



Briefing in advance of the second reading of the Benefit Sanctions Regime (Entitlement to Automatic Hardship Payments) Bill 2015-16

22nd January 2016

Child Poverty Action Group (CPAG) is a charity, working for children in the UK. We believe that no child should grow up in hardship or lose out through poverty. We aim to prevent and end child poverty by providing evidence - based solutions to child poverty to policy makers, and accurate information and advice so families can access the support they need.

Benefit Sanctions Regime (Entitlement to Automatic Hardship Payments) Bill 2015-16

1. This Bill will ensure that those who are sanctioned automatically and immediately receive a hardship payment. It will also ensure that such payments do not need to be repaid, as is currently the case in relation to universal credit.

The need for this Bill

2. Sanctions are a reduction in benefit, often to nil. They are applied to people who are held not to have complied with conditions attached to their jobseeker's allowance, universal credit, income support or employment and support allowance. Application of a sanction can reduce a claimant's income by up to 100%. A JSA claimant's first low-level sanction lasts for four weeks, but high level sanctions start at 13 weeks, and repeated sanctioning can result in the claimant's income being reduced for up to 3 years. ESA sanctions can be imposed until the claimant complies with the required activity and for a further fixed period.

3. A growing body of evidence demonstrates that the current operation of the sanction regime is leaving households – including families with children – with insufficient income to cover the cost of daily essentials such as food, heating, transport and clothingⁱ. In many cases sanctions are undermining families' health and wellbeing and threaten to violate their basic human rights. Sanctions have repeatedly been identified as one of the key drivers of food bank use in the UKⁱⁱ.

4. The purpose of the sanctions regime, as outlined by the UK government is "*to make sure that people do what they are requested to do in return for their benefits*"ⁱⁱⁱ. The government also argues that the availability of hardship payments protects those who are vulnerable or at risk of poverty from the worst effects of income deprivation. Hardship payments are reduced payments of income-based jobseeker's allowance (JSA) or income-related employment and support allowance (ESA) which can be paid during the application of a sanction. To qualify for hardship payments, the claimant must either be in a '*vulnerable group*' or satisfy the DWP that they will '*suffer hardship*' in the absence of their benefit payment. Even those who are in a vulnerable group (including pregnant, responsible for a child, with a chronic health condition or caring responsibilities) payments are not automatic and the DWP must be satisfied they will suffer hardship. Hardship payments are paid at 60% of the benefit they replace or 80% for those who are pregnant or seriously ill.

5. While hardship payments constitute an important safety net for many households (13,600 accessed HPs in June 2015 alone^{iv}) aspects of the payments and the way in which they are

administered undermine their efficiency and contribute to the existence of a social security system which is not fit for purpose and which cause families to experience hunger and destitution.

- One client was sanctioned for 'failure to attend Work Programme' on three different occasions (though all three decisions were subsequently reversed). The client, despite receiving hardship payments, had to take her child's Christmas present to Cash Converter in order to pay for fuel.

6. CPAG believe the Benefit Sanctions Regime (Entitlement to Automatic Hardship Payments) Bill 2015-16 is necessary for the following reasons.

1) Ongoing difficulties accessing hardship payments

7. Numerous financial and administrative barriers prevent people who have been sanctioned from accessing hardship payments. Currently, in order to access hardship payments individuals need to phone the DWP or visit their Jobcentre Plus. They generally have to fill out an application form and go through an interview with a hardship officer. The onus is on the applicant to show that s/he is experiencing hardship^v. This process can create barriers which often prove insurmountable for families without access to money or support. This is highlighted by the following case evidence gathered by CPAG.

