debt or potential eviction takes primacy over compliance with JSA or ESA conditions. This undermines the policy objective of imposing a sanction and moves people further from the behaviours which the sanctions system is trying to

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<sup>4</sup> See Litchfield, P (2013) ‘An Independent Review of the Work Capability Assessment – year four’ pp. 19 – 21 at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/265351/work-capability-assessment-year-4-paul-litchfield.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/265351/work-capability-assessment-year-4-paul-litchfield.pdf)

instil. Many claimants do not approach their local authority as they mistakenly believe that the sanction also applies to their HB/LHA. It can cause undue hardship and be a deeply traumatising experience.

The letter sent by the DWP (DLJA 102) to claimants about the sanction states that “we will tell your local council who pay your Housing Benefit about our decision when it has been made.” It does not say what the consequence will be of telling the local council, or what the claimant needs to do. This is insufficiently clear for many claimants and indeed assumes that all claimants have a clear understanding of the different delivery and qualification aspects of the welfare benefits system and how they interact.

#### **Recommendations:**

Citizens Advice has previously asked the DWP to change the automated notification to local authorities so that it reflects the nature of the termination of JSA or ESA. We have been told that this change to the IT system is not viable. Despite this, changing the automated notification, and the local authority’s response to it, remains our preferred solution:

- Improve notification to the local authority so that it delineates between types of benefit terminations. Where a termination is the result of a sanction the HB/LHA remains an active claim in payment and the local authority must contact the claimant to confirm their continued entitlement to the benefit.

A lesser solution is to improve the sanctions notification so that there is greater clarity about what action claimants also receiving housing benefits need to take if they receive a sanction. This will not resolve all cases of sanctions leading to termination of housing benefit, but could reduce the frequency of unnecessary housing benefit terminations.

- Sanctions notifications to claimants need to clearly advise that if the claimant also receives HB/LHA they must contact their local authority immediately. The notification should be clear that:
  - the current claim for HB/LHA is based on entitlement to income related JSA or ESA
  - if the income related JSA or ESA is terminated (as it is in some sanctions) then the HB/LHA will also be stopped
  - this does not mean that the claimant is no longer entitled to HB/LHA, but that they need to talk to their local authority about their claim
  - they may be able to make a nil income or low income claim for HB/LHA

#### **4. Citizens Advice demographic data on clients seeking advice about welfare benefit sanctions**

Citizens Advice’s demographic data on clients shows that men and people aged between 50 – 64 years are more frequently come to bureaux for advice about sanctions than other groups.

Gender:

- There is a greater propensity for men to seek advice at bureaux on sanctions than women

- While men made up 49 per cent of all clients seeking advice at bureaux, they accounted for 66 per cent of clients seeking advice about sanctions so that in 2013/14 36 per cent more males sought advice specific to JSA sanctions than sought other advice at bureaux.

**Age:**

- The age demographic data shows that since 2010/11 there has been a steady increase in ESA sanctions advice sought by people between the ages of 50 and 64, despite Citizens Advice's general client profile showing little change.
- There is a greater propensity for people aged 50 – 64 years to seek advice specific to ESA sanctions than other age groups
- While the 50 – 64 years group accounts for 26 per cent of the Citizens Advice general client profile, they accounted for 45 per cent of advice queries for ESA sanction in 2012/13, which is 70 per cent more than the general client profile

Please see Appendix B for more detail.

## **5. Claimant engagement with communications**

The difficulties with communications faced by many people seeking advice at bureaux may also indicate that they are experiencing barriers to engaging with communications from the DWP/JCP or back to work scheme providers. There has been a great deal of research across a variety of sectors to understand and improve the opening, reading and retaining of information from correspondence by consumers. Much of this learning could be applied to correspondence from the DWP/JCP.<sup>5</sup>

**Recommendations:**

- Greater priority needs to be given to ensuring the provision of accessible and engaging communications
- DWP/JCP to look to and act on published research and expert advice on improving consumer engagement with correspondence from private sector

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<sup>5</sup> For example, see Ipsos MORI (2012) 'Prompting engagement with and retention of written customer communications' Ofgem (London) at <https://www.ofgem.gov.uk/sites/default/files/docs/2012/10/prompting-engagement-with-and-retention-of-written-customer-communications.pdf>

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## Appendix A

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### Case studies from Citizens Advice Bureaux

#### Communications failures that cause compliance failures

##### Inadequate communication of mandatory activity leads to non-attendance

In the West Midlands, a man sought advice from a bureau after his JSA was sanctioned because he had not attended an appointment. He said that his back-to-work scheme provider usually gave him a 'post it' note with details for all his appointments. In this instance, however, he had received neither an official letter nor a 'post it' note for the appointment.

A man in the South West contacted his local bureau when his JSA payment did not arrive when it was due. On the following day, JCP told him that it had been sanctioned as he had failed to attend a back-to-work scheme provider appointment that he knew nothing about. JCP told him to appeal and request a hardship payment, which he did the same day. The following week, the letter advising the original appointment arrived – 13 days after the appointment.

An East of England bureau helped a man claiming JSA, who was unable to read and write. Following an earlier sanction for not filling in a job search form, he had an arrangement with JCP that they would always phone him with appointments and instructions. On this occasion, he received no phone call, so he missed a back-to-work scheme appointment and was sanctioned. To compound the issue, the Jobcentre staff refused to help him send a letter of explanation to the decision maker.

##### Inadequate communications between Jobcentre Plus and providers

A bureau in the South East advised a man who was sanctioned for four weeks because he missed an appointment with his back-to-work scheme provider. He had not known about the appointment because the letter had been sent to an address he left over a year before. JCP were aware of his current address.

A man claiming JSA contacted his local bureau in East Midlands. He was of no fixed abode and had been advised by JCP that he need only tell them about his changes of address – they would tell the back-to-work scheme provider as 'it was their job.' He was then sanctioned as he had failed to respond to back-to-work scheme letters. JCP admitted responsibility, as they had not passed on information, told him to apply for a 'crisis loan', and said that they would 'file an appeal on his behalf.' Three weeks later he had received no money and was suffering from anxiety and depression.

