

Gingerbread submission to the independent review of Jobseeker's Allowance sanctions. Closing date: 10 January 2014

1. Introduction

Gingerbread is the national charity working for and with single parent families. We provide expert information and advice, along with membership and training opportunities. We campaign against poverty, disadvantage and stigma to promote fair and equal treatment and opportunity for single parents and their families. Welfare benefits and employment issues form an important part of our work. Queries relating to welfare benefits consistently make up around half of all calls to our Single Parent Helpline. We produce and distribute factsheets on key aspects of the welfare system as they affect single parents. It has been a longstanding goal of the organisation to ensure single parents get the help and support they need in order to move into employment.

Gingerbread welcomes the opportunity to input into the independent review of the operation of benefit sanctions in relation to the Jobseeker's (Back to Work Schemes) Act 2013.

Recent government statistics on sanctions for claimants on jobseeker's allowance (JSA) and employment support allowance (ESA) raise fundamental questions about the appropriateness and efficacy of sanctions, and highlight particular concerns about the application of sanctions to single parent jobseekers. Overall, 39 per cent of sanction¹ decisions affecting single parents were overturned, in comparison with 28 per cent for all other claimants; this rose to an astonishing 64 per cent of appealed decisions overturned for higher level sanctions, in comparison with 47 per cent for all claimants.²

There is extensive research evidence – from the DWP and other sources – that single parents are highly motivated to work³. Taken in the context of the exceptionally high level of sanction decisions overturned for single parent claimants, it would seem clear that there are systematic failings in the sanctions system. Evidence from Gingerbread's helpline suggests an all-too-common story of sanctions being applied because the conditionality attached to a single parent's claim is inappropriate given their caring responsibilities; or sanctions imposed for genuine mistakes – for example, missing a sign-on appointment.

¹ Appealed or reconsidered

² Source: DWP (2013) JSA and ESA sanctions: decisions to June 2013

³ For example Tu, T and Ginnis, S (2012) Work and the welfare system: a survey of benefits and tax credits recipients. DWP Research Report 800

Dealing with sanctions is a significant drain on the time and resources of jobcentre plus (JCP), not to mention a hugely traumatic process to go through for claimants. Whilst sanctions may be necessary for a small minority of claimants who deliberately evade their jobseeking responsibilities, the current high levels of sanctions across all JSA claimants reveal a system in crisis and one that is systematically failing single parent jobseekers.

Gingerbread's response is primarily focused on the following questions in the call for information document:

- To what extent do JSA claimants understand that when they are referred to a 'back-to-work' scheme their benefit may be sanctioned if they don't take part?
- To what extent does a claimants' failure to meet their conditions arise from them not having sufficient understanding of what is expected? Are there ways in which this could be made clearer to them?

This submission will also address issues relating to the claimants' understanding of the sanctions process and levels of awareness regarding the help available in the event of a sanction.

2. To what extent do JSA claimants understand that when they are referred to a 'back-to-work' scheme their benefit may be sanctioned if they don't take part?

Calls to Gingerbread's helpline suggest that not all single parents are made aware that a referral to a 'back-to-work' scheme is mandatory and they could be sanctioned if they don't take part.

The most pertinent examples from our helpline relate to Work Programme referrals. For example, a number of single parents were told by their JCP adviser that they were being transferred to the Work Programme, but were not provided with sufficient information about what to expect, which provider they were being referred to or that participation is mandatory. This leaves single parents unsure of what is required of them, unclear about where to turn for help and support, and vulnerable to a sanction as a result.

Gingerbread helpline examples: Work programme referral interviews

Caller A has a child at primary school and has been referred to the Work Programme. The referral interview was not with the JCP adviser she regularly sees. At the referral interview Caller A asked for more information about what it involved but the adviser couldn't tell her anything. She was given the name of her provider but JCP did not signpost her to their website or to their minimum service guarantee. Caller A is concerned that she might have to attend at all sorts of times and be required to do things that will not aid her job search.

Caller B has a child at primary school and has been referred to the Work

Programme. She has not been given any information from JCP about what the Work Programme involves and is worried that she will have to attend every day. Caller B had not been told which provider she was being referred to.

