

Independent review of Jobseeker's Allowance Sanctions - Matthew Oakley Call for Evidence - Response from Advice York



What is Advice York?

Advice York is the partnership of advice agencies in York who offer free, independent, impartial and confidential legal advice in areas of social welfare law, including welfare benefits, debt, housing and employment. We aim to bring together and coordinate the advice sector to best meet the needs of local residents.

The partners contributing to this response are: York and District Citizens Advice Bureau, City of York Financial Assistance Scheme, York Food Bank, Castlegate and York Housing Association.

Introduction

Sanctions are being increasingly seen as a top priority issue for advice agencies and their clients in York and have been identified as the priority issue for the Advice York partnership to focus on.

York and District CAB have dealt with 25 issues relating to Job Seekers Allowance (JSA) sanctions in the third quarter of 2013/14. These accounts for 1 in 4 issues related to JSA and are up 127% on the previous year. Of the food bank vouchers they handed out, 22% were as a result of a JSA sanction.

Similarly, York Financial Assistance Fund gave out a total of 24 Foodbank vouchers to residents of York who had been sanctioned in quarter three of 2013/14, accounting for 6% of awards given¹. Clearly this is a worrying trend that needs addressing.

Advice York welcomes the review that is being carried out by Matthew Oakley into Job Seekers Allowance sanctions. However, we feel that the review is extremely limited due to its remit being confined to sanctions related to the Jobseekers (Back to Work Schemes) Act 2013. Our evidence shows that the problems faced by those not on back to work schemes are also faced by those on the schemes as many claimant on back to work schemes will continue to have job search requirements. The wider issues relating to JSA sanctions need addressing and would benefit both groups of those sanctioned.

Therefore, this response will look at the wider issue of JSA sanctions as well as specific examples of those on back to work schemes. It looks at the experience of claimants who have been sanctioned. It will then come to a few brief conclusions and recommendations.

¹ It is worth noting here that York Financial Assistance Scheme are reluctant to give awards to those who have been sanctioned as they feel claimants should be receiving a short term benefit advance or hardship payments instead. Therefore, these 24 awards show cases where clients are in extreme hardship.

Experience of clients

When looking at the experience and reasoning behind clients receiving a sanction, it became clear that there were issues in three particular areas: conditionality not matching client's abilities, problems with access to Universal Job Match and Job Centre Plus not accepting all the jobs that clients had applied for.

Problems with conditionality not matching client's abilities

Accounting for half of cases, the greatest problem presented by clients was with conditionality not matching client's abilities. This problem was reported by both those on back to work programmes and those not. This problem was particularly acute for those clients who were also suffering from health issues, but not eligible for Employment Support Allowance.

A vulnerable client, who has learning disabilities, was unable to remember appointments to sign on or understand the requirements of the job seekers agreement due to poor reading and writing skills. Although he had support, the Jobcentre were inflexible in their approach with him and sanctioned him on a constant basis.

He wasn't eligible for hardship payments, which resulted in him being served notice on his home. Further adding to his vulnerability and causing him extreme stress. He now requires further support and interventions from other agencies. In the longer term, he is now at risk of homelessness, making finding a job even more difficult.

Often, the sanction led to worsening the client's health that would make it more difficult for the client to engage with and look for work. A suggestion to combat this issue would be better training for Job Centre staff on how to help clients with a health condition. It is likely that the client's health problem may change at different times and so the ability for Job Centre advisers to adapt to the client's needs at the time would also be necessary. For example, for those with a health condition, taking into consideration the reason why a back to work scheme was missed rather than automatically applying a sanction.

The client is single and lives alone in 2 bed council property from which she is trying to downsize. She suffers from depression and asthma. She is unemployed and is currently in receipt of JSA. She was recently sanctioned for four months from September until December 2013. The reason for this was due to missing her work programme. The client said that she is feeling very down at the moment and this is why she has struggled with what the Jobcentre expect from her. The client explained that the reason she has missed her work programmes is because of how down she is and is finding it difficult to go out of the house.

The client is now receiving hardship payments, but she has debts that she is now unable to pay. She is generally struggling to live on her income £86 per fortnight. Both these issues are exacerbating her depression, making her less able to look for work and fully engage.

