



Welfare Rights Conference 2024

Sanctions and conditionality

David Webster

Honorary Senior Research Fellow, University of Glasgow Urban Studies

Angela Toal

Welfare Rights Adviser, CPAG in Scotland



Trends in sanctions

The no. of sanctions has increased since the Covid moratorium ended (April 2021); now approx. 50,000 per month. They are now higher than before the pandemic, although much lower than during the 2010-2015 Coalition sanctions drive

In the last two years the numbers of sanctions have been approximately stable but conditions have been made much more onerous for claimants.

Remember that the post-2012 regime is harsher than before, e.g. increased job search, 'hardship payments' repayable, sanctions consecutive not concurrent, all fully served even if the claimants moves into a no conditionality group.

Tightening of conditionality in last two years

- Jan 2022 Work search restriction to own field reduced from 12 to 4 weeks
- Sept 2022, Jan 2023, May 2024 AET increased from 9 to 12 to 15 to 18 hours (334,000 claimants)
- July 2023 Lead carers of children aged 1 & 2: interviews increased from 6 monthly to 3 monthly (98,000) and 3 monthly to monthly (84,000)
- Autumn 2023 Lead carers of children 3 & 4: required work/search/prep increased from 16 to 30 hours (140,000) and 25 to 30 hours (385,000)
- Sept 2023 Start of In-work conditionality ('In Work Progression Offer voluntary from March 2023)
- 'Additional Jobcentre Support' – attendance every day for 2 weeks – expanded to 150 Jobcentres (DWP press release 7 March 2024)
- Closing of claims for 6-months disengaged claimants – would affect about 39,000 claimants per year, but requires primary legislation
- Proposed shift of claimants out of UC LCWRA group

Repeat sanctions: Nos. of sanctions and nos. of sanctioned claimants

Repeat sanctions are common. In the latest 12 months, there were 538,842 UC sanctions and 419,219 sanctioned claimants. 21.6% of sanctioned claimants received more than one sanction, and 5.2% more than two.

No. of claimants serving a sanction at a point in time

The impact of sanctions is best measured by their number, because their effects can be long lasting, e.g. creating debt, causing eviction or relationship breakdown. But DWP prefers to measure the number of claimants serving a sanction at a point in time – apparently because it produces a relatively small number

The latest figure for claimants serving a sanction is 136,000 – up from 35,100 before the pandemic.

123,500 (90.8%) of these were unemployed ('searching for work'). Sanctions are much lower on other groups.

Duration of sanctions

Each month there are now:

- Over 20,000 claimants completing a sanction after 5 to 13 weeks
- 4,000 after 14 to 26 weeks
- 4,000 after 27 weeks or more

The average sanction lasts for 2.1 months. However if the claimant has to repay a hardship payment then in effect it will last much longer.

One reason why UC sanctions are so long is the 2012 Act introducing very long sanctions. But the biggest issue seems to be 'low' and 'lowest' level sanctions which last 'until compliance'. In practice it can be difficult for a claimant to demonstrate 'compliance'. DWP staff shortages may be contributing to this.

Amounts of money lost through sanctions

Estimates based on Parliamentary Answer 88916 to Chris Stephens MP, 22 Nov 2022, updated for benefit increases and adjusted for updated data on sanction durations:

- GB total lost £41.3m per month, £495.2m per year
- Average lost per sanctioned claimant £643

Reasons for sanctions

Since the moratorium there have been very few sanctions for anything other than 'failure to attend or participate in a work-focused interview' (95%).

It appears that this is mainly because missing an interview is easily documented by overworked Jobcentre staff, whereas referrals for other reasons take up more time.

The appeal system – total lack of information

DWP has never published data on the working of the UC appeal system (Mandatory Reconsideration, Tribunal) for Full Service, which has effectively covered all claimants since April 2019.

Old figures for Live Service up to 2017 showed challenges 16%, 29% of challenges successful, and 5% of sanctions overturned

Live Service covered only single claimants without dependants. Full figures might show more challenges and/or a higher success rate.

Conditionality changes

Introduction

Full conditionality, or being subject to all work-related requirements (WRRs), means being available for work, and looking for work, for an 'expected' number of hours a

week (often for 35 hours a week). Regulation 89 of the UC Regulations 2013 sets out most of the circumstances which mean someone doesn't have any conditionality, for example someone with a child under one. Regulation 99 sets out some other more temporary circumstances which mean someone doesn't have to be available for work, and look for work, for example if someone earns above the 'AET' (discussed below).

More limited conditionality applies in certain circumstances, for example if someone has a child aged one or two. This includes attending work focused interviews (WFIs) and engaging in work preparation.

