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# **Annex E**

*Social Security Advisory Committee*

*Occasional Paper No. 1*

## ***Sanctions in the benefit system: Evidence review of JSA, IS and IB sanctions***

This paper was produced in support of advice offered to the Secretary of State in accordance with the Committee's remit (s 170(i) (a) of the SSA 1992 refers). The original text was sent to Ministers in February 2006 and is now being given wider distribution. We are grateful for the assistance of our Research and Policy Specialist, Anna Bee, who prepared the paper for us, and to Departmental officials who provided factual information. However, the views expressed and any conclusions reached in the paper are solely the responsibility of the Committee.

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# ***Sanctions in the benefit system: Evidence review of JSA, IS and IB sanctions***

## ***Introduction***

This paper arises out of the Social Security Advisory Committee's (SSAC) interest in the use and impact of benefit sanctions. In 2005, officials in the Department for Work and Pensions (DWP) undertook a review of the current sanctions regimes for Jobseeker's Allowance (JSA) and Income Support (IS) claimants that resulted in two research reports (Peters and Joyce 2006, and Whiting and Joyce 2006). The Committee maintained a close interest in the review and two Members sat on the steering group that oversaw the Departmental research. This occasional paper does not report on primary research, as this is not within the Committee's remit. Instead, it draws on the findings of the DWP research projects and the wider literature on benefit sanctions.

Section 1 of this paper sets out the aims and objectives of and the existing regime for JSA sanctions and lone parent and Incapacity Benefit (IB) Work Focused Interviews (WFIs) and associated sanctions. Section 2 considers some of the current evidence on sanctions. Section 3 makes policy recommendations.

## ***Section 1 – The current sanction regimes***

Sanctions have a long history and two of the main employment sanctions (misconduct and leaving voluntarily) date from 1913 and the introduction of Unemployment Benefit. The purpose of sanctions is to ensure that claimants comply with the responsibilities associated with the benefit entitlement. Sanctions are used to counter the undesirable disincentive effects that are believed to be associated with the availability of benefit. Under the current 'rights and responsibilities' agenda, conditionality and the use of sanctions have been spreading beyond JSA claimants to lone parents and IB recipients, as DWP has focused its attention on helping claimants on inactive benefits enter work. Sanctions have also been used in other countries' welfare systems, though Burgess and Garrett (2005) have noted that 'their use throughout Europe is not widespread'.

DWP recently set out its principles of welfare reform. Principle four sets out its intent to '*Balance rights with responsibilities, while recognising the need for support and care where appropriate.*' Central to this desire is a 'something for something' contract between the State and individuals. This suggests that financial support will be provided in return for individuals agreeing to the commitment associated with claiming benefits. The continuing use of sanctions is implicitly central to this 'something for something' contract.

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### *JSA sanctions*

The rationale for the JSA sanctions regime is to protect the taxpayer by ensuring that benefit is only paid when the claimant meets eligibility requirements or satisfies conditions for benefit. The specific objectives of JSA sanctions were set out in the Department's internal interpretation of the rationale for a sanctions regime in 2004.

#### **Main objectives**

- To induce individuals to act in accordance with their job-search responsibilities as part of the 'rights and responsibilities' agenda.
- To reduce the number of individuals who become voluntarily unemployed.
- To increase the job-search effectiveness of the unemployed.

There are also a number of subsidiary objectives that arise because the imposition of sanctions may have undesirable effects on certain claimants. It may not be possible to achieve the subsidiary objectives without limiting the pursuit of the main objectives.

#### **Subsidiary objectives**

- To limit the extent to which JSA sanctions create counterproductive incentives.
- To ensure that the imposition of each JSA sanction is warranted and that vulnerable client groups are not unduly affected by such penalties.
- To ensure that those who incur a JSA sanction do not become socially excluded as a result.

#### *The JSA sanction regime*

This section provides a brief overview of the complex JSA sanction regime. In summary – sanctions involve the loss of JSA for between two and 26 weeks. There are two types of sanction – variable length and fixed length. Over the last five years the total number of sanctions has been fairly consistent at between 130,000 and 150,000 per year.

- **Variable length** sanctions are triggered by behaviours concerning 'employment', i.e. leaving employment voluntarily, refusal of employment or losing employment through misconduct. These sanctions entail the complete loss of all JSA for a period of up to 26 weeks. In 1986 it was increased from six to 13 weeks and in 1988 to 26 weeks. Variable length sanctions account for 86 percent of total JSA referrals but only 33 percent of these referrals result in a sanction being imposed (see Table 1).
  - **Fixed length** sanctions are levied on behaviours concerning 'employability'. In practice, this means a failure to comply with the requirements of Jobseeker Directions and the mandatory New Deals. Again the sanction means the complete loss of benefit for periods of two, four and 26 weeks for, respectively, the first, second and third 'offences'. They account for 14 percent of all referrals with 61 percent of referrals resulting in a sanction being imposed.
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Sanctions can be applied in a variety of circumstances including:

- Leaving employment voluntarily without good cause (LV).
- Dismissal from employment due to misconduct.
- Neglect to avail of an opportunity of employment.
- Refusal of employment.
- Refusal to carryout a jobseeker's direction.
- Non-attendance at mandatory training schemes/programmes or discharge for misconduct.