This problem of a lack of flexibility and understanding was also an issue for clients without health conditions who had experienced an unfortunate situation which they had no control over. Guidance² allows for good and reasonable cause for not meeting your conditionality. The guidance for these are:

“Good reason is not defined in legislation. DMs should take into account all relevant information about the claimant’s circumstances and their reasons for their actions or omissions.”

*“DMs should establish facts which would probably have caused a reasonable person to act as the claimant did by establishing three key points, 1. what would it be reasonable to expect someone to do in the particular circumstances, i.e. was the action or failure to act preventable? 2. what did the claimant do or fail to do that was different to what was the expected action **and** 3. what was the claimants reasons for their action or failure to act?”*

It is clear from the following two case studies that this guidance is not being followed and the Decision Makers are being unreasonable in their use of sanctions. We would therefore recommend further training and clarification on the use of ‘good’ and ‘reasonable’ for decision makers

Client presented as requiring help with debts. It was revealed that this was due to his JSA being sanctioned and this affecting his income. He had missed an appointment with the Job Centre as he did not receive the appointment letter. It was when he went to sign on as normal that he found out he had missed his appointment. He has previously used up his three foodbank vouchers due to a previous sanction and is therefore now unable to get any more. His gas and electricity quarterly bills are due soon and he is worried about his ability to pay them and the likelihood of ending up in debt.

The client has been unemployed for about two years and has recently been sanctioned for missing an appointment at the Job Centre. He was not receiving post at his home because his visiting girlfriend’s dog was attacking the post man. The Post Office declined to make deliveries to his house and kept his mail for his at the post office. They sent him a letter to say so, but as they weren’t delivering his post they kept it at the post office as well, so he did not realise he was not receiving post normally. It was only when he had had no post for a long time that he went to ask, and that was when he discovered that there was a Job Centre appointment letter that he had never received. Here, it seems that the client had done what would have been reasonably expected. He did challenge the sanction and explain the situation but the sanction was upheld.

Because he has had no income, the client now has no electricity, gas or food. He has been having breakfast at a local community church centre. We were able to give him a food bank voucher, but his sanction has another month left and he is getting

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/250845/m-37-12.pdf

As in the case above, where the decision maker has not been reasonable, the long term consequences of a sanction can be severe. To take pressure off their financial situation during a sanction period, clients often result to borrowing money. When payments are reinstated, or the client gets a job, the repayments of this borrowing can cause the client to continue being in hardship, reducing their income and money available for things such as transport to interviews or jobs, postage costs and 'non-priority' bills such as the Internet that are key for job searching.

A further problem with conditionality relates to the spread of job applications. A claimant's conditionality often sets how many jobs a client must apply for each week. Yet they may be signing on fortnightly. Often, they feel it is reasonable to spread out the applications over the two weeks depending on the jobs available at different times. As the number of jobs available fluctuates weekly, this seems a reasonable suggestion that could be easily implemented by Job Centre with new guidance that this could be written into clients conditionality agreements.

In addition to this, it appears that sanctions are often used too easily a threat for claimants when something has gone wrong, particularly if they have previously had a sanction. Further clarification on the use of sanctions would therefore be useful for clients, advice workers and Job Centre staff.

Client is currently unemployed and claiming JSA. He has been sanctioned for four weeks because he spread 30 job applications over a two week period making 22 the first week and 8 the second rather than applying for 15 each week.

The client was also part of the Mandatory Work Activity Scheme and for this attended two unsuccessful interviews for voluntary work and a third on the 22 October for which he was told he could start the placement on the 5 November. The client then received a letter from Job Centre Plus dated the 22/10/2013 to say that he had not been accepted for this placement. Subsequently, the client was threatened with a further sanction on the ground that he failed to attend for the voluntary work interview on the 22/10/13 despite having been originally offered the position and then told by Job Centre he did not get it.

The client has accumulated rent debt as a result of the previous sanctions and will be unable to avoid more debt if further sanctions are imposed. The client is left confused and discouraged by the conflicting outcome of his attendance for voluntary placement, despite his willingness to take part.

