



Submission to the Work and Pensions Select Committee's
Sanctions Inquiry

May 2018

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1. To what extent is the current sanctions regime achieving its policy objectives?

- 1) The current sanctions regime is not meeting its objective of moving people into work. All the evidence (including the recent large-scale Welfare Conditionality Study published in May 2018¹) shows that:
 - a) People are generally highly motivated to work if they can, and if they are not working this is usually due to structural barriers, ill-health or caring responsibilities.²
 - b) Sanctions may drive compliance with benefit conditions and short-term movements into work for jobseekers, but there is no evidence that they move people into sustainable or good quality employment; compliance conditions in fact tend to divert people from efforts to secure longer-term, higher-paid work.

Sanctions and the threat of sanctions erode trust in advisers/work coaches, and create a climate of fear around engagement with the benefits system and welfare-to-work programmes. Welfare-to-work programmes are most effective when the adviser-client relationship is based on mutual trust,³ but in regimes with heavy conditionality clients are more likely to feel that advisers assume they are unmotivated or incompetent, to fear intrusive questioning about their behaviour, and to conceal challenges they face for fear of being sanctioned for not doing enough.
 - c) Sanctions cause significant damage to physical and mental health, and are a major cause of income crises and foodbank use. For disabled people, the effect on health and added stress has the effect of moving them further away from work.⁴
 - d) Sanctions drive many people who cannot cope to move off the benefit altogether, risking destitution and losing access to much-needed help and support.⁵
- 2) This all accords with CPAG's own experience of sanctions, which is that they tend to reduce people's capabilities (physical health, mental health, financial security and coping abilities) in ways

¹ See <http://www.welfareconditionality.ac.uk/publications/final-findings-welcond-project/>

² See 1, and others including Ralston, K. and Gayle, V. (2017) Exploring 'generations and cultures of worklessness' in contemporary Britain. *Youth and Policy*, www.youthandpolicy.org/articles/generations-of-worklessness/ and Shildrick, T. et al (2012) Are there really families where three generations have never worked? Exploring intergenerational cultures of worklessness? *Joseph Rowntree Foundation* www.jrf.org.uk/report/are-cultures-worklessness-passed-down-generations

³ Wright, S. and Haux, T. (2011) On the receiving end: perspectives on being out of work and claiming benefits. Child Poverty Action Group. http://www.cpag.org.uk/sites/default/files/CPAG_receivingend_0711.pdf

⁴ See 1

⁵ See 1 and others including Geiger, B. (2017) Benefits conditionality for disabled people: stylised facts from a review of international evidence and practice, *Journal of Poverty and Social Justice* Volume 25, Number 2, June 2017, pp. 107-128(22) <http://www.ingentaconnect.com/content/tpp/jpsj/2017/0000025/0000002/art00002>

which push people further away from work. This is particularly true for people who with long-term health conditions, disabilities or significant caring responsibilities. Research carried out by CPAG with the Trussell Trust, Oxfam and Church of England found that sanctions accounted for 20-30% of foodbank use.⁶

- 3) Analysis of the CPAG caseload and our Early Warning System also show widespread and serious problems with the administration of the current sanctions regime. Harsh and apparently irrational decision making, poor communication of decisions and opportunities to appeal, poor appreciation of clients' individual circumstances, inflexible application of guidance, and error/maladministration by the DWP, are all common.⁷ The government has been slow to implement the recommendations of the Oakley review and these problems have not been resolved in spite of some small administrative improvements.⁸
- 4) In response to the recently published Welfare Conditionality Study a DWP spokesperson stated that "Our research shows that over 70% of JSA claimants say sanctions make it more likely that they will comply with reasonable and agreed requirements." We are disappointed with the DWP response. Compliance with conditionality requirements in the face of the potential loss of all income and the threat of destitution is not the same as finding employment and may in fact be damaging. We have encountered several instances of people putting their own health at risk in order to avoid a sanction, for example walking miles to jobcentre appointments when they are unwell or shortly after surgery, because they have no money for a bus fare and fear a sanction if they cancel the appointment. This cannot be the intended outcome of the sanctions regime.
- 5) **As well as these general points we have identified several specific ways in which the current sanction regime, particularly within universal credit (UC), is not rationally designed to meet its objectives.**
 - a) **First**, it is our impression from our caseload and cases submitted to our Early Warning System that the promised shift to more tailored claimant commitments which was intended to reduce sanctioning in universal credit has not been delivered. We repeatedly see cases of