Entitlement decisions are made if a person has not been fulfilling JSA entitlement criteria. This usually means signing on time but also includes actively seeking employment and being available for work. Sanctions differ from issues of entitlement in that, if successfully upheld, a sanction will preclude someone from being able to receive JSA for some future period (up to 26 weeks). However, there is nothing to stop a person with an adverse entitlement decision from making a 'new' claim straight away. Entitlement decisions have therefore, not been considered in detail in this paper.

In all instances the mechanism for applying the sanction or entitlement doubt is broadly the same:

- 1 If an adviser considers a customer has not complied with their JSA conditions, or mandatory programme conditions, the case is referred to a Decision Maker (the Jobcentre Plus Decision Maker and Appeals (DMA) Service) and the customer is informed of the situation in writing.
- 2 The customer is given the opportunity to state their reasons for non-compliance, which are forwarded to the Decision Maker (DM), along with any other supporting evidence.
- 3 If these reasons constitute good cause, then no sanction is applied, otherwise a sanction of up to 26 weeks can be applied.
- 4 The customer is given the opportunity to seek a reconsideration or appeal and to apply for hardship payments if they are eligible.

Hardship payments are available to some sanctioned claimants in an attempt to mitigate some of the impacts of the sanction. A payment means that rather than losing their benefit, the applicant's personal allowance is reduced (usually by 40 percent). Claimants classed as 'vulnerable' can access a payment throughout their sanction, while all others can access a payment from the third week of their sanction. Claimants need to show that they, or their dependants, would suffer hardship unless they receive a payment. However, payments are not paid automatically. The sanctioned claimant must be aware of them, know how to apply and believe that they meet the eligibility criteria. There is also no central mechanism for identifying those eligible and ensuring that they apply.

**Table 1** *JSA sanctions – Data to August 2005 (DWP website)*

	<b>All cases referred<sup>1</sup></b>	<b>All cases decided<sup>2</sup></b>	<b>All cases with adverse decisions</b>	<b>Decided cases with adverse decisions %</b>	<b>Referrals with adverse decisions<sup>3</sup> %</b>
<b>Varied length sanctions</b>					
Discharge from HM forces	230	160	20	12.5%	9%
Leaving employment voluntarily	1,385,590	1,068,930	340,200	32%	25%
Lost employment through misconduct	358,490	297,480	77,080	26%	22%
Neglect to avail of an opportunity of employment	1,100	760	190	25%	17%
Refusal of employment	439,490	347,320	139,980	40%	32%
<b>Total varied length sanctions</b>	<b>2,184,900</b>	<b>1,714,650</b>	<b>557,470</b>	<b>33%</b>	<b>26%</b>
<b>Fixed length sanctions</b>					
Giving up place on training scheme/ employment programme	36,990	27,950	15,480	55%	42%

*Continued*

**Table 1 Continued**

	<b>All cases referred<sup>1</sup></b>	<b>All cases decided<sup>2</sup></b>	<b>All cases with adverse decisions</b>	<b>Decided cases with adverse decisions %</b>	<b>Referrals with adverse decisions<sup>3</sup> %</b>
Losing place on training scheme/employment programme due to misconduct	67,510	54,870	33,830	62%	50%
Refusal of place on training scheme/employment programme	4,600	3,160	2,080	66%	45%
Neglect to avail of place on training scheme/employment programme	3,930	2,540	1,300	51%	33%
Failure to attend place on training scheme/employment programme	197,950	158,620	96,340	61%	49%
Refusal to carry out a Jobseeker direction	41,510	34,040	21,660	64%	52%
<b>Total fixed length sanctions</b>	<b>352,480</b>	<b>281,190</b>	<b>170,690</b>	<b>61%</b>	<b>48%</b>
<b>Total sanctions</b>	<b>2,537,380</b>	<b>1,995,840</b>	<b>728,160</b>	<b>36%</b>	<b>29%</b>

<sup>1</sup> All figures are rounded to the nearest 10.

<sup>2</sup> All figures show the latest decision given for each case referred – if a case has been reconsidered, the new decision is taken.

<sup>3</sup> Data not presented in published DWP statistics.

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### *Lone parent sanctions*

The lone parent sanction regime is associated with non-attendance at, or non-participation in, a mandatory Work-Focused Interview (WFI). WFIs were first introduced in 2001 and then gradually rolled out to the whole eligible population based on the age of their youngest child. New lone parents have an initial WFI when they make a claim to IS, at six months and then annually until the end of their claim. Existing claimants had an initial WFI (when they were rolled out to their cohort) and then annual review WFIs. From October 2005 all lone parents with a youngest child aged 14 and over who have been on IS for at least 12 months have quarterly review WFIs to offer extra support as they approach the end of their IS eligibility<sup>1</sup>.

The key aims of WFIs are to encourage more lone parents to:

- seek work or take steps to improve their chances of doing so; and
- join the New Deal for Lone Parents (NDLP, which remains voluntary).

The aims of WFIs are very similar to those of the voluntary meetings associated with NDLP. The evaluation of NDLP showed it to be effective for lone parents who voluntarily participated, yet participation rates remained low (approximately 5-10 percent of the eligible population). Mandatory WFIs were, therefore, introduced to encourage more lone parents to join NDLP and sanctions were introduced to try and ensure that lone parents attended the WFIs.