Problems with access to Universal Job Match

Clients are generally expected to use the online job searching facility Universal Job Match. However, clients can often struggle with access to this due to issues of not understanding how to use it or not having reasonable access to a computer with internet access regularly. It is possible for conditionality agreements to mandate the use of Universal Job Match, even if the client does not have access to the Internet at home³. This then allows the Jobcentre to check that a client is spending a suitable amount of time job searching. Time limited access to the internet, such as in libraries, or busy computers, as in Job Centres, can mean that the client is unable to spend an adequate amount of time on Universal Job Match to meet their conditionality agreement.

A young father, who was a joint JSA claimant and on a back to work scheme, was sanctioned for not having done enough job search activity. This was a result of his limited access to the internet for Universal Job Match that meant he had not spent enough time searching for jobs. There was also an issue around the client not knowing that he needed to put companies' names and dates on Universal Job Match. He had applied for hardship payments, but to do this found he had to be very assertive despite caring for his young daughter and without them would have left family with no money.

This calls into question the suitability of the conditionality agreements claimants are required to agree to, or otherwise be ineligible for JSA, and whether clients truly understand what they are agreeing to. If a client does not have access to the internet at home, it is unreasonable to expect them to use Universal Job Match fully, to do so is to set them up to fail. We would therefore recommend that the use of Universal Job Match is not part of a claimant's conditionality if they do not have access to the internet at home.

Often, the inability to use Universal Job Match means that a client is unable to prove the job searching activity they have done.

A single parent had been on Income Support but, she then needed to come off this and comply with the job seekers agreement in terms of applying for regular jobs. She was unable to provide evidence of this as she had no internet access or PC provision at home. This meant she didn't meet the requirements and was sanctioned. The sanction was initially for two weeks. She is single parent with 2 children and this sanction left her with no money, but was able to apply for a hardship payment. As a result of her sanction and a lack of communication between DWP and the City of York Council, her housing benefit claim was suspended and threat of legal action in relation to her home. This resulted in severe stress that could have been alleviated with more fluid communication and support.

³ <https://www.gov.uk/government/news/jobseekers-required-to-use-universal-jobmatch>

Clients are finding this issue particularly frustrating as they are keen to meet their requirements but are unable to do so.

A young woman aged 19 who was living in bedsit and claiming JSA was sanctioned. The reason for the sanction was that there was not enough evidence on Universal Job Match Website for job searching. The young person and grandparent explained there had been problems with the website and use of grandmother's computer, but this was not taken in to account. The young person explained that often when applying for jobs through the website the link you press takes you away to another website and was unsure whether this meant it was not being recorded by the system properly. The young person also confirmed she is going out at least three times a week with a CV into town and handing them out to shops.

The young person is estranged from parents so there is no support there, although the Grandparents are offering financial support where they can and emotional support but are finding this difficult. Her younger sibling is in foster care. The young person is very resilient and trying her best but as a result of the sanction is at threat of homelessness as she does not have enough money to pay the top up on rent, causing increased stress and isolation. The sanction means that she now has to rely on her retired Grandparents for financial support, affecting this support network. She doesn't understand and is dismayed that when she has been doing everything that has been asked and the systems failed, she still gets sanctioned.

The best way of solving this issue would be to allow for other forms of recording jobs applied for whilst the claimant is trained to use the Internet. To go alongside this, funding is needed to help those who don't have access at home. Although there are free computers in the library, this is only for one hour a week. There is high demand on the computers within the Job Centre, as well as the associated costs of travelling to the Job Centre each day or problems with childcare.

Not accepting all jobs applied for

For those unable to use Universal Job Match or who apply for other jobs not on Universal Job Match, clients often find that many of the jobs they have applied for are not accepted. This is extremely demoralising for people who have engaged with their conditionality.

Client is aged 52 with no dependants. He worked in the music distribution business but there is now little work and he has been unemployed for some time, and applying for any job he could do. He was signed on for JSA, but felt that the Job Centre set out to humiliate him. He took part in the Work Programme, and understood that it was necessary to apply for 10 jobs a week, but was incensed that after applying for jobs the Job Centre said that not all the jobs that he had applied for were on their database, and sanctioned him. As a result he has to borrow money from friends as he is reluctant to borrow officially as his friend is more forgiving if his repayments are late. He has now received his limit of three Foodbank vouchers

Even in cases where the Job Centre adviser has helped the client apply for the job, as it is not on their database, it has not been accepted. In some cases the large numbers of jobs applied for that have not been accepted seem particularly unfair.