⁶ Perry, J., Williams, M., Sefton, T. and Haddad, M. (2014) *Emergency Use Only. Understanding and reducing the use of food banks in the UK*. Child Poverty Action Group, Church of England, Oxfam GB and The Trussell Trust.

⁷ CPAG Response to the Work and Pensions Select Committee Inquiry into benefit sanctions, December 2014. <http://www.cpag.org.uk/sites/default/files/CPAG-submission-WPSC-sanctions-inquiry-Dec2014.pdf>

⁸ Feeding Britain Working Party on Benefit Administration evidence to the APPG on Hunger, December 2015. http://www.cpag.org.uk/sites/default/files/Update%20for%20Feeding%20Britain%20from%20the%20Working%20Party%20on%20Monitoring%20DWP%20Progress%20December%202015%20-%20FINAL_0.pdf

inappropriate conditionality for people with health conditions and caring responsibilities (see box 1 below for more explanation of this problem).

Box 1. Duty to give prior information about easements

The system of conditionality under universal credit provides many situations where if a claimant in the all work conditionality group falls within a certain circumstance then the conditionality imposed on them must or may be reduced. For example:

- Someone who has caring responsibilities can reduce their hours of work search to those considered by the decision maker to be compatible with the caring responsibilities provided they still have reasonable prospects of employment (reg. 88(2)(a) UC Regs 2013)
- Someone with a health problem can similarly reduce their work search hours- in this case not needing to also show reasonable prospects of obtaining employment (reg. 88(2)(c))
- Someone with a child under 13 can reduce caring responsibilities to those compatible with child's normal school hours (reg 88(2)(b))
- Further deductions from hours of work search can be made on a week to week basis to deal with temporary childcare responsibilities, domestic emergencies, funeral arrangements or similar situations (reg. 95(2)(b)).
- Victims of domestic violence who meet certain conditions can have a period of 13 weeks with no conditionality requirements imposed (reg. 98).
- A further easement can be applied in cases of bereavement or where a child who the claimant cares for has been a victim of or witness to a violent or abusive incident (reg. 99(4A))
- Those who are temporarily ill and provide a medical certificate can have work search disapplied for a 2 week period (reg. 99(4)).
- Those who are ill for a longer period and provide medical certificates can have work search disapplied for so long as reasonable (reg. 99(5)).

Understandably, claimants do not know these detailed rules (and the list above is incomplete). So they will not seek to rely on them or know to bring their circumstances to the attention of their work coach. A further problem is many claimants think that if they do raise their inability to do work search due, for example to caring responsibilities, they will be told they are not meeting the conditions of entitlement and perhaps suffer a sanction. Claimants are therefore entirely dependent on their work coach asking sufficient questions to identify when an easement applies and as pointed out above, our evidence is that this is simply not happening.

It is CPAG's view that the solution to this problem is to **impose a legal duty on the DWP to give information about available easements to claimants before conditionality is imposed on them**. That would allow a claimant to realise when their circumstances are such that an easement should apply and highlight that to the decision maker.

In *R(Reilly and Wilson) v SSWP* [2013] UKSC 68 the Supreme Court held that fairness required claimants to be given such information about the schemes they were being referred to before a decision was made to refer them to the scheme so as to enable them to make representations about the appropriateness of the scheme to them. The same principle in our view applies when asking a claimant to agree a claimant commitment. The Court held:

65. Fairness therefore requires that a claimant should have access to such information about the scheme as he or she may need in order to make informed and meaningful representations to the decision-maker before a decision is made. Such claimants are likely to vary considerably in their levels of education and ability to express themselves in an interview at a Jobcentre at a time when they may be under considerable stress. The principle [.....] arises as a matter of fairness from the

Secretary of State's proposal to invoke a statutory power in a way which will or may involve a requirement to perform work and which may have serious consequences on a claimant's ability to meet his or her living needs.