### *Lone parent sanction regime*

New lone parents currently have their claim withdrawn if they do not attend a WFI. They have five days from failing to attend their WFI to show good cause before their claim is withdrawn, unless there is a reason to believe there is a mental health or learning disability. If an existing customer fails to attend their WFI and does not make contact within five days, if there is evidence to show that the WFI process has been explained to them, their claim is sanctioned. If the WFI process has not been explained, before a sanction is considered, their case is referred to a Visiting Officer for a home visit. Existing (stock) lone parents can be sanctioned 20 percent of their IS claim for non-attendance. The sanction for existing claimants is incremental, so that they lose an additional 20 percent for each review WFI not attended. No lone parent can be left with less than ten pence per week of IS to allow access to 'passport' benefits<sup>2</sup>.

Prior to October 2003, a lone parent could ask for their WFI to be deferred any number of times and had three chances to attend each WFI before having to show good cause for failing to attend, prior to their claim either being withdrawn or

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<sup>1</sup> Quarterly WFIs have been piloted for lone parents with a youngest child aged 12 in Extended Schools Childcare pilot areas and the recent Green Paper announced further, more frequent lone parent WFIs.

<sup>2</sup> Some benefits and tax credits act as 'passports' to other benefits. For example, IS can act as passport to free school meals and health benefits.

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sanctioned. The regime was then tightened up and the new process allows customers who fail to attend their WFI the opportunity to rearrange the appointment only once before they are required to show good cause for not attending the interview. Since the introduction of WFIs in April 2001 and August 2005, there had been around 58,400 sanctions applied to lone parents' IS claims. In addition, there had been 9,600 IS claims 'disallowed' due to non-attendance at an initial WFI for lone parents making a fresh claim to IS.

### *Incapacity Benefit sanctions*

As with lone parents, IB sanctions are imposed for non-attendance at, or non-participation in, a WFI. WFIs are a central element of the Government's stated aim to support more IB claimants in moving into work. The 2002 Green Paper (Pathways to Work: Helping people into employment) set out a number of ways in which to improve the work focus of IB through the Pathways to Work pilot. These included offering a framework of support in the early stages of a claim to ensure that IB claimants maintain contact with skilled PAs throughout the crucial early stages of a claim through a series of WFIs.

In the Pathways Pilot areas, new claimants have a series of six mandatory WFIs, while existing claimants have three WFIs. In non-Pathways Jobcentre Plus Districts, all new claimants have one WFI eight weeks into their claim. In non-rolled out areas, IB claimants do not yet have to attend mandatory WFIs.

### *IB sanction regime*

#### **Pathways to Work pilot areas**

If a claimant fails to attend/participate in the initial interview they will have one further opportunity to attend if they show good cause, before a sanction is imposed. The guidance states that prior to the WFI, customers should be fully aware of the requirement to attend and participate in a WFI and the consequences if they do not do so without showing good cause. Customers with a stated mental health condition or learning disability must be visited before a sanction is imposed, even if the IBPA has made contact at the pre-WFI stage. All customers must be visited where previous verbal contact has not been made.

If the customer fails to attend/participate in the initial WFI, the IBPA will issue the 'IBR Good Cause' letter informing them that they have five working days to show good cause for non-attendance and that they must contact the office to rearrange the WFI **before any sanction is considered**. If the customer has a mental health condition or learning disability the case must be referred for a notified visit in all cases before a sanction is considered.

When a sanction is imposed the order of priority for deducting benefits is as follows: IS, IB and Severe Disablement Benefit (SDA). The sanctions are cumulative. However, if the customer already has two sanctions applied for failing to attend/

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participate and then fails to attend/participate in a further WFI the case must be referred for a notified visit in an attempt to minimise the risk of multiple sanctions. Claimants must be left with at least ten pence per week benefit.

### **Jobcentre Plus**

Until October 2005, claimants attended one WFI at the point of claim. If the WFI was not waived or deferred and they did not attend, they did not receive IB. Currently, IB claimants attend one WFI at eight weeks into their claim. As with WFIs in Pathways areas, non-attendance without good cause can result in a sanction of 20 percent of benefit.

## *Section 2 – Evidence review*

This section considers some of the evidence on JSA, IS and IB sanctions. It explores many of the issues raised in the DWP review but also draws on relevant non-DWP research. The evidence on JSA and lone parents is included in the main body of this section as the recent evaluation covered both client groups. The very limited evidence on IB claimants is presented at the end of this section and the majority of the international evidence is presented in **Annex A**.

### *The rationale for sanctions*

While sanctions are considered necessary for the functioning of the benefit systems, it is inherently difficult to answer the central question of whether sanctions themselves actually work in terms of inducing individuals to act in accordance with the jobsearch regime. There is some evidence from analysis of administrative data and laboratory experiments to suggest that both the threat of a sanction (the ex-ante effect) and the imposition of the sanction itself (the ex-post effect), coupled with a tightly monitored benefit system, can reduce the overall time claimants spend on benefit (van Ours, 2004). A Swiss study (Lalive et al., 2002) considered the effect of sanctions on the duration of unemployment (the authors were able to separate out the effects of a warning of a sanction from the effects of the imposition of the sanction itself). They found that both a warning and an imposition of a sanction had the effect of moving people off benefit and that unemployment duration was substantially reduced where the offices of the public employment service issued sanctions warnings at a higher rate.