Where someone doesn't carry out their required conditionality, without good reason, they can be sanctioned. Sanctions can be challenged, with no time limit on asking for a reconsideration (UC etc (Decisions and Appeals) Regulations 2013 reg14(1)).

Recent changes to conditionality: part-time workers

The UC Administrative Earnings Threshold (AET) determines whether a claimant is in the 'working with requirements' group ('light touch') or the 'intensive work search' group. It only applies where someone is subject to all WRRs.

Someone is in the intensive work search group if they earn (as an employee) below 18 x the hourly national 'living wage' (NLW) (29 x if part of a couple) as a monthly figure (£892/£1,437 respectively). If you earn above the AET, but below your 'conditionality earnings threshold' (usually 35 x NLW), you are in the light touch group. The AET has increased several times in quick succession recently, and it is proposed that the couple threshold will be scrapped, which would mean that each member of the couple would separately have to reach the threshold in order to be in the light touch group.

The Social Security Advisory Committee (SSAC) warned against going ahead with increases 'while gaps remain in the evidence base for the policy's effectiveness', but DWP rejected their calls to implement changes more slowly. The Secondary Legislation Scrutiny Committee of the House of Lords has found the lack of data evaluating previous increases in the AET in September 2022 and January 2023 'inexplicable' in light of the most recent increase from May 2024.

It is possible to be randomly selected for an 'in-work pilot scheme' even though someone is in the 'light touch' regime. If this happens, they can be required to look for more work, hours or pay. But even without this, they could have WFIs to attend and work preparation to do in the light touch regime.

Recent changes: parents

Parents with main responsibility for a child aged 3 or over may need to be available for work, and look for work. The expected number of hours depends on the child's age and also on caring responsibilities.

Parents with responsibility for children aged three to four were previously expected to engage in work-related activity for up to 16 hours per week, and claimants with

children aged five to 12 expected to engage in work-related activity for up to 25 hours per week (as set out in DWP universal credit guidance).

This has now increased to 30 hours a week. This is in line with an increase in free childcare hours, although these do vary from area to area.

The law has not changed (Regulation 88 of the UC Regulations 2013), and continues to allow leeway in light of caring responsibilities and school hours:

88.—(1) The “expected number of hours per week” in relation to a claimant for the purposes of determining their individual threshold ... is 35 unless some lesser number of hours applies under paragraph (2).

(2) The lesser number of hours is—

(a) where—

(i) the claimant is... a responsible carer (subject to the following sub-paragraphs)..., and

(ii) the Secretary of State is satisfied that the claimant has reasonable prospects of obtaining paid work,

the number of hours that the Secretary of State considers is compatible with those caring responsibilities;

...

(b) where the claimant is a responsible carer for a child who has reached compulsory school age but who is under the age of 13, the number of hours that the Secretary of State considers is compatible with the child's normal school hours (including the normal time it takes the child to travel to and from school)...

Parents should be prepared, therefore, to make assertions regarding what is possible for them in line with the childcare help they actually have.

Proposed changes: disengaged claimants

The Government plan to 'close' the claims (technically, the claim will end) of sanctioned claimants who are solely eligible for the standard allowance of UC, and have been disengaged from the jobcentre for six months (with an open-ended sanction). This will require primary legislation. Numbers:

- in August 2023, 3% (51,000) of the UC sanctionable caseload was disengaged for 6 months or more
- of these claimants disengaged for 6 months or more 69% were on Nil award and 31% were entitled to additional UC elements

DWP Minister Viscount Younger has confirmed that claimants with a vulnerability will not have their claim closed for disengaging from the jobcentre.

More recently, plans were unveiled to remove benefits from those claiming for more than 12 months if they don't comply with conditions set by their work coach.

Proposed changes: changes to LCW/RA

Following the Health and Disability White Paper in March 2023 (see www.gov.uk/government/publications/transforming-support-the-health-and-disability-white-paper), the government launched a consultation in September 2023 regarding proposals to make several changes to the limited capability for work (LCW) and work-related activity (LCWRA) rules. Their response to the consultation responses sets out their plans (www.gov.uk/government/consultations/work-capability-assessment-activities-and-descriptors), which include:

- Amending the LCWRA substantial risk provisions
- Removing the LCWRA mobilising activity
- Reducing the points associated with some of the LCW 'getting about' activities

Changing the 'getting about' descriptor is expected to move 33,000 people from LCW to all work search.

They also propose to rename the two statuses as 'work preparation' and 'health group'. Overall, the aim is to reduce the numbers of people with LCWRA status.

More information is available at:

<https://cpag.org.uk/policy-and-research/latest-policy-briefings-and-reports/david-webster-briefings>

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