66. Properly informed claimants, with knowledge not merely of the schemes available, but also of the criteria for being placed on such schemes, should be able to explain what would, in their view, be the most reasonable and appropriate scheme for them, in a way which would be unlikely to be possible without such information....

- b) **Second**, in UC disabled people and those with health conditions can be subject to full conditionality from the start of their claim while they await a work capability assessment (which can take months to be scheduled) leaving them at risk of sanction if their claimant commitment is not suitably tailored. Our evidence is that claimants who are disabled and are subject to full conditionality, either because they have been assessed by the DWP as being 'fit for work' or because they are awaiting a work capability assessment, rarely have their claimant commitment suitably tailored and are therefore at high risk of being sanctioned when in reality they are not able to meet the conditions placed on them. We propose that the rules are amended such that those awaiting the WCA automatically have work search requirements disapplied.
- c) **Third**, under UC if a claimant is sanctioned while subject to all work-related requirements but subsequently moves into a group with no conditionality, the sanction continues even though they are no longer required to comply with whatever conditions were previously placed on them. For example a woman who fails to look for adequate work twice in the early stages of pregnancy and accrues a 28 day and a 90 day sanction may find that this sanction is still ongoing when she has her child – at which point she would have no requirement to look for work as the main carer of a child aged under one.

It is perverse that a sanction continues during a period when, either through ill health or caring responsibilities, a claimant is unable (and has been assessed as such by the DWP) to take up work. In this situation the sanction cannot be intended to drive behaviour change. What then is its purpose?

The continuation of sanctions for people who have become sick, become carers or recently had a baby also means that they will be likely to struggle financially at a time when they need additional support, not less.

In the legacy system if they had moved from JSA on to ESA or Income Support, the sanction would not have travelled with them, recognising that their circumstances and ability to seek

work have changed. We propose that under UC the sanction should be lifted or suspended for claimants when their conditionality is reduced.

- d) **Fourth**, in both UC and ESA low level sanctions last until the claimant complies with a requirement. We have encountered cases where people did not have a good reason for failing to comply with their conditions initially (so the initial sanction decision was 'correct') but were then unable to comply because of illness, bereavement, caring responsibilities or similar good reason, leaving them under sanction for a long time when they were unable to comply.

There is no opportunity for good reason to be taken into account at this stage to reduce the length of the sanction, or for the sanction to be suspended while good reasons apply. Again this can leave people under a sanction for lengthy periods during which the sanction cannot be expected to drive behaviour change because they simply cannot comply. (See box 2 below).

Box 2. Problems with indeterminate sanctions and good reason

This example is shown with reference to the Universal Credit rules- the same problem applies for ESA sanctions for failure to engage in work related activity without good reason.

Both low level sanctions (which apply to those in the all work conditionality group and the work related activity group who fail to comply with an interview requirement, a work preparation requirement or, for those in the first group only, a particular work search requirement) and lowest level sanctions (which apply to those in the work focussed interview group only who fail to participate in a work focussed interview) have a length which is set in part by calculating the number of days from and including the day when claimant fails to perform the activity and up to the day before they meet the compliance condition associated with that activity (see regulation 104(2) and 105(2) of the Universal Credit Regulations 2013). For all but those in the work focussed interview group and 16-17 year olds, there is added to that period a further period of 7 to 28 days (dependent on number of previous sanctionable failures in period between 2 and 52 weeks ago).

That approach creates several problems:

Problem 1: This can mean that for a claimant who (1) does not have good reason for failure to perform the activity but then (2) has a good reason why they did not manage to meet the compliance condition quickly, injustice results.