A study of administrative data on welfare recipients in Rotterdam, found that the transition rate from welfare to work was about twice as large after sanctions were introduced than before (Ochel, 2004). There is little description in this instance of what other support was offered to help this transition, although the study does conclude that closer monitoring and counselling of job seekers, as well as sanctions, may have had a positive effect on their jobsearch behaviour. The evidence from these studies reflects the idea that claimants behave in a rational manner, prioritising economic considerations and that they have a full understanding of the sanction regime. The studies do not explore the different experiences of individuals within the system.

In the case of JSA, there is no impact assessment of the effect of sanctions themselves. There is, however, econometric analysis to show that, after the introduction of the tighter JSA regime in 1996, exit rates rose significantly (between 21 and 28 percent). While it seems that JSA had an impact on the claimant count, it is less clear whether it had an impact on jobsearch activity and promoted higher flows into employment. Previous research suggested that it did, yet recent analysis of Labour Force Survey (LFS) data found that JSA did not increase movement into employment or measures of jobsearch activity, at least not in the short term (Manning, 2005).

While the analysis described above suggests that sanctions may increase benefit off-flow rates, the evidence from the recent DWP evaluations and earlier qualitative work with JSA claimants, suggests that claimants themselves believe that sanctions have only a weak influence on their own behaviour, especially in terms of jobsearch. There is some evidence that sanctions act as more of a deterrent for those who have been sanctioned, as the table below taken from the 2005 survey illustrates. However, nearly half (46 percent) of those sanctioned stated that the threat of a sanction would make no difference to whether they looked for work.

**Table 2** *Whether the threat of a sanction affected the likelihood of looking for work*

	Not referred %	Referred %	Sanctioned %
Made me more likely to look for work	44	49	50
Made no difference	53	48	46
Don't know	3	3	3
<i>Base</i>	<i>1,207</i>	<i>347</i>	<i>324</i>

Base: All those who were told by an Adviser that their benefit could be reduced or stopped (unweighted 1878). Source Peters et al., 2005.

If, though, we assume that sanctions can reduce time on benefit and fulfil their stated objectives, they can only do so when benefit recipients fully understand their responsibilities and know how to modify their behaviour to avoid a sanction. The recent JSA quantitative study suggests that currently not all JSA recipients fully understand the sanction regime and therefore how to avoid a sanction (Peters and Joyce, 2006). While the majority, 74 percent of claimants, partly or fully understand the benefits system, 18 percent reported little or no understanding. A significant minority (32 percent) of survey respondents claimed not to have been told about the possibility of sanctions. In addition, when sanctioned respondents were asked how they could have avoided the sanction, 23 percent said it could not have been avoided and a further 21 percent were unsure how it could have been avoided.

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The 2005 qualitative study of 30 lone parents found that while they had a general awareness that they might be sanctioned, they knew little of the specifics of when a sanction would be imposed (Whiting and Joyce, 2006). This suggests that the system, for both active and inactive claimants, is not always working as intended, as some claimants do not know about or fully understand their responsibilities and therefore, how to alter their behaviour to avoid the imposition of a sanction.

There is evidence that mandation can have some positive effects on voluntary clients. Since the introduction of mandatory lone parent WFIs, the participation rate in NDLP has increased from between five to ten per cent of the eligible population to approximately 20 percent. Outcomes from NDLP have remained at about 45 percent, even with the increased participation rate. WFIs themselves (without subsequent participation in NDLP) have a small positive net impact on exits from IS for existing lone parents but no significant impact on new or repeat lone parents (Thomas and Griffiths, 2004). WFIs can, therefore, be seen as a useful means of helping lone parents move off benefit, either directly or through increasing their participation in NDLP.

However, more frequent WFIs, and the concomitant increase in the possibility of sanctions, need to be backed up with the provision of wider support, such as childcare, so that the additional WFIs do not produce diminishing returns. There is also the issue of the impact on NDLP with increasing lone parent mandation. Evans et al. (2003) highlighted the fact that mandation does not necessarily solve the issue of increasing participation rates, as mandation can take considerable time and resources. In programmes with strong mandation and high sanctioning rates, the relationships between customers and programme staff are likely to be characterised by higher levels of conflict. UK research has consistently pointed to the importance of the supportive PA customer relationship, a relationship that could be jeopardised with increasing mandation.

### *The sanctioning process*

The evidence on JSA has consistently highlighted the fact that the sanctions system is complex and difficult to understand, both for customers and PAs. Customers, especially the more vulnerable, often do not understand the processes and this leads to the system not functioning as it should. There are a number of specific issues associated with the process including:

- Claimants do not understand the sanctioning rules.
- The sanctioning process is not clearly explained.
- There is a lack of uniformity in the application of sanctions.
- There is a lack of support for those who have been sanctioned.

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### *Claimants do not understand the sanctioning rules*

The 2005 quantitative study found that 18 percent of respondents had little or no understanding of the rules associated with claiming JSA. In addition, certain characteristics reduced the level of understanding further. For example, 47 percent of non-white clients with literacy problems stated that they had little or no understanding of the system. Moreover, knowledge of specific sanctionable offences amongst the survey respondents was low. For example, only 19 percent of respondents mentioned (unprompted) 'not actively seeking work' and only two percent mentioned (unprompted) 'leaving a job voluntarily without good reason' (Peters and Joyce, 2006). The qualitative evaluation found that the sanction for leaving voluntarily (LV) was especially poorly understood by new claimants. Those who had been sanctioned felt they were being punished for making a personal choice and mentioned reasons such as bullying and dislike of their manager as being valid reasons for leaving a job (Joyce et al., 2005). The 2005 data show that less than a third of LV decisions (32 percent) actually result in a sanction, although LV cases accounted for just over half of all sanction decisions (53 percent).