An East of England bureau helped a man whose JSA had twice been sanctioned, due to communication failures with his back-to-work scheme provider. Firstly, he provided them with medical evidence from his GP that he could not do any heavy lifting, due to a back condition. He was sent to work with Age UK but was unable to do the job, as it involved heavy lifting. Age UK told him they had not been told about

his limitation and the provider subsequently said they had not received any medical evidence.

### **Poor communication of other requirements whilst participating in mandatory back to work activities leads to compliance failures**

A South East bureau helped a man who was sanctioned because he failed to attend an interview at JCP whilst he was on a provider-led training course to which he had been mandated. He had applied for a hardship payment but had not received anything, and he had no money for food and his rent was in arrears.

A London bureau saw a man with learning disabilities who was given a four-week sanction for not submitting any 'hard evidence' that he had tried to find work whilst on a back to work training scheme. He had not realised that it was necessary to do this whilst he was undertaking the course.

### **Communications and systems failures that cause inaccurate referrals and adverse decisions**

#### **Inadequate communication to claimants of process for notifying inability to attend mandatory activity leads to avoidable compliance failures**

A West Midlands bureau advised a woman whose JSA had been sanctioned. She had needed to attend her grandfather's funeral at the same time as her provider appointment. She contacted the provider in advance, who said that was fine, and that they would rebook. However, they did not do so, and she was sanctioned.

A bureau in London advised a man in the work-related activity group for ESA. He had missed one appointment with his back-to-work scheme provider due to his medical condition, but he had attended the next day and was advised there was no problem. He was then sanctioned for non-compliance. He then received a poorly-drafted letter from JCP informing him of a sanction, but not giving reasons. He approached the bureau for help after making numerous attempts to resolve the issue himself, contacting the benefit centre, the Jobcentre, and the provider, all to no avail. He was at no point informed that he could claim a hardship payment.

A woman claiming ESA contacted an East of England bureau for help. She had been diagnosed with cervical cancer and had given the back-to-work scheme provider a list of her hospital appointments. She was sanctioned for failing to attend an appointment on the middle day of a three-day hospital stay. The woman had two daughters and her ESA was reduced to £28 per week. She asked for reconsideration, but had heard nothing five weeks later.

#### **Inaccurate non-attendance referrals sent to DMA**

An East of England bureau helped a man whose JSA had been sanctioned because he had not attended a two-day training session with a back-to-work scheme provider. The man said that he had attended on both days, and the training provider had confirmed that.

A woman of no fixed abode in the East of England, who had been claiming JSA for six years, was sent on a back-to-work scheme course. She attended the whole course but was subsequently sanctioned for failing to attend part of it. She asked the provider to contact JCP to advise them that she had not missed any of the course, but the provider said they could not do that 'for data protection reasons.' The bureau worker then contacted the provider, who agreed to provide the woman with written evidence of her attendance that she could take to JCP.

A bureau in Yorkshire & the Humber advised a woman who was sanctioned for four weeks for failing to attend provider-led training when the receptionist had rung her to tell her not to come in because the trainer was ill. She was subsequently told that she should have attended to sign the attendance register.

A woman in the West Midlands was advised by a local bureau after her JSA was sanctioned. She had been referred by JCP to a provider for a CV-writing course. After starting the course, she felt that she was too advanced to benefit from it, and told the provider, who asked for a copy of her CV. The provider said that her CV was perfect, and that there was no need for her to attend further. She was subsequently contacted by JCP asking for an explanation of her failure to attend the course; she gave her reasons as above but was sanctioned. The woman was very concerned that as this had happened eight months earlier, it would be impossible to confirm her version of events with the provider.

A bureau in the South West saw a man who was on a four-week Mandatory Work Activity course. After three weeks he was released by the provider as 'he was unable to complete the tasks'. The provider told him he would not be penalised, but he was in fact sanctioned for three months. He appealed but the appeal was rejected. After the Bureau's intervention it was established that the provider's reason was noted on the decision-maker's documents but had not been taken into account. The sanction was lifted.

### **Poor inter- and intra-organisational communications leading to conflicting mandatory appointments and subsequent sanctions for missing one of these**

A man in Yorkshire & the Humber had been sanctioned twice since September 2012 because he had not attended any appointments with a prime provider. He had, in fact, been reassigned to a different, subcontracted provider in July 2012, and had missed none of their appointments. He had received no response to his request for reconsideration and, as a consequence of having no money, was unable to have his three children at the weekends.

A North Eastern bureau helped a single man with an appeal when his JSA was sanctioned for a month. He had missed a back-to-work scheme interview whilst he was attending a work trial that had also been arranged for him.

A bureau in Wales helped a woman claiming JSA, who was sanctioned for failing to attend a back-to-work scheme training course. The reason was that she was attending a different course that she had already been assigned to. Despite her having proof of attendance at this course, JCP refused to remove the sanction. The woman was left with no income for food and utilities for herself and her daughter.

## **Failures in communications with claimants in the 'good reason' process leading to inaccurate adverse decisions**

A bureau in South East helped a man who had not received his payment of JSA. When he enquired why, he was told that his JSA had been sanctioned due to failure to attend the Work Programme. This was the first time he was made aware of the sanction, he had not received any letter asking why he had not attended, any formal decision letter informing him of the reasons why he was being sanctioned, or details on the level or length of the sanction.

### **No prior notification of a sanction being imposed**

A bureau in London advised a lady whose ESA was sanctioned. Her benefit was reduced from £195 to less than £50 per fortnight, causing her serious financial hardship. She did not receive any letters telling her about the sanction – she only found out that this was why her ESA had reduced when she contacted JCP. She had been sanctioned because she had missed a back-to-work scheme appointment due to illness. Her sister had rung two days beforehand to say she would be unable to attend, and arranged another date that she did attend. It was subsequently agreed that she was wrongly sanctioned, and arrears were paid.