Example:

Anna is in the "all work group". She fails to draw up a CV and upload it to a job search website within the time table she has been given (by 20/01/2018). She does not have a good reason for this. She continues not to upload the CV.

However, Anna's mother dies on 20/02/2018 and Anna spends the next 3 weeks dealing with this.

Anna then realises her universal credit is sanctioned. She uploads the CV as soon as she has completed dealing with the bereavement on 12/03/2018.

Anna's sanction length is equal to number of days from and including 20/01/2018 to 11/03/2018 (48 days) plus an extra period of 7 days as this is her first sanction.

However, Anna did have a good reason why she could not deal with the CV in the period 20/02/2018 to 11/03/2018 (she was dealing with a bereavement of a close family member)- the regulations do not allow account for that to be taken.

Problem 2: Often there can be a delay in making the sanction decision (for example a failure on 17/11/2017 might not result in a decision until 19/02/2018). The sanction in such cases, starts to run, typically, from the start of the assessment period in which it is made (regulation 106). However, its length is still determined as described above. That can mean that a sanction is only applied to an award and experienced by a claimant several months after the relevant failure- which rather destroys the link between the claimant's failure to comply and the subsequent loss of benefit. It can also mean, where a claimant has not appreciated that they need to meet a compliance condition until the sanction is imposed that the delay in imposing the sanction causes it to be longer when finally imposed.

2. Is the current evidence base adequate and if not, what further information, data and research are needed?

6) As noted above there is ample evidence suggesting that the UK's heavy conditionality and sanctions regime is not well designed to achieve its objectives and in fact is likely to be counter-productive. The Department for Work and Pensions tends to rely on international evidence suggesting that some form of sanctioning can increase movements into work, but the NAO itself observed that the UK's unusually severe sanctions regime (compared with most other countries) is not grounded in a strong evidence base, and nor has the department attempted to fully analyse the data it has at its disposal as to the impact of sanctions.

7) International evidence indicates that that for non-disabled people sanctions do increase short-term movements into work, but at a significant cost.⁹ Sanctions also push some people off benefits altogether – placing them at risk of destitution and homelessness, with all the consequent damage and suffering which these entail – and movements into work are usually into lower-paying, part-time and less secure jobs because the priority is to comply with conditions and to accept any work offered, rather than to focus on longer term skills development to enter more sustainable, permanent or high quality work. Evidence also shows that while some level of sanctioning does have a short-term effect on compliance, higher sanctioning rates do not

⁹ Geiger, B. (2017) Benefits conditionality for disabled people: stylised facts from a review of international evidence and practice, *Journal of Poverty and Social Justice* Volume 25, Number 2, June 2017, pp. 107-128(22) <http://www.ingentaconnect.com/content/tpp/ipsi/2017/00000025/00000002/art00002>

necessarily increase compliance further.¹⁰ The UK's decision to greatly increase the scope and severity of sanctions in recent years is not grounded in evidence.

- 8) There is limited international evidence on the impacts of conditionality on disabled people but what exists suggests that that heavy conditionality actually has a *negative* effect on employment, while increasing the risk of destitution and worsening health.¹¹ Supportive systems based on rehabilitation are much more effective than compliance-based systems at supporting disabled people into work.¹²
- 9) Further analysis which we recommend would include:
 - a) A proper analysis of the outcomes of people who are sanctioned on JSA, ESA and Universal Credit, examining not only short-term movements into work but long-term employment outcomes, effects on physical and mental health, effects on foodbank use, effects on arrears and debt, effects on homelessness, and the fate of those who move off benefits altogether without a job.
 - b) Analysis of claimant commitments and the use of easements for UC claimants with health conditions or caring responsibilities, to assess whether requirements are being tailored as promised.
 - c) Trialling of different levels and durations of sanctioning, to assess whether sanctioning could be reduced without negative effects on jobseeker movements into work.
 - d) Trialling of voluntary employment support to compare outcomes for different groups, rather than operating on the assumption that sanctions are necessary.
 - e) Review of lessons from effective voluntary employment support programmes such as the New Deal for Lone Parents and Scottish Working for Families Fund, both of which had highly impressive results with no or very limited conditionality (in the NDLP an initial meeting was compulsory, with further engagement purely voluntary).
 - f) Under Universal Credit, monitoring and publishing information on the rate, severity and reasons for sanctions for people in different conditionality groups (not just a headline rate) and their impacts on different groups (jobseekers with full work-related requirements, main carer of children, disabled people, in-work claimants).