This lack of reported understanding of sanctions is not necessarily a reflection of claimants' recent introduction to the benefit system. On the contrary, a proportion of the JSA claimant group develop a pattern of making repeated benefit claims. We might, therefore, expect that claimants who have experience of claiming would have a better understanding of the sanction regime, including LV. Therefore, attempts must be made to explain the existing system and reinforce the message, or alternatively, to change the system itself so that it is more transparent.

### *The sanctioning process is not clearly explained*

A key criticism of both the JSA and lone parent sanction processes concerns the letters that are issued. For example, the letter issued to a lone parent after they have failed to attend a WFI does not clearly state how much the sanction might be and most JSA claimants are only told that their benefit 'may be affected' if they do not fulfil their obligations. The National Audit Office (2003) recognised the issue of poor written communication and highlighted the fact that sanction letters may list the reasons for a decision but do not explain the decision with respect to the customer's specific situation. Verbal communication, in addition to letters, is important so that clients can understand what is going to happen to their benefit. Qualitative research suggests that when lone parents were told why they had been sanctioned over the phone or face-to-face, it helped them to understand both the reason for the sanction and their options for removing it from their claim (Whiting and Joyce, 2006).

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*There is a lack of uniformity in the application of sanctions*

The current data show a worryingly large variation in referral rates across regions and districts (between six and 21 percent of claimants). This variation is not a recent phenomenon. Bivand (2002) described a regional pattern of sanctions for New Deal for Young People (NDYP) options that bore no relation to either New Deal job entry rates or to other identifiable factors. Table 3 shows the differing sanction rates both across districts and across different options. There are clearly different sanctioning rates across options that are likely to be related to their perceived 'attractiveness' and effectiveness.

**Table 3** *Percentage of claimants sanctioned on each option:  
January-March 2001*

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<b>Region*</b>	<b>Subsidised employment</b>	<b>FTET</b>	<b>Voluntary sector</b>	<b>ETF</b>	<b>Total</b>
Yorks and Humber	8	10	39	39	23
Scotland	4	15	19	32	19
West Midlands	5	12	12	36	15
South West	5	3	22	31	14
London and South East	3	3	17	32	10
Wales	4	5	11	18	9

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Source Bivand, 2002:17. \*The districts are the old Employment Service districts.

Lone parent PAs appear to have considerable autonomy in terms of when to impose a sanction. They generally view a sanction as a last resort and will try and make contact with a lone parent on numerous occasions before they refer them to the DMA service. This autonomy is a double-edged sword. While it allows PAs to make decisions based on lone parents' individual circumstances, it can also lead to the unequal imposition of sanctions for the same 'offence'. In addition, the recent qualitative research with PAs suggested that they believed that in some instances a lone parent should have received a sanction but the DM had not imposed one, even when another lone parent had received a sanction under similar circumstances (Whiting and Joyce, 2006). There is, therefore, inequity in the system because a claimant's area of residence, or the attitude of their PA, may determine whether or not they are sanctioned. However, some level of autonomy is important and there needs to be a sensitive balance between an overly rigid system and one that is equitable.

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### *There is a lack of support for those who have been sanctioned*

There appears to be insufficient support for sanctioned claimants. For example, although the majority of lone parents who are sanctioned later attend a WFI, administrative data show that approximately 20 percent are living with a 20 percent reduction in IS. This might be because it is a fraudulent claim but recent qualitative research illustrates that it may also be because the lone parent does not understand that they have been sanctioned but instead believes their benefit has been revalued for another reason. The recent JSA survey found that very few sanctioned claimants appealed the decision as they felt it would be 'futile' and were also unsure of the help they would receive with their appeal (Peters and Joyce, 2006).

### *Which claimants receive sanctions?*

The recent quantitative study of sanctions found little evidence of any major differences in profiles of clients who had been sanctioned, referred for a sanction or not-sanctioned. However, the study did find a clear distinction between JSA and New Deal clients. Those sanctioned under New Deal were more likely to report learning difficulties and less likely to have qualifications than those not sanctioned under New Deal (Peters and Joyce, 2006). These findings chime with previous research that discovered that New Deal clients who are sanctioned appear to be more disadvantaged than their peers (Bryson et al., 2000).

Black claimants have the highest sanctioning rate once referred (30 percent compared with 27 percent for white claimants)<sup>3</sup>. Further internal DWP analysis was undertaken to consider whether factors other than ethnicity could help explain the differing sanction rates. Logistic regression revealed that ethnicity, region, age and gender are all statistically significant variables in predicting whether a sanction occurs once referred. However, the higher sanction rate for black claimants cannot be explained by region (or whether a referral occurred in London).

It is worth noting that the logistic regression procedure does not take into account the propensities of different characteristics to be referred. Also, a black claimant is less likely to be referred (11 percent referral rate compared to 14 percent for others) and so the higher sanction rate, once referred, could be explained if these referrals were 'more certain/accurate'. The overall sanction rate is lower for black claimants at three per cent compared to four per cent for all other ethnic groups combined. Further exploration of the issue will require more in-depth analysis that is planned by DWP analysts for the future.