In Wales, a bureau advised a single young man claiming JSA. He had not received his benefit and had not received any written or verbal warning of a sanction. He had not missed an appointment or failed to attend the back-to-work scheme. The bureau worker was advised by JCP that he had been sanctioned for two weeks for failing to attend a back-to-work scheme activity, but that he should be paid after his next signing day. He subsequently returned to bureau to say that his hardship application had been refused but he had been told that the sanction was for a failure to attend an appointment with the back-to-work scheme provider the year before.

### **Inadequate or incorrect information about hardship payments and appeal rights**

A bureau in Wales advised a single lady who was refused ESA in March 2013 and applied for JSA. The JSA was sanctioned in June 2013 when she was unable to attend a provider event. She was advised by both JCP and the back-to-work scheme provider not to appeal the sanction but to apply for ESA again. She delayed applying for ESA, but when she did it was refused because it was less than six months since previous ESA claim ended. At the time she had received no benefit for 13 weeks and had been given three food bank vouchers but could not afford gas or electricity.

A bureau in the East of England advised a single man claiming JSA who was sanctioned for three months for failing to attend his provider appointment. Notifications had been sent to his old address. He was advised that it was not worth appealing as it would take three months to sort out. He subsequently made a claim for a hardship payment. The bureau gave him a note saying that he would like to make an appeal and that they should give him the correct form.

In the East Midlands, a bureau advised an epileptic man whose JSA was sanctioned because he did not attend a back-to-work scheme meeting, because his two-year old daughter had been taken ill and he was her sole carer that day. He

rang the provider in advance and was told that this would still have to be noted as 'did not attend'. The four-week sanction caused severe hardship for him. He was not told about hardship payments or food banks, or how to appeal the sanction decision. During the period of the sanction suffered hunger, hardship, and stress that may have been the cause of an increase in epileptic attacks over this period.

A bureau in the North West advised a man whose JSA was sanctioned for three months when he attended an ESE scheme, but forgot to sign the attendance register. He appealed against the sanction but the appeal was rejected as he had no money to travel to the hearing. He had no food and asked for a hardship payment, but was told by JCP that hardship payments were only available after a sanction comes to an end. He was living on money borrowed from friends, but who refused to lend him more, and was being chased to repay an earlier HB overpayment of £651.

## **Communications failures that create barriers to re-compliance**

### **Poor communication of the adverse decision and reasons for the sanction reduce learning intent of the policy**

A North East bureau helped a man who had a letter notifying him that his ESA was sanctioned, which gave a start date but no end date. The letter said he could appeal, and gave him the benefit centre number for further information. They were unable to provide any more details, even the sanction end date, and referred the adviser on to the Jobcentre. The Jobcentre were also unable to provide any more information, and referred the adviser on to the provider, who said they only advise JCP of missed dates and are not involved after that. This meant that the appeal could be based only on very limited information.

An East of England bureau helped a man claiming ESA, who had been sanctioned for 'failing to engage with the back-to-work scheme provider'. The bureau adviser had considerable difficulty in advising the man because they repeatedly received conflicting information about the length of, and reason for, the sanction. The adviser tried to contact the back-to-work scheme adviser but he did not return the messages left. The man had evidence of attendance at his fortnightly reviews and progression activity, and a certificate to confirm he had completed a training course, as well as a letter saying that his failure to attend one appointment was not his fault, as he had not been notified of it. He did not know what he had done wrong and to do next. The adviser helped him to appeal, but in the unsatisfactory situation of not knowing the facts.

### **Poor communications can lead to the termination of housing benefit, which makes future compliance more difficult**

A bureau in Yorkshire & the Humber advised a man whose JSA was sanctioned for allegedly failing to attend back-to-work scheme events. He had in fact attended, and the provider had no record of any failures. No enquiries were made about these alleged failures. To compound the failure his hardship request was not processed, his HB was stopped, and he fell into rent arrears and had no money for food, gas or electricity.

A man was advised by an East of England bureau whose JSA had been sanctioned. He had contacted his back-to-work scheme provider to tell them that he was unable to attend a training activity on one day due to a domestic emergency involving his son and grandchild. As a result of the sanction for missing the session, his JSA and HB were stopped. His rent went into arrears and he was threatened with eviction.

A woman seen by a London bureau had been wrongly sanctioned for non-attendance at a provider activity. The provider subsequently admitted their mistake and gave the woman a letter to confirm this. She passed the letter to JCP, expecting that the sanction would be lifted, but was told that as the claim was closed, she would have to use the rapid reclaim process that could take a further three weeks. As a result, she accumulated both rent and council tax arrears.

### **Difficulties in getting benefits reinstated after a sanction is lifted or ended**

A London bureau advised a man whose JSA was sanctioned when he missed back-to-work scheme training. His back-to-work scheme provider sent a fax to confirm that he had not missed any days of his training, but JCP told the bureau that it would take a further eight working days to process the communication from the provider.

A South West bureau advised a single person whose ESA was sanctioned following incorrect information being provided to JCP by her back-to-work scheme provider. She had documentary evidence from JCP that her sanction should have been lifted four months earlier, but she was still not receiving benefit because the relevant form from the provider (WP09) had not been received from the provider by the Benefit Centre.

A Wales bureau advised a woman claiming ESA. She suffered from diabetes and had mental health needs. She failed to attend one back-to-work scheme appointment due to her illness – she had been hospitalised several times due to her diabetes. The sanction was apparently for one week, but had continued for over nine weeks, despite the woman making frequent trips to both the Jobcentre and the provider in her attempts to get it lifted. The bureau adviser contacted JCP who said that the necessary paperwork had just been sent for processing. The situation made it difficult to comply with other requirements and aggravated the woman's health problems.