¹⁰ See for example Watts, B. et al. (2014) *Welfare sanctions and conditionality in the UK*, Joseph Rowntree Foundation. <http://www.jrf.org.uk/publications/welfare-sanctions-and-conditionality-uk> among other reviews.

¹¹ <http://www.ingentaconnect.com/content/tpp/jpsi/2017/00000025/00000002/art00002>

¹² <http://www.ingentaconnect.com/content/tpp/jpsi/2017/00000025/00000002/art00002>

3. What improvements to sanctions policy could be made to achieve its objectives better?

10) We have a number of recommendations.

11) Short-term actions to improve the functioning of the sanctions regime:

- a) Introduce a duty to provide information on easements before a claimant is asked to agree a claimant commitment. See Box 1 for an example and how this could work.
- b) Implement a system of warnings rather than sanctions for a first sanctionable failure to comply with conditions, with a clear opportunity for claimants receiving a warning to have this wiped from their record if they had good reason for failing to comply.
- c) Urgently review the decision-making process around sanctions. It is alarming that 81% of sanctions challenged are overturned on appeal.
- d) Fast-track challenges to sanction decisions. Currently, by the time a sanction decision reaches a tribunal claimants have often suffered weeks or months of destitution.
- e) Suspend or end sanctions when somebody's circumstances change such that they change conditionality group and are longer required to comply with the condition for which they were sanctioned.
- f) Consider reducing sanctions, or removing them altogether, for disabled people and those awaiting a work capability assessment, where the evidence suggests that sanctions are entirely counter-productive to the aim of moving people into work.
- g) Consider stopping the use of financial sanctions for minor breaches of conditions such as being a few minutes late for an appointment.

12) Long-term actions to test and develop alternatives to the current sanctioning regime

- a) Over the long term we would like to see a full review of the current sanctioning regime and the outcomes for claimants, and a commitment to test alternatives such as shorter or less severe sanctions, and voluntary programmes of employment support.
- b) Evidence to date suggests that a shift towards a system with a greater basis in support rather than compliance, and a greatly reduced use of sanctions, would lead to better outcomes for claimants both in terms of avoiding income crises but also in promoting movement into sustainable work, for the reasons described above.
- c) It is our view that if sanctions are to be used, they should not be so heavy as to push anyone into destitution or render them unable to pay housing costs. Children's and housing elements must be fully protected.

4. Could a challenge period and/or a system of warnings for a first sanctionable offence be beneficial? If so, how should they be implemented?

13) We would support both a longer challenge period, which would reduce the rate of inappropriate sanctions and the burden of sanction appeals on the tribunal system, and a system of warnings for a first 'offence'.

14) The DWP trial that happened in Scotland¹³ sent people a sanction warning letter giving them 14 days on top of the usual 7 to respond with reasons as to why they had failed to meet their conditionality requirements. The results show that only 13% of people responded, leading the government to respond that the extended challenge period did not have enough effect to justify extending this approach. However, half of the people who responded had their sanction overturned. Given that in 2018 alone 292,980 sanction decisions were made,¹⁴ if the scheme were extended nationwide then we might expect between 17,500 and 20,500 sanctions to be overturned through such a scheme each year, meaning this many instances of hardship could be avoided (6-7% of the 292,980 sanction decisions). This is far from a negligible figure.

15) In addition, there has been no exploration of why people did not respond – some people may have been vulnerable, struggled to understand the communications received, or been unable to respond (e.g. due to ill-health or a lack of phone credit for example). We suggest that rather than abandoning the scheme this needs to be explored in more detail, in order to find solutions which would improve the rate of engagement.

