

Work and Pensions Committee Benefit Sanctions Inquiry

SAMH Response

SAMH is the Scottish Association for Mental Health. Around since 1923, SAMH operates over 60 services in communities across Scotland providing mental health social care support, primary care, addictions and employment services, among others. These services together with our national programme work in See Me, respectme, suicide prevention, sport and physical activity inform our public affairs work to influence positive social change.

Key points

- **Almost two-fifths of ESA sanctions are applied to people with mental health problems or learning disabilities.**
- **There is no evidence that sanctions have any impact on incentivising people into employment.**
- **No data is being gathered on how many disabled people are being sanctioned under Universal Credit.**
- **The UK Government cannot say whether safeguards intended to prevent vulnerable people from being sanctioned are being followed.**
- **SAMH calls on the UK Government to end benefit sanctions for people with mental health problems.**
- **The UK Government should routinely collect and publish statistical data on the number of people with mental health problems who are sanctioned.**
- **The UK Government must centrally collate data on the use of safeguards such as core visits for vulnerable people to determine if they are being adequately and consistently used.**
- **The UK Government should develop a mental health training programme for Work Coaches and Jobcentre staff, to assist them in delivering effective support to people with mental health problems.**
- **SAMH calls for further piloting of the pre-sanction written warning system, specifically to determine the impact of a warning system on vulnerable groups, including people with mental health problems. Further piloting should include UC and ESA (WRAG) claimants.**
- **Universal Credit hardship payments should be non-recoverable.**
- **The UK Government should develop a pre-sanction assessment of the claimant's circumstances. This should include the likely impact of a sanction on the persons mental health.**
- **The Committee and UK Government should analyse the effect of the implementation of Scotland's devolved employability programme, Fair Start Scotland. Analysis should include outcomes for people with**

mental health problems and specifically the effect of it being a voluntary programme without the threat of sanctions.

Introduction

SAMH welcomes the opportunity to respond to the Work and Pensions Committee's inquiry into benefit sanctions. Our submission will focus on the impact of sanctions on vulnerable claimants, particularly people with mental health problems.

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

There is no evidence that benefit sanctions for people with mental health problems incentivise people towards employment.¹ Indeed, the experience and fear of sanctioning reduces trust in the UK welfare system, exacerbates claimants' mental health problems and creates an additional barrier to gaining employment.² SAMH continues to call for an end to sanctioning for people with mental health problems.³

A 2018 report – [A better WCA is possible](#) – published by Demos was the culmination of 4 years of research including interviews with Work Capability Assessment (WCA) assessors, welfare-to-work providers, people receiving ESA and members of the public.⁴ It found very limited support from frontline welfare to work workers for the effectiveness of sanctions and conditionality for disabled people. The only support was for mandating the initial meeting with the client.⁵ On the wider issue of the effectiveness of conditionality and sanctioning in supporting disabled people to achieve work related outcomes, the Demos study found that sanctioning has “zero or even negative impacts on work-related outcomes”.⁶ Indeed Demos concluded that sanctioning and the withdrawal of money from disabled people increased stress and negatively affected the health of claimants.

We are particularly concerned that people with mental health problems appear to be disproportionately affected by sanctioning. While the DWP does not disaggregate sanctions statistics against a claimant's medical conditions, Freedom of Information requests found 58% of all ESA sanctions in the first six months of 2013 were applied to people with a mental health condition or learning difficulty.⁷ Data from FOIs made by Mind in 2015 found that people with mental health problems in receipt of out of work benefits were up to three times more likely to receive a benefit sanction than be supported into employment.⁸ It is clear that the sanctioning regime for ESA WRAG is

¹ Mind [Benefit Sanction and Mental health – Written Evidence to the Public Accounts Committee Benefit Sanction inquiry](#) 2016

² SAMH [Fit for Purpose](#) 2016

³ SAMH [Fit for Purpose](#) 2016

⁴ Demos [A better WCA is possible](#) 2018

⁵ Demos [A better WCA is possible](#) 2018

⁶ Demos [A better WCA is possible](#) 2018

⁷ UK Government Freedom of Information request 2014-79 March 2014

⁸ Mind [People receiving ESA due to their mental health more likely to be punished than helped into work](#) 2015

not supporting people into work but increasing the barriers to it. For JSA, the sanctioning rate for disabled people was 25-50% higher than that for non-disabled people in the period 2010-2014.⁹

Universal Credit

SAMH is concerned about the transition to Universal Credit. The latest statistics published by the DWP in May 2018 show that 4.1% of people had a drop in benefit due to a UC sanction in February 2018, compared to 0.2% of JSA recipients and 0.2% of ESA (WRAG) recipients.¹⁰ In Scotland 3,122 people in February (4.1% of total UC caseload) were subject to a UC sanction.¹¹ Unlike official published data on JSA and ESA (WRAG) sanctions, there are no statistics on the proportion of UC claimants who are disabled and in receipt of a sanction. This means it is very challenging to determine the impact that UC sanctions are having on disabled claimants including people with mental health problems. We believe the Government must improve the quality of data collected and published, to allow analysis of condition specific trends and sanctioning.