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## Appendix B

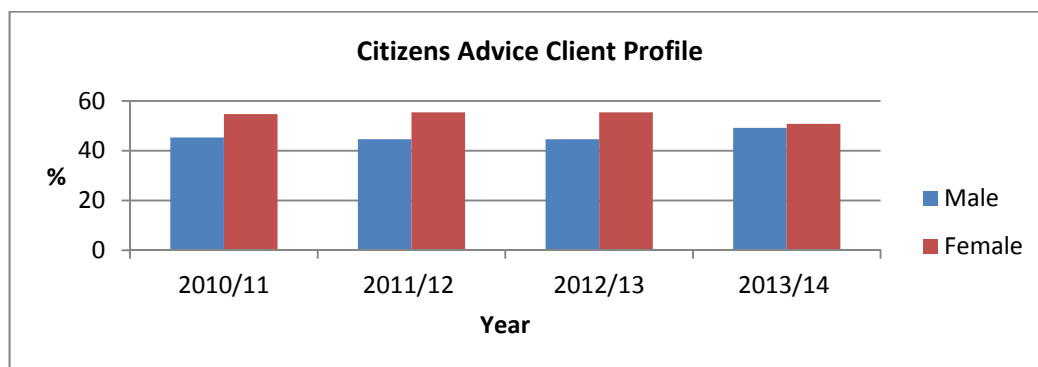
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### Citizens Advice sanctions statistics and demographic data

In the second quarter of 2013/2014 Citizens Advice saw an increase of 64 per cent in advice queries for JSA sanctions, compared to the same period the previous year. Over the three quarters October 2012 – June 2013 we saw a pattern of significant increases in the number of advice queries about JSA sanctions, with year-on-year increases of 45 per cent, 40 per cent and 30 per cent per quarter respectively. The sudden increase to 64 per cent in Q2 2013/2014 is likely to be a combination of the trend we have seen since the change in JSA sanctions rules in October 2012, an increase in the number of individuals being sanctioned and, very recently, the clearing of a significant ‘stockpile’ of decisions about sanctions. We understand that this stockpile is not in the of the scope of this review.<sup>6</sup>

Citizens Advice’s wider demographic data for the second quarter of 2013/14 shows that the majority of our clients were white (86 per cent), female (51 per cent) and non-disabled (79 per cent). The most common age group was 35-49.

This is consistent with our JSA sanctions demographic data in each category except for gender. For Q2 in each of the last 4 years, the majority of sanctions advice was sought by males, despite the females making up slightly more than half of the general client profile. In the second quarter of 2013/14, 2 per cent more females than males sought some form of advice in bureaux. In the same period, 34 per cent more males than females were given advice specific to JSA sanctions.



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<sup>6</sup> This stockpile developed over the course of the last year whilst the Government faced a court case about back to work schemes. This led to a delay in making decisions about sanctions for people were on back-to-work schemes. Looking at our qualitative data it appears that this stockpile was addressed between July and October 2013. During this period we saw numerous instances of people who were on back-to-work schemes seeking advice about a sanction that had been applied for alleged compliance failures going back as far as 14 months.



The age demographic data shows that since 2010/11 there has been a steady increase in ESA sanctions advice given to those between the ages of 50 and 64, despite Citizens Advice's general client profile showing little change. In 2012/13 this age group made up almost 45 per cent of the advice queries about ESA sanctions





Department  
for Work &  
Pensions

# Government's response to the Independent review of the operation of Jobseeker's Allowance sanctions validated by the Jobseekers Act 2013

Presented to Parliament  
by the Secretary of State for Work and Pensions  
by Command of Her Majesty  
July 2014

Cm 8904



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## Foreword by the Minister of State for Employment

Rights and responsibilities have been an ever-present feature of our benefits system and can be traced back to the Beveridge Report in 1942. I believe that it is only right that where a claimant does not meet their responsibilities, benefit payments are withheld or stopped.

But I also believe that sanctions should only be applied where appropriate – where the claimant has failed to meet a reasonable requirement with no good reason.

I am determined to review and improve the system on an ongoing basis to ensure this is the case.

It is in this context that I welcome Matthew Oakley's review. The review team have rigorously examined the Department for Work and Pensions' (the Department's) sanctions processes and communications.

The review concluded that the current system largely functions well, but concedes that in an operation of this scale there are almost inevitably areas for improvement. In line with this, while Matthew Oakley has made a wide range of recommendations, he has also pointed out the Department is already making improvements to the system.

I welcome the findings of the review. I have always said it was my intention to respond positively, and this response makes clear the Government will be accepting all of the recommendations.

The implementation of these recommendations will add to a programme of work already in motion to improve our sanctions system. Together I believe these changes will make a significant difference, but I will be continuing to keep the system under review and seeking further opportunities to make improvements.

A handwritten signature in black ink, appearing to read 'Esther McVey', with a long, sweeping underline.

**Esther McVey MP**

Minister of State for Employment

# Background and context

# 1

## 1. Jobseeker's Allowance and sanctions

Jobseeker's Allowance (JSA) provides financial support to individuals while they look for work. Through Jobcentre Plus and other programmes, the Government invests significant resources in helping claimants move into employment as quickly as possible. This includes access to adviser support, training, work experience and work placements.

In return for benefit payments and this support, claimants must take all reasonable steps to give themselves the best prospects of securing employment. They must also meet specific mandatory requirements set by their adviser that are designed to help them into work. If they do not – and they do not have a good reason for doing so – their benefit payments will be 'sanctioned' i.e. stopped completely or reduced for a period of time.

The Government strongly believes that this system is right and that sanctions are an essential part of JSA (and have been since the introduction of the benefit in 1996). Sanctions aim to motivate claimants to take the necessary action to find work, and to ensure the system is fair to the taxpayer. The JSA regime, which includes sanctions, is very effective at moving people off JSA and into work – around two-thirds of JSA claimants end their JSA claim because they find paid employment<sup>1</sup>. Over half of new JSA claims end within three months, three-quarters within six months and 90 per cent within a year. Seventy-two per cent of claimants say that they are more likely to follow the rules due to the presence of sanctions<sup>2</sup>.