16) The DWP is now looking into the feasibility of a trialling a warning system for a failure to attend a work search review, in which claimants will receive a written warning for a first sanctionable failure and only be sanctioned if there is a second failure to comply.

17) While this is welcome, we suggest that this system ought to be extended to other failures of compliance. And there must be a clear mechanism for claimants to challenge their written warning if they had good reason for their first failure to comply, in order to have it wiped from their record. The importance of this also needs to be explained to claimants, who may not realise

¹³ See <https://www.gov.uk/government/publications/jobseekers-allowance-sanctions-early-warning-trial-evaluation-final-report>

¹⁴ 60,109 in JSA, 7,937 in ESA, 213,564 in UC and 11,370 in IS, according to DWP Benefit sanctions statistics to January 2018 (Tables 1.1, 2.1, 3.1 and 4.1 respectively). <https://www.gov.uk/government/statistics/benefit-sanctions-statistics-to-january-2018>

that there is any reason to challenge a warning.

18) Box 3 below sets out how a warning system could be introduced through amendments to current regulations.

Box 3 Warning System and the law

Unfortunately, the introduction of a warning system for a first failure to comply with conditionality would require changes to the law. Fortunately, however, that can be achieved by amending regulations and amendments to primary legislation would not be necessary.

The reason for this is as follows:

Ss. 26 and 27 of the Welfare Reform Act 2012 contain the primary legislation enabling sanctions under universal credit. For jobseeker's allowance ss. 19 and 19A of the Jobseekers Act 1995 perform the same function.

All of these provisions are worded such that a reduction in benefit *must* be imposed once it is found that a claimant has failed without a good reason to meet a conditionality requirement. Taking s.27 of the WRA 2012 as the example it states:

“27. (1) The amount of an award of universal credit is to be reduced in accordance with this section in the event of a failure by a claimant which is sanctionable under this section”

It then sets out at sub-section (2) what failures are sanctionable.

Fortunately, the amount of the reduction and the period for which it is to have an effect are left to regulation (see s.27(4), (5) and (8) as the example for non higher level sanctions under universal credit).

Therefore, by amending the regulations which set the length and period of a sanction and are made under the powers in the Acts one can achieve the result that the period of a sanction is only one day and the amount (for example) is only 10p. That in effect would achieve a policy aim of having no sanction for a first failure without breaching the requirements in primary legislation (by having practically no sanction).

5. Are levels of discretion afforded to jobcentre staff appropriate?

19) The use of the term “discretion” when it comes to sanctions can be misleading. It is worth unpacking how the system works:

20) On the one hand, as we have seen above (box 3), once it is established that a claimant has failed without a good reason to undertake a legally required conditionality action then a sanction must follow as a result of the law- there is no discretion here. Furthermore, the amount and period of

the sanction is fixed in statute and there is no discretion as to those.

- 21) Within the process of determining whether or not a claimant has failed without good reason to perform an action, there are various issues of judgement for a decision maker. Strictly these are not questions of discretion but questions of the decision maker applying tests of reasonableness that exist in the legislation:
- 22) In most cases a sanction can only be imposed if the failure of the claimant was without a good reason. What is reasonable is of course a question of judgement based on all the facts of the case.
- 23) There are further reasonableness tests which are embedded within the universal credit system- these should be applied both by the work coach setting out what conditionality a claimant must meet in the first place, and also at the point when it is decided whether or not to sanction:
 - a) For example what level of work search is thought to be reasonable given a claimant's caring commitments or health problems (see regulation 88 of the Universal Credit Regulations 2013).
 - b) Similarly whether it is in fact reasonable to disapply work search requirements during a period of sickness of longer than 14 days (see regulation 99(5)).
 - c) In sanctions for work search where a claimant has failed to do whatever number of hours of work search is required in their case (itself sometimes subject to a reasonableness test), then a further issue will arise about whether a claimant has done all they reasonably could.