The way in which sanctioning and conditionality operates in UC compared to ESA (WRAG) creates additional challenges for people with mental health problems. Disabled claimants for UC can be required to meet with the Jobcentre and begin job searching activities as soon as they start their claim, prior to an assessment of their work capabilities.¹² Prior to any assessment of the person's work capabilities, the nature of any mandated work related activities is at the discretion of Jobcentre staff. This can result in vulnerable disabled UC claimants mandated to undertake activities which are inappropriate to them; with the threat of sanctions if they do not comply with the conditions. We are extremely concerned that Work Coaches and Jobcentre staff do not have the adequate training to determine appropriate mandatory activity prior to an assessment for people with mental health problems. Indeed 2017 research from the DWP found that Work Coaches often had little previous experience of working with people with mental health problems and actively wanted more training.¹³ SAMH calls for the development of a mental health training programme for Work Coaches and Jobcentre staff, to assist them in delivering effective support to people with mental health problems.

⁹ Dr David Webster [Briefing Benefit Sanctions Statistics: Universal Credit, JSA, ESA and Income Support February 2018](#) March 2018

¹⁰ DWP [Benefit Sanctions Statistics](#) 2018

¹¹ DWP [Stat-Xplore](#) accessed May 2018

¹² Mind [Sanctions and requirements in Universal Credit](#) 2017

¹³ DWP _ 2017

The sanction period is also lengthened in UC compared to JSA because, under UC, sanctions are applied consecutively, not concurrently, with a maximum sanction of three years.¹⁴

Challenging a sanction decision

A further indication that the sanctioning regime is not achieving its policy objectives is evidenced by the appeal and tribunal rates. While there is a relatively low rate of challenge to UC sanctions (16% of decisions challenged since 2015), where a challenge reached tribunal there has been an 80.2% success rate overturning the sanction.¹⁵ Over the same period (since August 2015) 62.1% of ESA sanctions have been challenged with 41.2% of challenges succeeding.¹⁶ The high proportion of successful challenges highlights that sanctions have systematically been applied inappropriately. Until sanctions can be abolished, urgent action is required to ensure that the decision to apply a sanction is correct.

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?

SAMH is concerned that a 'pre sanction written warning' system, as proposed by Mathew Oakley in 2014, has not been introduced. The UK Government accepted the original recommendation in the Oakley review and subsequently piloted a warning system in Scotland. The evaluation of the pilot published in May 2018, a year later than promised and shortly before the close of this inquiry.¹⁷

The evaluation of the pilot found that 13% of claimants who received a sanction warning letter provided additional information to demonstrate a good reason for not meeting the conditions of benefit entitlement. This resulted in the Labour Market Decision Maker (LMDM) not applying the sanction in about half of the cases where additional information was provided (7% of total claimants receiving a warning letter).¹⁸ Unfortunately data limitations mean conclusions can't be drawn on which specific groups of claimants have benefited from the warning system.

It is disappointing that the evaluation could not determine the warning system's effect on particular groups including people with mental health problems. Further piloting and research should be undertaken to specifically determine the impact of a warning system on vulnerable groups. We also believe that future piloting and roll out should

¹⁴ Dr David Webster [Briefing Benefit Sanctions Statistics: Universal Credit, JSA, ESA and Income Support February 2018](#) March 2018

¹⁵ Dr David Webster [Briefing Benefit Sanctions Statistics: Universal Credit, JSA, ESA and Income Support February 2018](#) March 2018

¹⁶ Dr David Webster [Briefing Benefit Sanctions Statistics: Universal Credit, JSA, ESA and Income Support February 2018](#) March 2018

¹⁷ DWP [Jobseeker's Allowance sanctions early warning trial evaluation: final report](#) 2018

¹⁸ DWP [Jobseeker's Allowance sanctions early warning trial evaluation: final report](#) 2018

be wider than JSA claimants, and include people in receipt of Universal Credit and ESA (WRAG).