Caller C has been on JSA for a year and is being referred to the Work Programme. She has a child at primary school. Caller C is unaware that the Work Programme is mandatory and that non-compliance can result in a sanction. She is unaware of what can be considered as good cause in the event of a sanction.

In all these examples, single parents were not provided with the most basic information about the Work Programme. All of the callers were concerned that they might be expected to attend the Work Programme at times that conflicted with their caring responsibilities; and none of the callers had been told that they are not required to attend the Work Programme for more hours than stated in their jobseeking agreement. However, this level of confusion and lack of clarity about expectations and responsibilities clearly leave claimants vulnerable to sanctions.

These examples chime with previous research conducted by Gingerbread⁴ which highlighted considerable variance with respect to referrals and handovers. Some single parents were provided with a leaflet but generally it was felt this did not provide sufficient information regarding the nature of the Work Programme offer or documentation detailing minimum service guarantees and complaints procedures.⁵

Being referred to the Work Programme is a significant change to a single parent's job seeking regime. Our evidence suggests that the referral interview needs to be more substantive and coupled with a warm handover involving the claimant, JCP and Work Programme provider.

At a minimum, single parent claimants should be provided with the following information:

- The name of the provider they are being referred to and where to go to find out more information
- A copy of the minimum service guarantee and information about how to complain
- Information about the 'parent flexibilities' and how these relate to their engagement with the Work Programme, the stipulations of their job seeking agreement and with respect to good cause in the event of a sanction
- Basic details pertaining to the Work Programme including: service offer, maximum duration, the nature of mandation, and the consequences of non-compliance

⁴ Whitworth, A. (2012) Tailor made? Single parents' experiences of employment support from jobcentre plus and the work programme. London: Gingerbread

⁵ Ibid. See pages 51 and 52

- Where to go for help and support, and the role of JCP once the claimant has joined the Work Programme.

A co-ordinated and clear referral and handover process would help to ensure that single parents understand the mandatory nature of the Work Programme, know what is expected from them and where to access help and support. We believe this would minimise the risk of a claimant being sanctioned because of a failure to meet expectations due to a lack of understanding.

The introduction of the claimant commitment from October 2013 includes the provision of an in-depth, or diagnostic, interview with claimants at the start of their JSA claim. It is too early to accurately assess the impact of an improved diagnostic interview on the content of the claimant commitment and a claimant's jobseeking behaviour. However, with sign-on appointments only lasting a few minutes⁶ there is very little opportunity for tailored or personalised support. Referral to the Work Programme is an opportunity to "check in" with single parent claimants to ensure that they are getting the necessary help and support they need to move into work. As part of a warm handover, consideration should be given to repeating the diagnostic interview or providing a similar substantive intervention.

3. To what extent does a claimant's failure to meet their conditions arise from them not having sufficient understanding of what is expected? Are there ways in which this could be made clearer to them?

Gingerbread receives a steady number of calls to its helpline from single parents relating to JSA conditionality. The vast majority of these calls are about the application – or lack thereof – of the 'parent flexibilities'. These are a set of 12 safeguards set down in regulation which recognise that single parents are the sole carers of their children. The flexibilities help to ensure that work search and work availability requirements placed on single parent jobseekers reflect their caring responsibilities. Many of our callers contact Gingerbread because they feel unable to meet the requirements stipulated in their jobseeking agreement and are unaware of the flexibilities. The most common issue raised by single parents is being expected to look for full-time, shift work or weekend hours. The examples given below relate to inappropriate conditionality being placed on single parents by Work Programme providers. We have received calls to the helpline concerning the treatment of single parents by prime contractors G4S, JHP, Seetec, Ingeus and Remploy.⁷

⁶ DWP (2013) *The Jobcentre Plus Offer: final evaluation report*. London: DWP. Anecdotal evidence from the report suggests that sign-on appointments last between 4 and 10 minutes.

⁷ The names of providers are not always given by callers or noted down in the call write-up. This is not an exhaustive list; examples given are a snapshot of the type of calls we receive.