One can see therefore that the decision maker is making a range of judgements about what they think is reasonable given a claimant's circumstances. Strictly speaking this is not properly described as discretion but is a question of judgement. If the decision maker decides that something was not reasonable then they have no further discretion- the rules set that a sanction will occur and determine its length and rate.

- 24) On the other hand, there is discretion at the level of the work coach in deciding whether or not a particular set of circumstances warrants referral to a decision maker (who then determines whether or not the claimant has failed without good reason to undertake a required conditionality action). Our understanding is that work coaches are advised that they must refer to a decision maker if they think a claimant has so failed, and indeed it is difficult to see how they could lawfully not do so given the rules.

- 25) Given all of the above, it is probably better not to use the term “discretion” when we refer to these issues. Instead what we have for universal credit is a rule-based system where the rules involve frequent need for making a judgment about reasonableness.
- 26) Once we understand this, we can see that the statement that sanctions are only used as a last resort is simply wrong- there is no way for a decision maker to decide that some other method might be better employed once it is determined that the claimant has failed to comply with a condition without good reason.
- 27) As with any rule-based system which embeds frequent decisions on reasonableness, this potentially has the advantage that the individual facts of a particular case can be taken into account. However, it also carries the risk that like cases will not be treated alike, as one decision maker’s view of what is reasonable may not be the same as that of another decision maker.
- 28) CPAG therefore prefers a more stringent rule-based system which limits the need for judgement as to what is ‘reasonable’. Rules ought to set out those situations which constitute good reason, rather than requiring decision makers to make judgements on a case by case basis. We believe that the great majority of circumstances constituting good reason (e.g. failure of childcare, children’s illness, failure of transport and so on) could be captured by an explicit set of rules. The risk that a particular case may have a good reason but not come within one of the explicit rules can be catered for by having a residual category for other situations, allowing for a reasonableness test in these cases. Such a system will increase the consistency of decisions and also has the advantage of making decision making easier as this can (largely) be reduced to a set of factual questions.
- 29) A similar set of rules ought to apply to the application of flexibilities and easements for claimants in setting work-related requirements, for example around caring responsibilities and the needs of children. We are worried, however, that the direction of travel has recently been to move away from a rule-based system – for example the lone parent flexibilities used to be statutory but now only have the status of guidance. This creates a real risk of poor or patchy decision making, and introduces a further power imbalance into the relationship between claimant and work coach.

6. Are adequate protections in place for vulnerable claimants?

- 30) Our research finding that sanctions are responsible for 20 to 30 per cent of foodbank visits indicates that claimants are not being protected from destitution. While we have seen signs of increased availability of hardship payments, CPAG's caseload suggests that these are still not offered routinely. We are also worried by the fact that under Universal Credit hardship payments are repayable – we have heard from Universal Credit claimants who refused hardship payments because they know that the repayments will effectively extend the duration of their sanction.
- 31) There is much evidence that sanctions have a severe effect on vulnerable claimants:
- a) **Lone parents** Gingerbread's research has shown that 1 in 7 lone parents receiving JSA was sanctioned in a single year.¹⁵ 62 per cent of JSA sanctions on lone parents which are formally challenged are overturned, higher than for other groups. There are no signs that this is changing under Universal Credit.
 - b) **Care leavers** The Children's Society has found that care leavers are five times more likely to be sanctioned than others.¹⁶ This is a group of vulnerable young people who ought to be receiving additional support if they struggle to manage appointments, not being sanctioned.
 - c) **People with mental health conditions** The British Psychological Society, the UK Council for Psychotherapy, the British Association for Counselling and Psychotherapy, the British Psychoanalytic Council, and the British Association of Behavioural and Cognitive Psychotherapies have all called for the current sanctions regime to be suspended and reviewed, blaming sanctions for causing destitution, disempowerment and increased rates of mental health problems.¹⁷
 - d) **Disabled people** With disabled people claiming JSA sanctioned at a higher rate than non-disabled claimants, it is clear that many conditions given to disabled jobseekers are unsuitable.¹⁸ Given the well-documented problems with Work Capability Assessments, it is likely that many of these disabled people should not be on JSA in the first place. We have seen nothing to suggest that this situation has improved under UC.