1 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/214578/rrep791.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/214578/rrep791.pdf)

2 p157: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/261656/rrep852.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/261656/rrep852.pdf)

## 6 Background and context

Since 2010, this Government has made a number of significant changes to the way the JSA system operates. Two areas that are particularly relevant here are:

- the increased expectations on JSA claimants. The Jobseekers Act 1995 (the primary legislation governing JSA) is clear that, in order to be entitled to the benefit, a claimant must take all steps they reasonably can to give themselves the best prospects of employment. Jobcentre Plus has strengthened its approach to making sure claimants are meeting this condition of entitlement. The Government has also put in place – through the Work Programme and Help to Work – more focused engagement with the long-term unemployed, and across the board has ensured compliance is checked more rigorously than it has been before.
- Changes to the sanction system. From the end of October 2012 a new structure for sanctions was introduced. The new system aims to provide a better incentive for claimants to comply by providing clearer and tougher consequences (in particular for claimants who repeatedly fail to meet their responsibilities, and for the most important requirements such as failing to accept a suitable job offer).

## 2. Sanction levels

The Government monitors and publishes on a quarterly basis, detailed statistics on the use of JSA sanctions. The most recent publication (May 2014) provides information on sanctions until the end of December 2013. Since early 2010, the volume of sanctions has been increasing, as have sanctions as a proportion of the JSA caseload. It remains the case, however, that the vast majority of JSA claimants do not receive a sanction (in 2013, on average, five per cent of JSA claims resulted in a sanction in any month).

It is clear that the increases have been driven by a rise in sanctions on claimants who have failed to take all reasonable steps to find work and those who have failed to participate in the Work Programme – claimants who largely require more support and encouragement to move into work.

## 3. Ensuring appropriate application of sanctions

The Government does not want any claimant to be sanctioned, the aim is for claimants to comply with requirements that will help them into employment. However, where a claimant wilfully, and for no good reason, fails to meet a requirement a sanction must apply. The Government believes this is right, and it is underpinned by legislation.

A range of safeguards are in place to help ensure that sanctions are only applied where appropriate:

- Requirements must be reasonable, designed to help the claimant move into work, and reflecting the claimant's particular capability and circumstances.
- No sanction should be applied where the claimant has good reason.
- An independent DWP decision maker, not the claimant's adviser, considers whether or not the claimant had good reason and decides whether a sanction should apply.
- Claimants have a right to request a sanction decision be reconsidered and to appeal to an independent tribunal.

Claimants may also apply for hardship payments if they are facing hardship as a consequence of a sanction. Hardship payments reinstate payments at 60 per cent of the level of normal JSA payments. All claimants can apply immediately for hardship. If eligible, claimants considered vulnerable, including anyone with responsibility for a child, can receive payments straightaway. Others must wait 14 days for payments to start. Other benefits, such as Housing Benefit, should not be affected by a JSA sanction.

The Government believes the vast majority of JSA sanction decisions are correct and have followed a process that reflects these safeguards. In 2013 our decision makers considered nearly two million cases, out of which they imposed 871,000 sanctions or disentitlements. Only around 13 per cent of the decisions were changed on reconsideration or appeal, and often that was because the claimant brought forward new evidence.

The Government is, however, committed to continually improving this system, in particular to ensure safeguards are applied as intended. The Government will also keep the effectiveness of the policy under review, drawing on planned evaluations to ensure that it continues to meet the intended outcomes.

#### **4. Continual improvement – the Oakley review**

The 'Oakley review' provides an important contribution to this ongoing work.

The review was established as required by the Jobseekers Act 2013, with a specific remit to prepare a report on the operation of the sanctions system for failures to participate in mandatory employment schemes. Matthew Oakley was appointed to lead the review by the Minister for Employment, in September 2013. His report makes a number of recommendations: on communications; processes (particularly around the gathering of good reason); and on closer working with our partners, particularly Work Programme providers.

The Government welcomes these recommendations, recognising they will help improve the operation of our system and, wherever possible, and subject to detailed feasibility and securing the necessary resources, has accepted them. The next section summarises each of the recommendations in the Oakley review and sets out the Government response. Where a response has been accepted, the Government intends to apply the recommendation not just to sanctions around mandatory employment schemes, but to go further and apply them to the sanctions system as a whole.

#### **5. Continual improvement – changes already made and planned**

The Oakley review will add to changes the Government has already made or set in motion to improve the operation of the sanctions system. The Government has already:

- Introduced the Claimant Commitment approach (from October 2013, with rollout completed by in April 2014) to JSA, which has had a positive impact on the adviser role and improved claimant understanding of the requirements placed upon them. The Claimant Commitment is at the heart of a new personalised approach to job search, which centres on active discussion between advisers and the claimant so that claimants establish their own detailed plan of action, tailored to and owned by them. The Claimant Commitment provides job seekers with clear job seeking actions so that they are clearer about expectations, what evidence they should be recording and the steps they need to take to demonstrate compliance.

## 8 Background and context

- Started development of a new process where advisers identify doubt about whether a claimant has been actively seeking work. This will change the longstanding system where benefit payment is suspended without a decision from a decision maker. Instead we will ensure that a decision is made before benefit payment is stopped. We expect this to take effect from July 2014.
- Introduced (from October 2013) a quality assurance check for sanction decision makers, to drive standards and consistency in decision making. Under this system all decision makers are subject to checks on a proportion of their decisions.
- Introduced (in October 2012) a telephone line (Provider Direct) for providers to check whether a sanction referral would be appropriate before making a referral, for example, checking the claimant is still on benefit.
- Revised the organisation of sanction decision makers (from January 2014), so that specific decision-making teams work with particular Jobcentres or providers. This aims to ensure closer working, in particular to discuss and address variations in the quality of referrals or decisions.
- Introduced a quality assurance framework and checklist for advisers making referrals to decision makers (effective from the end of April 2014). This aims to ensure that advisers gather the right evidence from claimants and make appropriate referrals – helping to further improve the efficiency and consistency in decision making.
- Set up a new communication unit and a review of all our claimant communications to ensure we are producing clear standard letters, drawing on high quality research and best practice. These teams will take forward Matthew Oakley's recommendations on improvements to our letters and other communications.