Gingerbread helpline examples: Inappropriate levels of conditionality⁸

Caller D has a five year old child and is being pressured by her Work Programme provider to look for full-time jobs. Her provider was not aware of the parent flexibilities.

Caller E is being pressurised to apply for shift work and evening jobs by her Work Programme provider.

Caller F was required to attend two three-hour sessions during the summer holidays. She was told not to bring her children, but no suitable childcare was available.

Caller G was told he has to pay for childcare himself during the summer holidays whilst on the work programme. He was also told that he has to look for full-time work when his child turns 11.

Caller H was told by her Work Programme adviser that all her benefits would be stopped if she doesn't go to see him at 4pm; this is the time she picks up her child from school.

Caller J was directed by her provider to start a two week computer course during the summer holidays, but there is no registered childcare available for an 11 year old in the local area. The caller tried to explain the problem but was threatened with a sanction.

Caller K with two children under 12 was told by her local Work Programme provider to look for a full-time job and be available to start immediately.

Caller L was asked to go to a job club between 2.30-4.30pm which is outside her hours of availability as set out in her jobseeker's agreement. She has to pick her child up from school at 3pm and notified the provider of this. She still received a letter saying she has to explain why she didn't attend or else she will be sanctioned.

Caller M was threatened with a sanction if she didn't attend the Work Programme when she was dealing with a domestic emergency – her child had broken her arm.

In all of the above examples, the correct application of the parent flexibilities would have prevented the threat of a sanction and the inappropriate application of conditionality. Single parents with children under 13 can limit their work availability to school hours.⁹ It is not the case that when a child reaches the age of 13, single parents are required to look for full-time work.¹⁰ Single parents do not have to comply with a work search direction if there is no affordable or available childcare.¹¹ Single parents do not have to start a job immediately; they can take up a job within one

⁸ Names of providers have been removed

⁹ Regulation 13A Jobseekers Allowance Regulations 1996

¹⁰ Regulation 13 (4) (6) & (7) Jobseekers Allowance Regulations 1996

¹¹ Regulation 72 Jobseeker's Allowance Regulations 1996 as amended by Regulation 11 (12) of the Social Security (Lone Parents and Miscellaneous Amendments) Regulations 2008

month.¹² A domestic emergency is good cause for not complying with a work search direction.¹³

In the main, single parents understand their jobseeking agreement and are clear about what is expected of them; however these expectations are often incompatible with their parenting role and are difficult to comply with given their circumstances. Therefore, single parents are at an increased risk of a sanction because their jobseeking agreement does not accurately reflect their caring responsibilities. At the point of signing their agreement, single parents are not always aware of the parent flexibilities and do not have the correct information to challenge potentially inappropriate levels of conditionality set down by their adviser.

The parent flexibilities provide an important safety net against inappropriate sanctions. However, many advisers do not apply the flexibilities and do not inform single parents of their right to limit work search and work availability requirements. Primarily, we believe this is because advisers aren't aware of the flexibilities themselves, but it may also relate to the pressure to meet targets in a limited labour market.

It is vitally important that single parents are made aware of the parent flexibilities at the start of their claim. These should be proactively discussed as part of a comprehensive diagnostic interview and provided in a clearly worded document. JCP and Work Programme advisers must receive regular training in the parent flexibilities and demonstrate competence in applying these effectively to jobseeking agreements and directions. Two in every five adverse sanction decisions affecting single parents are overturned on appeal.¹⁴ Whilst it is not possible to know on what grounds these sanction decisions were successfully appealed, evidence from our helpline would suggest that the inconsistent and poor advice given to single parents by JCP and Work Programme providers – leading to poor decision-making at the point of sanction decision – is likely to be a key contributory factor.

Under universal credit regulations, the parent flexibilities will be significantly reduced. Only one of the parent flexibilities will remain in its entirety.¹⁵ This substantially erodes the safety net that protects single parents from inappropriate levels of conditionality and unnecessary sanctions. Additional flexibilities will be detailed in guidance but advisers will be under no legal obligation to take caring responsibilities into consideration when dealing with a single parent job seeker. Crucially, the parent flexibilities are enabling; they help single parents move into work that can best be sustained alongside their caring responsibilities. Again, this is a preventative

¹² Regulation 5(1A) of the Jobseeker's Allowance Regulations 1996 as amended by Regulation 11(2) of the Social Security (Lone Parents and Miscellaneous Amendments) Regulations 2008.