- **Gathering evidence of hardship:** The client had her application for a JSA hardship payment refused on the grounds that s/he (a single parent) did not provide a current bank statement. She made the application in April 2015 but could only provide a bank statement which covered the period December 2014 to Jan 2015. There is no statutory requirement for this information.
- **Transport to and from the Jobcentre Plus:** A 56 year old claimant was sanctioned for missing one appointment (he admits the error). As a result of the sanction the claimant had no money to travel 14 miles each way to sign on for his hardship payment. The Jobcentre adviser moved his appointment to the middle of the day so he would have time to walk the 28 mile round trip in daylight. The client had to access a food bank as a result.
- **Access to a telephone:** One client was sanctioned for missing an appointment with Jobcentre Plus. He had not been told about the sanction until he attended a subsequent appointment, where he asked to use a phone to apply for a hardship payment. He was told that Jobcentre Plus phones were not for public use. After several visits to the Jobcentre he was eventually provided with assistance to apply for a hardship payments but it was several weeks before he could access it. He was arrested for shoplifting food in the interim.
- **Lack of information about how to access hardship payments:** A father was sanctioned for being fifteen minutes late for an appointment with Jobcentre Plus. He only received two hardship payments throughout his 13 week sanction period because he was not informed that he still had to sign on every two weeks in order to access them. This situation contributed to the client becoming homeless, at first sleeping on a friend's floor and then subsequently sleeping rough. He was assaulted and hospitalised during this time and has had no contact with his children since becoming homeless.

All of these practical barriers could be overcome if people were given automatic access to hardship payment in the event of a sanction being applied as is proposed in this Bill.

8. Evidence also suggests that not all those who are sanctioned are aware of the existence of hardship payments. 2014 research showed that most food bank users were not accessing hardship payments and that levels of awareness are low^{vi}. The DWP's own figures suggest that only 30-40% of those sanctioned go on to access hardship payments^{vii}.

2) Delay accessing hardship payments

9. The Benefit Sanctions Regime (Entitlement to Automatic Hardship Payments) Bill 2015-16 would also help ensure that all those in need of hardship payments were able to access them straight away. Despite the Philip Davies MP's assurances during the first reading of this Bill that claimants can access hardship payments '*from day one of their sanction*', access to support is not immediate. For claimants not categorised as vulnerable, hardship payments are not available for the first 14 days of the sanction. This means that even amongst those who are able to demonstrate hardship, many are expected to survive on zero income for more than two weeks. The fact that this will have a detrimental impact on a person's health and wellbeing is of little consequence. DWP guidance states that, "*It would be usual for a normal, healthy adult to suffer some deterioration in their health if they went without (1) essential items such as food, clothing, heating and accommodation or (2) sufficient money to buy essential items for at least two weeks. [Before classing a person as vulnerable for the purpose of accessing a hardship grant immediately] the Decision Maker must determine that a person with a medical condition would suffer a greater decline in health than a normal healthy adult and would suffer hardship.*"^{viii}

10. Case evidence shows that many households experiencing hardship struggle to get through this initial 14 day period.

- On 8th October the client was told he was being sanctioned for not coming to a meeting on 15th September. The work programme providers said they had sent him a letter about the meeting but he states that he didn't receive it. He has made an application for a hardship payment but won't get anything for another 2 weeks. He has no food or electricity in the interim.

11. Even for those classed as vulnerable there can often be a delay in accessing hardship payments. As noted above, in order to make a claim for a hardship payment an appointment must be made with a hardship officer who will consider evidence before making a decision on eligibility. This process can take several days and in some cases receipt of payment is further delayed by administrative problems and/or misinformation.

- A pregnant woman with two young children failed to complete mandatory work activity because she did not have access to a computer. Her sanction was applied on Wednesday but she was not informed that she could apply for a hardship payment until the Friday. She was told on the Friday that she would not be able to access the payment until the following Monday and had no money to get through the weekend.

12. It is likely that delay accessing hardship payment will become more common as universal credit continues to be rolled out. Even those claimants classed as 'vulnerable' will have to demonstrate 'compliance' with the conditions attached to their benefit for seven days before applying for hardship payments. This includes vulnerable claimants. All claimants will also have to reapply for hardship payments every four weeks. Furthermore the 80% rate of hardship payments for vulnerable claimants will be abolished, meaning all individuals receiving a uniform rate of 60% the sanctioned amount. This could result in pregnant women and people with long term health conditions being expected to live on as little as **£44.74 a**

week for extended periods of time.

13. CPAG is by no means alone in supporting the principles underpinning the proposed legislation. In its 2015 Report '*Benefit Sanctions: Beyond the Oakley Review*' The Work and Pensions Committee made the following recommendations in relation to hardship payments.