# Government's response to the Oakley review recommendations

# 2

## **Recommendation 1**

All letters sent to claimants (including those at referral, good reason and decision notification stages of the sanctions process) should be reviewed to improve claimant understanding. They should give a personalised description of exactly what the sanction referral or decision relates to and include clear information about reconsideration, appeals and hardship.

## **Accept and already underway**

We recognise how important it is that all our communications on sanctions are clear. This will ensure that claimants understand the sanction process and can take the necessary action. We are prioritising improvements to communications on sanctions as part of our wider commitment to raise the quality and consistency of the Department's claimant communications. As such, we have:

- created a Claimant Communications Unit to improve effectiveness on the Department's biggest communications challenges, and to define professional standards on claimant communications for the wider department; and
- set up an operational Claimant Communications team to centralise the production of communication products, and identify and take forward areas for improvement.

These teams are currently undertaking a detailed mapping exercise of all claimant communications relating to sanctions. This will identify any necessary improvements to our letters to ensure understanding and encourage claimants to take the appropriate action. This will include steps a claimant can take to prevent a sanction, including the provision of good reason evidence, clearly explaining the reason for the sanction when applied, and communicating rights of appeal and the availability of hardship payments.

## 10 Government's response to the Oakley review recommendations

We will complete this review by summer 2014 and, by the end of 2014, we will report on progress and further plans to improve claimant communications on sanctions.

### **Recommendation 2**

The Department should work with experts in communication and behavioural insights to test whether variations in the style and content of letters could boost the proportion of claimants who open and engage with the letters they have been sent.

## Accept and already underway

It is vital that claimants open and understand all letters that we send to them, as they will contain important information about their benefit. We accept that sometimes this does not happen, which means that they may miss information, such as an appointment request, that may lead to a sanction. If they have already been sanctioned, they may miss critical information about the sanction process, including the opportunity to supply evidence of good reason.

Primarily, claimants must take responsibility, and be contactable and engage with correspondence while on JSA. However, we recognise that we can do more work to improve engagement with our letters.

The Department's Communications team is bringing together internal and external expertise to look at how behavioural insights can be employed to help achieve this.

As part of this the Communications team will work with Jobcentre Plus to test a range of variables around our communications, including how we deliver letters, envelope format and branding. We will focus on the most critical communications products, i.e. those delivered at key stages in the sanctions process, and use these tests and trials to help ensure that claimant's engage with important information at the right time. We will also examine the use of text messages to prompt and encourage claimants to open and react to the letters.

This work will sit within our Communications Review which commenced in May 2014.

### **Recommendation 3**

The Department should work with Local Authorities to improve the coordination of their approach to delivering Housing Benefit for claimants who have been sanctioned. In the short-term, all letters and communications informing claimants of the application of a sanction should advise claimants already in receipt of Housing Benefit to contact their Local Authority about their claim.

## Accept and already underway

The department accepts that the Housing Benefit of claimants should not be stopped following a sanction and we are taking immediate action to ensure that this does not happen.

When a claimant's JSA is stopped, for whatever reason, the JSA computer system sends an automatic notification to Local Authorities. This information is essential where entitlement to JSA has ended, for example, because they have found work. In such cases, their entitlement to Housing Benefit will need to be reviewed (for example, because of increases in their income). However, the information that is sent also includes those where a sanction has been imposed. In order to allow the Local Authority to distinguish between these cases and those where entitlement has ended we have proposed a short- and long-term solution.

In the short term, as part of our overall communications review we will ensure that wherever necessary claimants will be advised to keep their Local Authority informed to stop them inadvertently closing their Housing Benefit.

In the long term we will implement an IT solution so that Local Authorities are given the information they need to suspend Housing Benefit only in cases where it is appropriate to do so. We are currently planning to implement this by autumn 2014.

**Recommendation 4**

The Department should ensure that an accessible guide to benefit sanctions that includes information and links to details of the process of reconsideration, appeals and hardship payments is available in both hard-copy and on-line through the gov.uk website.

## Accept and already underway

The Department recognises the importance of producing communications which can be easily understood by our claimants and are accessible in a number of formats, including GOV.UK.

As part of our communications review, our Claimant Communications team has produced a plain English guide to benefit sanctions which is currently being tested with claimants, staff and stakeholders. Once tested, this guide will be provided to all Jobcentres, providers and stakeholders, and will be published on GOV.UK by the end of July 2014.

**Recommendation 5**

The Department and providers should work together with stakeholders and advocates for groups with communication support needs to develop an approach for identifying and engaging claimants who might require third party support to understand letters sent while they are on mandatory schemes.

## Accept

The Department is already reviewing the process for putting alternative formats in place for communications within JSA and other benefits.

The review is specifically focusing on providing a consistent service to those who require alternative formats such as email, braille, large print or audio. The review has consulted with 35 external stakeholders, current customers and is also conducting a Department survey of its people to better understand knowledge levels for these alternative formats.

This review was commissioned by the Minister for Disabled People and is being developed in partnership between the Department and the Royal National Institute of Blind People (RNIB). The report will be published externally in late July 2014.

We also plan to continue the work Matthew Oakley has done in engaging with stakeholders for the purpose of writing his review. We are already working closely with many of these organisations and we plan to create a group with a specific focus on helping the Department create clear and accessible communications on sanctions. We will formally invite stakeholders with a view to establishing the group in summer 2014.

## 12 Government's response to the Oakley review recommendations

This group will help ensure the content of our letters and other communications are as effective and as clear as possible so that claimants fully understand responsibilities and actions required of them. Where claimants need extra support to understand communications we already involve third party support. We will further strengthen our guidance on this provision so that advisers continue to identify when third party support is required. The group will also aim to draw on stakeholders' expertise in communicating effectively with claimants with support needs, and to explore how we can use their contact with these groups to maximise reach and understanding of information.

### **Recommendation 6**

After sanction decisions have been made, the Department should consider how vulnerable groups might be identified and helped to claim hardship payments and/or access support services offered through Jobcentre Plus and contracted providers.