¹³ Regulation 14(2) of the Jobseeker's Allowance Regulations 1996 as amended by Regulation 11(8) of the Social Security (Lone Parents and Miscellaneous Amendments) Regulations 2008.

¹⁴ Source: DWP (2013) JSA and ESA sanctions: decisions to June 2013

¹⁵ Universal credit regulation 96 (3) (b)

measure with regard to sanctions, helping single parents remain in work and to avoid multiple claims. Without the vast majority of parent flexibilities in universal credit regulations single parents will find it increasingly difficult to demonstrate good reason for leaving a job that is incompatible with their caring responsibilities, and may be subject to a sanction.

3. Communication about sanction decisions

Calls to our helpline suggest that some single parents do not receive accurate or timely information about sanctions once they have been applied.

Gingerbread helpline examples: Poor advice on sanctions

Caller N was told by her JCP adviser that she was sanctioned because she was not actively seeking work, but she was under a training programme with a major retailer at the time. The caller only found out she was sanctioned by receiving a letter from the local authority saying that her housing benefit had stopped because her JSA had stopped. She received no official notification from JCP. She contacted JCP who then told her verbally that she had been sanctioned.

Caller P received a letter notifying her of a sanction and the letter said that information on hardship payments is enclosed; however, no such information was provided.

Caller Q was sanctioned in August, appealed and applied for hardship payments. As of October she had still received no payments and when she asked when the application will be processed the reply was 'how long is a piece of string?' She only has her child benefit and child tax credit to live on.

These examples highlight the problems caused by poor levels of communication relating to sanctions. Single parents are not always informed about the sanctions process. Caller N only found out because her housing benefit had been incorrectly stopped; callers P and Q lacked information about hardship payments. Delays in sanction decisions (where JSA has been suspended pending the outcome of a sanction referral) and delays to processing applications for hardship payment cause unnecessary distress and financial difficulties for single parents. Caller Q had been waiting over two months for the outcome of her appeal and received no hardship payments in the interim. Based on helpline calls alone, it is not possible to identify the specific weaknesses in the procedure but the negative impact is clear. However, it does chime with DWP's own research that suggests only a minority of claimants (23 per cent) subject to a sanction are told about hardship payments.¹⁶ With the introduction of longer, fixed term sanctions, it is important that information about hardship payments is readily available to help mitigate the sustained negative impact on household income – and this is particularly critical in light of the higher overturn rate on appeal of higher level sanctions.

¹⁶ DWP (2013) *The Jobcentre Plus Offer: final evaluation report*. London: DWP. 23 per cent of a survey of 173 JSA claimants whose benefit was stopped or reduced.

Conclusions and recommendations

Statistics reveal that the overall level of sanctioning is high across all JSA claimants, indicating that the current provision is failing jobseekers. Worryingly, the high proportion of decisions that are overturned - particularly among single parents - suggests that sanctions are being inappropriately imposed on claimants. Gingerbread takes the view that unnecessary sanctioning could be avoided by ensuring that the parent flexibilities are properly understood by advisers and single parents. This would help to ensure that conditionality attached to jobseeking agreements is appropriate, taking into account the additional burden of caring responsibilities. Dealing with sanction referrals and appeals takes a significant amount of JCP staff time and resources; resources that could be re-directed to better serve claimants looking for work.

Single parents must not be inadvertently set up to fail. The government needs to take a more preventative approach to sanctions, ensuring that single parent jobseekers have access to a thorough diagnostic interview at the start of their claim and an opportunity to repeat a similar intervention as part of a warm handover to Work Programme provider.

It is vital that single parents have access to information about the parent flexibilities at the earliest opportunity. These should be proactively addressed in a face-to-face interview and written material should also be provided to claimants as an aide memoire. JCP advisers and contractors of 'back-to-work' schemes should receive regular training in the flexibilities and be able to demonstrate that the parent flexibilities are adhered to across all relevant interventions.