Of those individuals referred for a sanction decision or opinion between April 2000 and August 2005, 33 percent were female (462,340 individuals) and 67 percent were male (952, 490 individuals). Of those individuals sanctioned, 27 percent were female (152,580 individuals) and 73 percent were male (414,000 individuals). This means that 33 percent of women who were referred received a sanction while 43 percent of men who were referred received a sanction.

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<sup>3</sup> Includes black African, black Caribbean and black other.

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In terms of which claimants receive, and which avoid sanctions, we can identify four broad groups:

- The majority who appear to understand the rules well enough to fulfil their obligations and so not get sanctioned.
- A minority who understand the rules well enough to avoid a sanction even if they do not fulfil their responsibilities.
- A third group who accept their sanction and understand why they received it.
- A fourth group who do not understand the rules and are sanctioned.

The evidence suggests it is this fourth group that are of greatest concern and where efforts to improve the system need to be focused. As Briton (2002) highlighted, it is important that we are able to distinguish between those who exploit the system in spite of receiving the help they need and those who do not receive the help they need and so are at risk of being sanctioned and becoming disengaged.

Based on qualitative work, Finn (2003) described the categorisation of NDYP participants by PAs into two hard to help groups: the 'hard to place' and the 'hard core'. The 'hard to place' often had multiple employment barriers including debt, lack of stable accommodation and learning or behavioural problems. The 'hard core' were seen as a small but significant minority who were 'working the system'. From his research with PAs, Finn (2003:716) concluded that: *'notwithstanding the controversial sanctioning regime associated with NDYP, the advisers remained sceptical about its power to change the behaviour of the 'hard core'.*

Analysis of lone parent sanctions between April 2001 and March 2004 found that higher proportions of sanctioned lone parents were younger, with a younger 'youngest child', white, not disabled and new and repeat claimants. There is no quantitative study for lone parents so we do not know whether a higher proportion of sanctioned clients consider themselves to have learning difficulties. The qualitative survey suggests that clients with literacy needs are more likely to mention problems understanding the sanction process, but the numbers in the study are very small.

### *The impact of sanctions*

A consistent message has emerged in terms of the impact of JSA sanctions on individuals. Several reports have discussed the material hardship and emotional problems associated with sanctions (see for example Saunders et al., 2001 and Vincent, 1998), although there is still a great deal more to be known about the differential effects on claimants.

A number of qualitative studies have shown that JSA sanctions have a significant financial impact (as would be expected). However, the severity of the impact depended on a number of issues, including whether the claimant received timely information about entitlement to hardship funds, lived with their parents, had a partner and children or were able to find work immediately following the sanction

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(Saunders et al., 2001). Hardship payments replace much of the lost benefit but not all claimants are eligible and possibly some of those who are eligible do not claim. The impact on younger claimants who live with their parents may be mitigated by financial support from them, but this simply spreads the impacts of the sanction onto the family unit. The Department has little information on the longer-term impacts of sanctions. For example, there is currently no information on people who may become homeless as a result of a sanction or whether a sanction leads to long-term health impacts such as anxiety and depression.

In the recent quantitative survey, 68 percent of those sanctioned stated they had experienced financial hardship as a result of a sanction. The responses to the financial hardship included taking out a loan, becoming overdrawn at the bank and falling into arrears with bills. The financial hardship may also have implications for emotional well-being and relationships with family, especially if the family are supporting the sanctioned individual. In addition, for some claimants it makes it more difficult for them to search for work as they do not have money to pay for transport to interviews etc. The financial and other hardships caused by sanctions will have a negative impact on wider Government targets around child poverty and social inclusion.

Hardship payments are available for some sanctioned claimants to mitigate some of the financial impacts of the sanction. They are primarily available for those clients classed as vulnerable, such as pregnant claimants, those who are single and looking after a 16-17 year old and those with a long-term medical allowance. DWP data show that in 2004, 27 percent of sanctioned claimants applied for hardship payments and 91 percent of those applicants received payment. Overall, 25 percent of those sanctioned received a payment as a result. However, we do not know how many sanctioned claimants are eligible to apply and so the 25 percent figure tells us little about whether those eligible are applying and receiving the payments. We also do not know about claimants' awareness and understanding of hardship payments. It is important that the payments are fully explained to all sanctioned claimants so that they are aware of the support that may be available to them and can then make an informed decision about whether to apply.

### ***Incapacity Benefit sanctions***

There is currently very little evidence on IB sanctions under Pathways to Work. IBPAs have significant autonomy in terms of referral for a sanction and the guidance that is issued to them is extensive (eight pages). There are numerous opportunities for waivers and deferrals. Customers with a stated mental health condition or learning disability must be visited before a sanction is imposed, even if the IBPA has made contact at the pre-WFI stage. All customers must be visited when previous verbal contact has not been made.

Administration data show that between the start of the first seven pilots and April 2005 there had been a maximum of 182 sanctions.

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There has not yet been any research specifically on IB sanctions (research is planned for 2006/07) but the issue of sanctioning has been picked up in qualitative research with PAs and customers. The evidence suggests that IBPAs have differing views towards sanctions. Some PAs do not believe in the use of sanctions for IB claimants and may use a range of tactics to avoid imposing a sanction. Others view sanctions as being part of the IB reforms and fundamental to the 'rights and responsibilities' agenda. There were some examples of management guidance to reduce the FTA rate, partly through an increased use of sanctions (Knight et al., 2005). This points to an uneven attitude to and use of sanctions across districts that needs to be addressed as conditionality is rolled out further.