## Accept and already underway

The Department is undertaking a thorough review and improvement of the hardship process and associated communication activities, and we will strengthen guidance so that hardship provision is clear upfront to all claimants who are sanctioned. We will have this new process in place by August 2014.

As part of this review we will address the issue of identification of vulnerable claimants and avoid discontinuity of payment. This covers a range of activities, including, where appropriate, staff discussing with claimants how to make applications, support for claimants in making applications and ensuring decisions are taken and hardship payments received as soon as possible with the aim of preventing the disruption of benefit for vulnerable claimants. Under this new process, the Department will make a commitment that if vulnerable claimants claim for hardship on or before their signing day, they should receive a hardship payment at their normal payment date.

In addition to these immediate measures, we are also investigating and impacting further enhancements to the process. For example, the use of SMS text throughout the process to keep claimants informed, reviewing electronic forms and making improvements to decision quality and speed of processing.

### **Recommendation 7**

As well as helping claimants to understand letters, the Department should also consider other forms of communication that could be used alongside letters. For instance, a number of respondents discussed using text messaging, e-mails and phone calls to back up and complement the more standard forms of communication.

As recommended by the Social Security Advisory Committee, the Department should ensure that claimants' communication preferences are routinely recorded and that communications are delivered through the requested channel. This information should also be shared with providers of mandatory schemes and guidance adjusted so that they also communicate with claimants in the manner requested.

## Accept in principle

We already use alternatives to letters, including text messages and emails, for example, confirming appointments, informing claimants of job opportunities etc. As described under Recommendations 2 and 6 we will consider what further use we can make of alternative forms of communication. This will also form part of our discussions with stakeholders under Recommendation 5.

We see clear value in recording and responding to claimants' communications preferences and will, as a matter of course, record alternative contact details provided by the claimant. Our advisers and decision makers will then have the option to supplement any communications with additional contact via this channel (typically an e-mail address).

Where a claimant has a particular communication need, for example because of a disability, we already record that information and ensure contact is made via those channels, where we have permission. However, there are potentially significant costs in terms of staff time if our advisers have to vary communication channels to every claimant according to their particular preferences.

As part of the implementation of Recommendation 2 we will also consider further how information recorded can be best used more widely, including amendment of guidance so that alternative contact details and communication preferences are sent to the provider when referring a claimant to the Work Programme.

#### **Recommendation 8**

The Department should work with providers to review procedures to ensure that claimants on mandatory back to work schemes have a clear understanding of their responsibilities to both the provider and Jobcentre Plus. The Claimant Commitment should be shared with providers of the scheme so that they are able to tailor their provision to fit around Jobcentre Plus requirements and any easements that have been highlighted.

## **Accept in principle**

When a claimant is referred to the Work Programme while in receipt of JSA, the provider is responsible for helping the claimant into work, but the Jobcentre retains responsibility for ensuring that the claimant continues to meet their conditions of entitlement to JSA (the requirements to actively seek work and be available for work). We accept that this dual accountability puts an onus on us to ensure the claimant is absolutely clear as to their responsibilities and the different roles of the provider and Jobcentre Plus; and in addition, that both advisers and providers fully understand the totality of requirements being placed on claimants.

To improve this position, we are making changes to our guidance to strengthen the message to claimants about the joint responsibility that advisers and providers have in helping them into work.

We already have a system in place where we share relevant details in the Claimant Commitment with the provider to help them to understand the claimant's individual circumstances. We do, however, recognise the value of sharing the full Claimant Commitment. Guidance for Jobcentre Plus advisers will therefore be revised to ensure claimants are made aware of the importance of sharing their Claimant Commitment with the provider at first contact. This will be reinforced through a revision to guidance for providers – where they will also be advised of the benefits of requesting a copy of the Claimant Commitment from the claimant. This will enable the provider to fully understand any adjustments that may have been made for the claimant so they can consider these when developing an action plan.

We will also introduce a revised version of the Claimant Commitment which will be discussed with the claimant at the Jobcentre Plus referral interview, before the claimant joins the Work Programme. The revised Claimant Commitment will aim to clearly explain the roles of the provider and Jobcentre Plus, and the requirements that can be placed on the claimant. In particular, the commitment will make clear that claimants will need to continue to demonstrate they have met their conditions of entitlement to JSA when they sign on at the Jobcentre, but that activity they have been asked to do by the provider will count towards this. We will also ensure this is clearly explained by the adviser at the referral interview.

## 14 Government's response to the Oakley review recommendations

On an ongoing basis, the claimant is already advised to present evidence of what they have done with their provider at their fortnightly jobsearch reviews. We will strengthen guidance to ensure claimants are aware of the importance of presenting evidence, including any written information from providers at the fortnightly jobsearch reviews so that advisers have all the relevant information to take into account when assessing whether the claimant has met the job search elements of entitlement.

### **Recommendation 9**

Where claimants are being referred to the Work Programme, the Department should test whether understanding and compliance could be improved by agreeing the Claimant Commitment between Jobcentre Plus advisers and the claimant, in consultation with the adviser from the provider.

## Accept in principle

The Department is committed to looking at how we can improve claimant understanding and compliance when they attend the Work Programme. Bringing the provider into the Claimant Commitment process is a sensible recommendation and we agree in principle.

We will need to undertake further work on how this would actually work in practice and we need to be mindful that to implement this change could be a large burden on resource, so we need to ensure it represents value for money.

### **Recommendation 10**

The Department should consider whether the current model of dual requirements from Jobcentre Plus and providers could be adapted to improve claimant understanding.

## Accept

We will consider the interaction between Jobcentre Plus and contracted work provision as part of the development of the next phase of the Work Programme.

### **Recommendation 11**

To test potential opportunities to improve claimant understanding, the Department should work with providers to pilot a new approach using warnings and non-financial sanctions following a first failure to comply with conditionality on the Work Programme.

## Accept in principle

The recommendation to test potential opportunities to improve claimant understanding by piloting new approaches such as the use of warnings and non-financial sanctions is sensible. However, the current sanctions system is heavily prescribed in legislation and tests are likely to need new legislation to enable them to proceed. The Department will consider further the potential options and the likely timescales.