Recommendation 32: That the DWP makes hardship payments available from day one of a sanction period in all cases. The Government accepted this recommendation in principle and noted that it was considering the extension of the definition of vulnerability for the purpose of access to hardship payments from day one for a broader group of individuals.

Recommendation 33: That where the claimant has dependent children or is a member of a vulnerable group the hardship payment decision-making process be instigated by DWP decision makers and co-ordinated with the decision on the sanction referral itself, regardless of whether the claimant has proactively applied for a hardship payment. UK Government also accepted this recommendation in principle.

3) Protection pending appeal against incorrectly imposed sanctions

14. Professor David Webster's analysis of DWP sanctions statistics demonstrates another reason to support the bill, "The fact that close to half of sanctioned JSA claimants are getting hardship payments means that the cost of extending automatic payments to everyone from day one (as in the private member's Benefit Sanctions Regime (Entitlement to Automatic Hardship Payments) Bill) is much less than has been assumed. To estimate the cost, the correct measure of sanctions to use is actually the post-challenge figure, not the pre-challenge figure used above. This is because if a sanction is overturned, any hardship payment already made is deducted from the repayment, i.e. treated as a payment of benefit on account (DMG para.35450). The post-challenge figures raise the percentage of sanctioned JSA claimants getting hardship payments by around 6%-8%, to not far short of 50%."^{ix}

That hardship payments should be non-repayable.

15. Currently, JSA, IS and ESA hardship payments are non-repayable. However, hardship payments made to those in receipt of universal credit are repayable – at a maximum rate of 40%. This means that after the sanction period has ended, the claimant's UC standard allowance may continue to be reduced by 40% - effectively extends the sanction period.

16. If, for example, an individual was in receipt of universal credit at a rate of £249.48 per month (the standard allowance of under 25s), she might receive hardship payments of approximately £149.57 per month during the 13 week sanction period. If s/he then had to repay this at a rate of 40% of the standard allowance rate per month the period during which her income was reduced by 40% would thus be extended from 13 weeks (the sanction period) to 32 weeks (the sanction period plus the period during which the hardship payment was being repaid).

17. Requiring repayment in this way will undermine the financial stability and resilience of low income families, resulting in increased poverty and hardship. This, in turn, will undermine the health and wellbeing of claimants, limiting their ability to seek work and undertake employment.

18. CPAG therefore call on MPs to support the **Benefit Sanctions Regime (Entitlement to Automatic Hardship Payments) Bill 2015-16**.

ⁱ See 'Latest Reports on the Impact of Benefit Sanctions' <http://www.cpag.org.uk/content/latest-reports-impact-benefit-sanctions>

ⁱⁱ See Emergency Use Only Report (2015), Trussel Trust, Oxfam, CPAG, Churches Against Poverty. The research found that of those foodbank users for whom additional data was collected 20-30% said that their households' benefits had recently been stopped or reduced as a result of a sanction.

ⁱⁱⁱ Philip Davies MP, First Reading of the Benefit Sanctions Regime (Entitlement to Automatic Hardship Payments) Bill 2015-16, Hansard, 27th October 2015, Column 205

^{iv} Dr David Webster, University of Glasgow, '*The DWP's JSA/ESA Sanctions Statistics Release, 11 Nov 2015 and Hardship Payments Ad Hoc Statistical Release*', 18 Nov 2015

^v Hardship is not defined in legislation but the DWP has stated that it means, "*severe suffering or privation*" para 35155 DWP Decision Makers' Guide.

^{vi} See Emergency Use Only Report (2015), Trussel Trust, Oxfam, CPAG, Churches Against Poverty. In County Durham, 68% of those who had been sanctioned were aware that they could apply; 47% had applied and only 18% of sanctioned food bank users had received a hardship payment.

^{vii} Figures compiled by Dr David Webster, University of Glasgow

^{viii} para 35099, DWP Decision makers Guide Vol 6, Chapter 35

^{ix} Dr David Webster, University of Glasgow, '*The DWP's JSA/ESA Sanctions Statistics Release, 11 Nov 2015 and Hardship Payments Ad Hoc Statistical Release*', 18 Nov 2015