The Welfare Reform Green paper, published in January 2006, promised to extend Pathways provision across the country by 2008. Bringing the majority of IB clients into the Pathways system of WFIs and providing the same level of tailored support is likely to require more resource than has currently been promised. Stanley and Asta Lohde (2004), after considering the evidence and possible policy direction on IB, noted that '*extending conditionality on disabled people would bring substantial financial and political risks as well as threatening real harm to disabled people*'.

### ***Section 3 – Policy recommendations***

Set out below are a number of policy recommendations that emerge from our consideration of the evidence presented in Section 2 and the DWP sanctions review.

#### ***Improving the communications associated with the sanction regime***

Communications need to be improved at all stages of the sanction process (e.g. the initial discussion of the responsibilities of benefit receipt, when a sanction is being considered, when it is imposed and after it ends). The written material needs to be made clearer and a greater use of face-to-face or telephone interaction should be used. This is especially the case for claimants with English for Speakers of Other Languages (ESOL) or Basic Skills needs. Any new communications should be designed to respond to the different needs of customers and the Department should consider methods such as group sessions and the use of technologies such as DVDs to help get the message across.

Tied into improved communications, is the need to consider how to engage effectively with those who are at risk of a sanction and those who have been sanctioned. All sanctioned claimants should be told about the availability of hardship payments and offered support in applying for them when appropriate. The resource implications of reworking the communications and increasing face-to-face contact may be significant, but it is essential that claimants have a good understanding of the sanction regime and their own responsibilities within it.

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### *Leaving voluntarily*

The evidence suggests that the retrospective sanctioning for leaving employment voluntarily (LV) is not well understood and penalises people who have genuine reasons for leaving a job. For those people who do understand the sanction associated with LV, it may actually act as a disincentive to try out a job. It is also difficult to see how LV has a deterrent effect on people who are yet to claim benefits. There are two options for changing LV:

- A complete removal of the LV sanction.
- An easement whereby sanctions would not be imposed the first time claimants left a job voluntarily. Subsequent cases could then be considered as possibly deserving of sanction – but by this stage the claimant should have been informed of the LV sanction.

These two options would help overcome the lack of specific understanding of the sanction amongst potential claimants. They would also reduce the inefficiency in the current system and help support a flexible labour market. However, given that LV is such a long-standing element of the benefit system, it is unlikely that it could be easily removed without impacting on the rest of the JSA regime.

### *Fixed fines*

We are aware that there has been some consideration within the Department of introducing a system of fixed fines, as set out in the 2005 Budget Statement. There are two options for fixed fines: the first as a replacement for the current sanctions regimes and the second as an addition to the current regimes (for example, for failing to keep a Jobcentre Plus appointment). Referral for the fines would be more 'automatic' than now, although there would still need to be a decision making and appeals procedure.

Depending on the level at which the fines were fixed, they would be likely to reduce the financial impact on claimants (if they replaced the current regime) and would reduce the time between 'offence' and financial penalty. The fines would need to be set at a level that produced a deterrent effect but did not cause undue hardship. It would be important to ensure that changing the regime to include fixed fines did not add to the complexity of the benefit system.

### *Differing referral and sanctioning rates*

There are inconsistencies in the administration of the regime. There are significant differences between districts in terms of the numbers of referrals and sanctions imposed, which leads to inequity, as where a claimant lives may determine whether they are sanctioned. There needs to be closer monitoring of the sanction administration on a regular basis. Jobcentre Plus managers should be monitored centrally on key indicators associated with sanctions. This action would not entail setting a national target rate for referrals and sanctions but instead would involve developing an indicator that could be used to monitor rates and deal with anomalies

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in the sanction regime. It should minimise any inequity in the regime caused by the markedly different sanctioning rates across districts.

***Lone parents***

Steps should be taken to ensure that under a more intensive WFI regime, lone parents do not face the possibility of multiple sanctions leading to the loss of benefit within a short period of time. For existing lone parents with children aged under 14 it would take over at least three years to lose entitlement to all but 10 pence of IS through non-attendance at WFIs. With quarterly WFIs this will be reduced to just over one year. We would like to see the monitoring of multiple sanctions and analysis of a sample of cases each year to ensure that lone parents are not losing benefit through a lack of understanding of the system.

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## *Annex A*

### *International evidence*

In the majority of OECD countries there has been a movement towards labour market 'activation' policies. These welfare-to-work policies have included a range of initiatives, including the use of sanctions. Nearly all countries have sanctioning in place for refusing employment or participation in a labour market programme and for losing a job when in a labour market programme. The UK sanction regime is relatively lenient in legislative terms and although all benefit and sanctioning regimes are different, there are some similar findings from research and evaluation. These include:

- Issues around communicating the sanction regime to claimants.
- Inconsistencies in application.
- Higher sanctioning rates for disadvantaged groups.
- Inconclusive evidence on the impact of sanctions.