### **Recommendation 12**

The Department should revise guidance and/or enabling legislation so that, in some circumstances, providers of mandatory back to work schemes are able to accept good reason from claimants.

## Accept in principle

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

However, where a sanctionable failure has already occurred, the provider has no discretion and must refer all failures to a decision maker. This is different to the system for our advisers who have the ability not to refer cases where a claimant clearly has good reason. These are known as treat as straightforward cases.

We accept that in principle there are some circumstances where these straightforward good reason decisions could be made by providers (i.e. circumstances where it is quite clear a sanction should not be applied). However, new primary legislation would be required to enable this and this would need to compete with other priorities in the legislative programme. We will therefore consider this as part of the general development work for the next phase of the Work Programme.

In the meantime, we have ensured that providers are given the maximum amount of discretion within the boundaries of existing legislation. We will also explore ways in which to improve the interaction between providers and decision-makers so that straightforward decisions are made swiftly, where possible, building on the improvements we have already made through the introduction of the Provider Direct telephone helpline service for Work Programme providers.

### **Recommendation 13**

Providers should also be required to check all potential sanctions referrals through the Provider Direct system to ensure that administrative errors have not led to ineffective communication.

## Accept

Provider Direct was introduced in October 2012 to give providers direct and immediate access to the Department so that, where needed, providers can clarify a claimant's current circumstance before making a sanction referral. The Department has been working with providers to encourage use of the tool and has received positive feedback from users.

We agree that there is value to making this interaction mandatory to help improve the quality of referrals. We will seek to ensure that providers are obliged to use Provider Direct in all future contracts and will explore earlier implementation.

### **Recommendation 14**

Guidance for providers should be revised to require that providers have an obligation to take proportional steps to seek good reason from claimants. All subsequent referrals for a sanction should outline the attempts that a provider has made to do this and provide accurate details of any good reason that has been given.

## Accept

The Department will build on its existing process of obtaining good reason from providers. We have worked with providers to ensure that they understand their obligations and have made it clear that providers can record any good reason offered to them from the claimant. To ensure that this is accurately communicated to us we have also created a referral form and detailed guidance which can be found at the following link:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/306488/wp-pg-form-wp-08.xls](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/306488/wp-pg-form-wp-08.xls)

We will continue to encourage providers to take all reasonable steps to record good reason where possible and within the appropriate format.

### **Recommendation 15**

Referrals for sanctions from mandatory schemes should be automatically flagged to the claimant's Jobcentre Plus adviser. Following this, advisers should attempt to explain, via the claimant's preferred method of communication or at their next fortnightly sign-on, that a referral for a sanction decision has been made. This should also be an opportunity for the claimant to give good reason.

## Accept in principle

It is important to note that when a claimant is participating in a mandatory scheme it is the responsibility of the provider to manage any activity that will help them to find a job – this includes setting requirements and utilising the sanction system to encourage compliance. This system was designed to ensure that claimants were clear on who they should be engaging with on their work activity.

The Jobcentre will continue to see the claimant on a fortnightly basis to ensure that they are meeting the conditions of entitlement, actively seeking and being available for work. They do not set any additional requirements during this stage.

All sanction referrals from the Work Programme and Mandatory Work Activity therefore go directly to the decision maker who will make every effort to collect evidence through various channels including telephone, post and text message to ensure the claimant is aware of the referral and seeks their reason for non-attendance. To supplement this, referrals are also recorded on our systems so that Jobcentre advisers are fully aware of any provider sanction referrals that have been made and can signpost the claimant to the correct contact.

We will revise guidance for those undertaking jobsearch reviews, instructing them to routinely check systems for information about any provider originated sanction referrals and if there are, to provide the claimant with supplementary information, for example, about the importance of responding to a decision-maker request for reasons for non-compliance, what will happen next and, should a sanction be imposed, access to hardship payments and the reconsideration and appeals process.

**Recommendation 16**

The Department should build on the approach it has taken for the appeals process and introduce a commitment to make decisions over sanctions referrals within a set timescale. This should include both initial sanction decisions and reconsiderations.

## Accept

The Department is committed to delivering quality and timely decisions and we recognise the benefits of a clear commitment to resolve decisions within a set timescale. As the review notes, when a claimant appeals we are already committed to providing a response to Her Majesty's (HM) Courts and Tribunals Service within 28 days of the appeal being received.

To take forward the recommendation we are currently reviewing our end-to-end process and will consider what timescales we should set from referral to initial decision, and from a reconsideration request being raised to a reconsideration decision being made to allow sufficient time for the claimant to provide good reason, and for a robust decision to be made swiftly. Within this we will ensure that initial decisions are made within three days of all relevant information being presented to the decision maker. We will set out the full timescales for the end-to-end process once our review is complete.

**Recommendation 17**

The Department should revise procedures and guidance to ensure that proportionate steps are taken to inform all claimants of a sanction decision before the payment of benefit is stopped. Again, claimants' preferred method of communication should be used to convey this message.

## Accept

It is important to note that claimants are informed when they are referred for a sanction and would have received the opportunity to provide good reason to the decision maker before a sanction decision is taken, so they should be fully aware that their benefit could be stopped. Once a sanction decision has been taken, claimants are also currently notified in writing in advance of the payment being stopped.

We agree that there should be no circumstances where the claimant is not informed of a sanction decision before the benefit payment is stopped. Where payment is due imminently and there is not enough time to inform the claimant that their benefit will be stopped, we will make it clear within guidance that a decision maker should postpone making a decision until after the forthcoming payment. This should allow sufficient time for the claimant to be notified about a sanction being imposed before their next payment is due.

We will commit to review and, where necessary, strengthen guidance and messaging to decision makers to make sure that procedures are followed accordingly and that the situation does not arise where someone leaves a jobsearch review expecting a payment that is not made following a sanction decision.

Alternate approaches to communications and customer preferences will form part of our wider communications review.

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