6. Are adequate protections in place for vulnerable claimants?

Effect of Sanctions on people with mental health problems

Mental health and money are strongly linked, with mental health problems often making managing money more challenging. The stress related to poverty and unemployment increases the risks of developing a mental health problem.¹⁹ Sanctions have a profoundly negative effect on people with mental health problems, both in terms of their health and finances.²⁰

Findings published in May 2018 from the Economic and Social Research Council (ESRC), which undertook the largest UK study into the impact of welfare conditionality and sanctions, found that for disabled people:

- The application of welfare conditionality exacerbated many disabled people's existing illnesses and impairments – particularly for people with mental health problems.
- Benefit sanctions routinely trigger profoundly negative impacts on health and finances.
- Sanctions result in feelings of stigma and humiliation.
- In extreme cases, sanctions resulted in suicidal ideation.²¹

These findings are supported by previous research from SAMH's sister charity, Mind, which found that 59% of respondents who were claiming out of work benefits had experience of suicidal thoughts.²² The most common reason given for experiencing thoughts of suicide was fear of losing benefits (cited by 27%).²³ Of those who had undertaken back-to-work support, half stated that their experience of back-to-work support had made them more unwell.²⁴

Threat of Sanction

People who use SAMH services also told us of the negative effect of the pervasive threat of sanctions:

"I was finding it hard to travel, finding it hard in interviews, finding it hard with applications for jobs and everything... I was very close to getting sanctioned and that

¹⁹ Mental Health Foundation [Poverty and Mental Health](#) 2016

²⁰ ESRC [Final findings: WelCond project](#) 2018

²¹ ESRC [Final findings: WelCond project](#) 2018

²² Mind [Public Accounts Committee – Written evidence form Mind](#) 2016

²³ Mind [Public Accounts Committee – Written evidence form Mind](#) 2016

²⁴ Mind [Public Accounts Committee – Written evidence form Mind](#) 2016

*really scared me. It blew me out the water a bit, really. I'm a bubbly, cheery person, and I was really, really low.*²⁵

*"The fear of being sanctioned is enough to ruin your life without [actually] being sanctioned."*²⁶

"As I suffer from severe depression and anxiety, this information forced a downward spiral, and I was, at rock bottom, seriously considering taking my own life as a result. I could see no way of surviving if my benefits were reduced or stopped (I have no family or other support), and the fear of this happening swamped my every moment, both waking, and the brief periods of exhausted sleep I managed to snatch." (SAMH survey respondent in receipt of ESA and threatened with sanction – 2018)

These findings are supported by the Economic & Social Research Council (ESRC) report, which found claimants experienced a constant threat of sanctions, including repeated warnings from Work Coaches even where there was no 'offence' committed.²⁷

Financial Impact

The financial impact of sanctions is clear. For example ESA WRAG sanctions can continue indefinitely until mandatory work related activity is restarted, including for up to 4 weeks after work related activity has recommenced. The sanction can remove all of the ESA personal allowance leaving less than £30 a week for the claimant to live on.²⁸ Citizens Advice Scotland's (CAS) 2014 report - [Sanctioned: What benefit?](#) - gathered the experience of CAS advisors:

- CAS advisors stated that 64% of clients who had been sanctioned reported regularly skipping meals;
- 63% of clients sanctioned requested a food parcel;
- 31% of clients sanctioned approached local charitable support for support other than food; and
- 13% of clients sanctioned took out a formal loan, including payday loans.²⁹

"I had very little to eat, I had no heating or electric. I was in distress and this impacted on my mental health" (SAMH survey respondent 2018)

Existing safeguards

DWP guidance to decision makers outlines the steps that should be taken prior to considering any sanction decision.³⁰ For vulnerable people, including all ESA

²⁵ SAMH [Fit for Purpose](#) 2016

²⁶ SAMH [Fit for Purpose](#) 2016

²⁷ ESRC [Final findings: WelCond project](#) 2018

²⁸ DWP [Employment and Support Allowance \(ESA\)](#) accessed May 2018

²⁹ CAS [Sanctioned: What benefit?](#) 2014

claimants, a 'core visit' should be undertaken by a visiting officer from the DWP to the home of the person prior to a sanction being applied.³¹ Where the claimant has a mental health problem or learning disability a core visit must be attempted at least twice.³² The purpose of the visit is to ensure the client's welfare and:

*"[...] ensure the claimant fully understands why they have to attend and take part in the mandatory interview and also undertake any Work Related Activity agreed with their Adviser."*³³

Subsequently the visiting officer should contact the person's jobcentre advisor to reschedule or defer the mandatory interview or appointment. To safeguard the person's welfare, in cases where two core visits have been attempted but not completed, the guidance states that the claimant's next of kin, community psychiatric nurse, social services or police should be contacted.

These safeguards are essential to protect vulnerable people, including people with mental health problems. However, the Government cannot say whether the guidance is being followed. This is not acceptable.