The client has been receiving JSA for three years and lives with his pregnant wife and his three children. The client was sanctioned as a result of not actively seeking work. He states that he attends Job Centre Plus at least once, mostly twice, a week and deals with an adviser who helps him apply for jobs. His Jobseekers agreement states that he has to apply for 10 jobs a week which he states he has done with the advisers help. He has language difficulties and also attends English classes twice a week. The client feels that the lady that he deals with at the Job Centre doesn't like him and there-for is trying to make things difficult for him. He has been told that he will only be receiving the hardship payment of £83.85 for the duration of the sanction. Client has no debts at the moment but feels that he cannot cope on this amount.

The data base clearly needs to be better added to and in cases where the job is not on the database the responsibility should be on the Job Centre to check that the job exists rather than assuming that the client is lying.

Client is single, unemployed and lives alone in 2 bed council property. She is currently in receipt of JSA, Housing Benefit (HB) and Council Tax Support (CTS). Client currently has rent arrears, council tax arrears and other debt. It is worth noting that the client is also being hit by the bedroom tax.

The client is not computer-literate, and therefore cannot use the computerised job search facility at the Job Centre, Universal Job Match. Dispute signing on for approximately two years the client has never been offered help with any training until very recently when she was offered a place on a course. But when she got there, she discovered that it had been cancelled.

Meanwhile her conditionality agreement with the Job Centre requires her to apply for jobs that offer 30 hours a week or more, and she must apply for 10 per week. She keeps a written record of the jobs she applies for and it shows that she applied for 41 jobs in the last 4 weeks. However, the Job Centre adviser only counted 5 of them and said she will be sanctioned. The client has not received her money and was told that she had been sanctioned for a month.

The client now has no income for the month. The client had already been struggling with her bills and has not been using her gas as it is on a meter which she cannot afford to top up. The client has put in for reconsideration, but as these aren't time limited she may not get reconsideration until after the sanction has run out. As she is affected by the bedroom tax, she has to top up her rent payment. With no income she will be unable to do this and, already in arrears, puts her at risk of losing her home. As the client now has no money, she will also be unable to send off any further job applications.

Conclusion and Recommendations

There are clearly a number of issues with sanctions that affect those claimants on back to work schemes and those who are not.

The evidence shows that rather than encouraging clients into employment, the way sanctions are currently applied, discourages and gets in the way of people applying for jobs and can result in hardship once employment is found. Rather than incentivising employment, sanctions are debilitating it.

The issues seen in York fall into three main areas: conditionality not matching client's abilities, problems with access to Universal Job Match and Job Centre Plus not accepting all the jobs that clients had applied for.

Advice York would recommend:

- better training for Job Centre staff on how to help clients with a health condition.
- ability for Job Centre advisers to adapt to the client's needs at the time as it is likely that a client's health problem may be variable. For example, for those with a health condition, taking into consideration the reason why a back to work scheme was missed rather than automatically applying a sanction.
- allowing the number of jobs needed to be applied for cumulatively to be spread over either two or four week to allow for jobs availability at different times.
- further training and clarification on the use of 'good' and 'reasonable' for decision makers
- further clarification on the use of sanctions
- the use of Universal Job Match is not part of a claimant's conditionality if they do not have access to the internet at home.
- allowing for other forms of recording jobs applied for, other than Universal Job Match, whilst the claimant is trained to use the Internet.
- funding to help those who don't have internet access at home.
- that Job Centres data base of jobs is better kept up to date added to
- that in cases where a job is not on the Job Centres database, the responsibility should be on the Job Centre to check that the job exists rather than assuming that the client is lying.
- a further review into sanctions that looks at the wider issues, not just those related to the Jobseekers (Back to Work Schemes) Act 2013.
- research into whether sanctions are effective in encouraging and enabling people to look for and get into employment.