¹⁵ <https://www.gingerbread.org.uk/wp-content/uploads/2017/10/One-the-rise-single-parent-sanctions-in-numbers.pdf>

¹⁶ <https://www.childrensociety.org.uk/news-and-blogs/our-blog/how-the-benefits-system-is-letting-down-care-leavers>

¹⁷ <https://www.independent.co.uk/news/uk/politics/benefits-sanctions-letter-mental-health-crisis-british-psychological-society-a7600596.html>

¹⁸ JT TO ADD REF

32) In Box 4 we provide case studies from CPAG's advice work as to the failure of the sanctioning system to protect vulnerable people and families.

Box 4. Case studies of sanctioning of vulnerable claimants

Case study one: a lone parent with health problems

CPAG worked with a lone parent with physical and mental health problems, who has two children aged 5 and 12. She had some easements in her claimant commitment to reflect her caring responsibilities, but none because of her health conditions. Despite providing medical certificates and information about her health conditions, after 12 months the DWP had failed to arrange a work capability assessment.

During this period her UC was sanctioned three times for a failure to undertake work search activity over a three week period. This led to her being unable to feed herself and her children and having to rely on a foodbank. It also caused a deterioration in her mental health.

Following a complaint by CPAG to the DWP her claimant commitment was amended, a medical assessment was arranged and the sanctions decision were revised.

Case study two: a vulnerable man with mental health difficulties

CPAG worked with a vulnerable man with mental health problems. During an 11-month period where he was waiting for his work capability assessment the DWP applied no easements to his claimant commitment, despite receiving medical certificates evidencing his mental and physical health problems.

During this time he was sanctioned, leaving him destitute and reliant on food banks. His tenancy was put at risk and his mental health deteriorated. CPAG helped him with a mandatory reconsideration of the decision but despite receiving full details of our client's situation and his vulnerability, the DWP upheld their decision. The sanction decision was overturned by an appeal tribunal, eight months after the sanction was imposed.

Regulation 99(5)(c) of the Universal Credit Regulations 2013 provides that if it is thought reasonable not to impose work search on a claimant who is providing medical certificates then it should not be imposed. However, we have seen many cases such as these, where that has not happened. We would therefore recommend that this rule be changed such that it is *automatic* that no work search is imposed where a claimant is awaiting a WCA.

7. What effects does sanctions policy have on other aspects of the benefits system and public services more widely? Are consequential policy changes required?

33) Given the weight of evidence showing that sanctions cause hardship, ill-health and in some cases destitution, it is inevitable that they will be increasing pressure on services such as local welfare assistance schemes, social services payments, advice services, local charitable provision (e.g. foodbanks), health services (including mental health) and other forms of local support. There is evidence that sanctions can increase substance abuse by homeless people¹⁹ and drive people to survival crime.²⁰

8. To what extent have the recommendations of the Oakley review of Job Seekers' Allowance sanctions improved the sanctions regime? Are there recommendations that have not been implemented that should?

34) CPAG's experience, as well as wider evidence, shows that there has been little improvement to the sanctions regime since the Oakley review. There are still widespread, systemic problems such as claimants being sanctioned for minor infringements; poor information provision and understanding of the sanctions regime and claimant commitment easements; an ongoing perception among claimants that the regime is unjust and punitive and increasing evidence that sanctions do little to 'help' people into work and trigger negative outcomes for claimants including moving them away from the labour market. It is worth noting that the most extensive study of welfare conditionality in the UK, published in May 2018, was based on research conducted between 2013 and 2018, most of which post-dates the Oakley review.

¹⁹ Homeless Link (2013) A high price to pay: the impact of benefit sanctions on homeless people. <https://www.homeless.org.uk/sites/default/files/site-attachments/A%20High%20Cost%20to%20Pay%20Sept%202013.pdf>

²⁰ See 1.