The 2017 Benefit Sanction inquiry undertaken by the Public Accounts Committee found that the DWP does not track the use of its safeguards and also relies on individuals self-reporting vulnerabilities (including disability in regards to JSA).³⁴ The Committee called on the Government to monitor the use and take-up of protections for vulnerable groups and report back to the committee by the end of 2017.³⁵ While the government agreed with the recommendation, it stated that monitoring the use and effectiveness of protections for vulnerable claimants was challenging due to "a backdrop of dynamic and changing claimant circumstances".³⁶ The Government also stated that they do not currently have the IT infrastructure to collate the data centrally and that responsibility lies with local management.³⁷ The Government must begin to centrally collate data on the use of safeguards to determine if they are being adequately and consistently used.

³⁰ DWP [Failure to Attend/Failure to Participate in a Work-Focused Interview and Failure to Undertake Work-Related Activity](#)

³¹ DWP [Failure to Attend/Failure to Participate in a Work-Focused Interview and Failure to Undertake Work-Related Activity](#)

³² DWP [Failure to Attend/Failure to Participate in a Work-Focused Interview and Failure to Undertake Work-Related Activity](#)

³³ DWP [Failure to Attend/Failure to Participate in a Work-Focused Interview and Failure to Undertake Work-Related Activity](#)

³⁴ Public Accounts Committee [Benefit sanctions](#) 2017

³⁵ Public Accounts Committee [Benefit sanctions](#) 2017

³⁶ The Treasury [Treasury Minutes Progress Report Progress Report Progress Report Progress Report Government responses to the Committee of Public Accounts: Sessions 2010-12, 2012-13, 2013-14, 2014-15, 2015-16 and 2016-17 and progress on Government Cash Management](#) 2018

³⁷ The Treasury [Treasury Minutes Progress Report Progress Report Progress Report Progress Report Government responses to the Committee of Public Accounts: Sessions 2010-12, 2012-13, 2013-14, 2014-15, 2015-16 and 2016-17 and progress on Government Cash Management](#) 2018

SAMH supported the Benefit Claimant Sanctions (Required Assessment) Bill, introduced by Mhairi Black MP in 2016.³⁸ The UK government and DWP should further consider a number of safeguards proposed by the Bill. In particular the Bill proposed a pre-sanction assessment of the claimant's circumstances. We believe this provides an opportunity to protect vulnerable claimants. An assessment should examine the likely impact of a sanction on the person's mental health, as well as considering the impact a sanction would have on the person's housing and caring responsibilities.

Financial Safeguards

Financial protections for vulnerable claimants include hardship payments and, additionally in Scotland, access to the Scottish Welfare Fund. Hardship payments for UC, unlike ESA, are a loan, which needs to be repaid. For UC, the hardship payment repayment rate can be as high as 40% of the rate of benefit, prolonging the impact of each sanction.³⁹ People in financial crisis due to a benefit sanction can also apply to the Scottish Welfare Fund for assistance, including a crisis grant. This grant does not need to be repaid. SAMH sees no rationale for hardship payments to be repayable, as this will increase the financial burden of a sanction; we believe all hardship payments for UC should be non-recoverable, as is the case for ESA.

People affected by benefit sanctions are not always made aware of the financial support available. It is essential that people are signposted to support at the time of a sanction.

"I found out about hardship payments from social media. I was told by the jobcentre I could only apply once they had made the decision to sanction, but it took so long to get that information that when I applied they turned down the hardship application saying the hardship period had passed and I was not eligible because they had reinstated my benefit" (SAMH survey respondent)

Other considerations

Scottish Employability programmes

Mental ill health accounts for the biggest group of people unable to work due to sickness; yet it has had the poorest outcomes through UK employability programmes.⁴⁰ Responsibility for employability was devolved to the Scottish Parliament through the Scotland (Act) 2016 and a new service, Fair Start Scotland, was introduced in 2018. Unlike the Work Programme, Fair Start Scotland is a

³⁸ [Benefit Claimants Sanctions \(Required Assessment\) Bill \(HC Bill 11\)](#)

³⁹ Dr David Webster [Briefing Benefit Sanctions Statistics: Universal Credit, JSA, ESA and Income Support February 2018](#) March 2018

⁴⁰ IPPR North, [In Safe Hands?](#) 2014,

voluntary programme with no sanctions for noncompliance.⁴¹ SAMH strongly supports this approach.

The committee should analyse the effect of the implementation of Fair Start Scotland, including outcomes for people with mental health problems and, specifically, the effect of it being a voluntary programme without the threat of sanctions.

Conclusion

SAMH welcomes the Committee's inquiry. SAMH restates the need for sanctions to be abolished for people with mental health problems due to the adverse impact they have on people's health and wellbeing and the lack of evidence showing that sanctions encourage people with mental health problems to enter employment.

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⁴¹ Scottish Government [Fairer approach to employment](#) 2017