### *US welfare sanctions*

Until 1996, the principal programme of support for families with little or no income was the Aid to Families with Dependent Children (AFDC). This was a federal-state programme of cash assistance and sometimes services for low-income families with children. Although states varied in how they implemented AFDC, a family generally needed to have little or no income, have a child under 18 and be deprived of parental support or care. In 1996 the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) came into force. Under PRWORA, states were provided with block grants to spend in any manner designed to satisfy the law.<sup>4</sup> Overall, the welfare reform removed entitlement to many federal benefits. A key programme of relevance to lone parents (the bulk of benefit recipients) was Temporary Assistance to Needy Families (TANF).

A key element of PRWORA is that it prohibits states from using funds to assist families with children for more than 60 months. It also provided strong incentives to reduce the welfare caseload and promote rapid employment growth. The overall effect was to promote a 'work first' approach. Most states require a parent to participate in work-related activities on or before the youngest child reaches one. Non-compliance sanctions are often harsh. In a 'whole family sanction', if an adult is deemed not have participated in a programme, the whole family's assistance can be cut off. According to a General Accounting Office Study, more than 100,000 families nationally were experiencing sanctions in any one month and possibly as many as 750,000 people had been sanctioned between 1996, when TANF was implemented, and 2002 (MDRC, 2002).

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<sup>4</sup> The law had four purposes: to provide assistance to needy families, to end dependency on benefits by promoting job preparation, to discourage out of wedlock pregnancies and to encourage the formation and maintenance of two-parent families.

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Studies in the US have found that welfare recipients who are sanctioned are a diverse group but on average, face more barriers to employment than other welfare recipients. They are also less likely to be in work after leaving welfare (Bloom and Winstead, 2002). Greenberg (2003) points out that compared to other welfare recipients, those experiencing sanctions tend to experience multiple barriers to work, including lower educational attainment, less work experience and health-related barriers to work.

As in the UK, there is evidence that welfare recipients do not necessarily understand the sanction regime and therefore, how to avoid a sanction being imposed. Research relying on both self-reporting and official sanction records shows that approximately one-third of recipients are unaware of their sanction status and that information on sanctions policies is inconsistently delivered to recipients (Lee et al., 2004).

Waddan (2003) points to the possibilities for intervention in the US sanction regime, if it is assumed that welfare recipients fail in their obligations due to significant barriers or misunderstanding of the system rather than a desire to exploit the system:

- Use of personalised assessment of barriers to design participation requirements that are realistic for each claimant.
- Use of a conciliation process after non compliance but before a sanction is imposed.
- Once a sanction is imposed, the claimant should be told how to stop the sanction and allowed to do so as quickly as possible.

These suggestions are relevant to the UK sanction regimes as well, although there would be significant resource implications associated with their implementation.

There is a range of evidence from the US that illustrates the impact of sanctions, although US sanctions are generally more draconian than UK ones. For example, a longitudinal survey of welfare reform in Miami-Dade found a trend for lone parents who were sanctioned to be more likely to have a lower income, to be below the poverty line, to have greater debt and to experience greater material hardship than those who were not sanctioned. Women in an ethnographic survey, mentioned that one impact of sanctioning was the loss of their phone, which made it especially difficult to find a job, because potential employers could not call them or return their calls (Brock et al, 2004). The impacts of sanctions are not only felt by the benefit claimant themselves. A study of welfare receipt in three cities (Boston, Chicago and San Antonio) found that families who received welfare sanctions have children with particularly problematic developmental outcomes (Lohman et al., 2004).

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### *European welfare sanctions*

In 1996, the Netherlands introduced the New Social Assistance Act (NSA). The generosity of social insurance and assistance has been reduced, accessibility has been made more difficult and work obligations have been sharpened. As mentioned in Section 2, there is evidence that the tightening up of the benefits regime and the use of sanctions has increased the benefit exit rates (Ochel, 2004).

Since the NSA was introduced, lone parents with children aged five or more are required to work, whereas prior to this the requirement applied to lone parents with children aged twelve and above. The proportion of lone parents in employment increased from 37 percent in 1996 to 54 percent in 2002. However, comparing this trend with female employment rates in general, suggests that much of this increase was related to macroeconomic factors. The municipalities have a great deal of autonomy in how they enforce the tightening up of the regime for lone parents and it appears that case workers in many of them have been exempting large numbers of lone parents from participating in activation programmes.

The Netherlands has made some attempt to apply some form of work requirements for those accessing disability benefits. In 2003, the disabled caseload declined for the first time in seven years with one of the key drivers for this being the stricter gate-keeping procedures for receipt of long-term benefit (Stanley and Asta Lohde, 2004). Comprehensive reforms are due to be introduced in 2006.

During the 1990s, Austria experienced an increase in 'activation' policies including counselling, job placement and training undertaken by the Public Employment Service (PES). This increase in activation was accompanied by a stronger focus on labour market efficiency. Sanctions were introduced to 'encourage' unemployed people to look for work rather than rely on the social security system (Wroblewski 2004). Sanctions are imposed when claimants do not meet their obligations and the standard sanction involves the withdrawal of benefit for six weeks for a first 'offence'. The PES counsellors (PAs) have a fair amount of autonomy in deciding whether to impose sanctions and how severe they should be. Sanctioning rates increased from 4.5 percent of all claimants in 1993 to 16 percent in 1997. There are plans to tighten up the sanctioning regime by limiting claimants' reasons for refusing a job so that it will be easier to fill vacant positions in certain sectors and areas. Wroblewski (2004) suggested that *'although the duties of unemployed people have been increased, there are hardly any additional, formally-defined rights'*.

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