Given the substantial proportion of sanctions decisions imposed on single parents that are overturned - almost 40 per cent - the government needs to take action to improve transparency and accountability within the referral and decision making process. Effective performance management techniques need to be put in place to monitor sanction referrals and decisions. Reducing the number of sanction decisions that reach appeal will save adviser time and resources; both of which can then be more effectively targeted at providing increased support for claimants.

Under universal credit, the parent flexibilities currently outlined in regulation will be vastly reduced. Only one of the existing flexibilities remains in its entirety in the new universal credit regulations. At the earliest possible opportunity, universal credit regulations should be amended to reinstate all the parent flexibilities. Without these safeguards, single parents will be at a higher risk of sanctions because their claimant commitment may not adequately take into account their caring responsibilities. If single parents feel unable to meet job search and availability requirements they will have no recourse through which to question or challenge the inappropriate application of conditionality on their claim.

A key element of welfare reform is reducing the regulatory burden on advisers and encouraging the greater use of discretion. This is part of a drive to provide a more tailored and personalised service to jobseekers and is coupled with greater expectations being placed on claimants in relation to job seeking activities and work availability. Taken together, and if poorly executed, it can be argued that vulnerable claimants are at greater risk of receiving a sanction when regulatory safeguards are removed. It is vitally important that performance management frameworks are robust enough to provide a greater degree of transparency and accountability which reflects the increased amounts of adviser discretion. The parent flexibilities are an existing mechanism - tried and tested - through which it is possible to monitor performance of JCP and other contract providers in relation to support and interventions available to single parents.

It is important that claimants are aware of what may happen if they are unable to fulfil their job seeking requirements. The current version of the claimant commitment states several times the consequences of non-compliance. Whilst this information is correct, its constant reiteration throughout the claimant commitment - which in our view constitutes a threat - is unnecessary and unbalanced. In contrast, information regarding help and support a claimant can expect to receive and a reference to the possibility of appealing a sanction decision is only referred to once in the document. The tone and language of the claimant commitment needs to be revised; remaining clear about the possibility of sanctions but communicated in a way that does not intimidate claimants.

Longer, fixed length sanctions have a prolonged and negative impact on single parents and their children. Better information and clear signposting regarding hardship payments and the appeals process is needed to help mitigate the loss of income for substantial periods of time.

Summary of recommendations:

- The government needs to take a more preventative approach to sanctions, ensuring that single parent jobseekers have access to a thorough diagnostic interview at the start of their claim and an opportunity to repeat a similar intervention as part of a warm handover to their Work Programme provider
- JCP advisers and contractors of 'back-to-work' schemes should receive regular training in the flexibilities and be able to demonstrate that the parent flexibilities are adhered to across all relevant interventions
- To avoid misunderstandings that could lead to a sanction, on referral to the Work Programme or other 'back-to-work' scheme single parents must be provided with the following basic information:
 - The name of the provider they are being referred to and where to go to find out more information
 - A copy of the minimum service guarantee and information about how to complain

- Information about the parent flexibilities and how these relate to their engagement with the Work Programme, the stipulations of their jobseeking agreement and with respect to good cause in the event of a sanction
 - Basic details pertaining to the Work Programme including: service offer, maximum duration, the nature of mandation, and consequences of non-compliance
 - Where to go for help and support, and the role of JCP once the claimant has joined the Work Programme.
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- At the earliest possible opportunity, universal credit regulations should be amended to reinstate all the parent flexibilities. Without these safeguards, single parents are at a higher risk of sanctions because their claimant commitment may not adequately take into account their caring responsibilities
 - Effective performance management techniques need to be put in place to monitor sanction referrals and decisions. The parent flexibilities are an existing mechanism - tried and tested - through which it is possible to monitor performance of JCP and other contract providers in relation to sanction referrals, as well as programme interventions
 - The tone and language of the claimant commitment needs to be revised; remaining clear about the possibility of sanctions but communicated in a way that does not intimidate claimants
 - Better information and clear signposting regarding hardship payments and the appeals process is needed to help mitigate the loss of income for substantial periods of time.

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