

Sanctions Information Pack

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Introduction

Increasing numbers of benefit claimants are now being sanctioned. If you or, a family member, are claiming Jobseekers Allowance (JSA) or Employment & Support Allowance (ESA) you need to know the following:

- What is a sanction
- Why you could be sanctioned
- How to avoid being sanctioned
- How to survive a sanction and
- What to do if you are sanctioned

What is a sanction?

A sanction is a financial penalty for people claiming Jobseekers Allowance (JSA) or Employment & Support Allowance (ESA). It is applied if the Department of Work and Pensions (DWP) decide that you have not complied with all of the conditions of entitlement for the benefit.

The length of time a sanction is applied is for a fixed period. The length of the fixed period increases if a second or third sanction is applied.

For JSA claimants the effect of the sanction is that people will receive no benefit or a considerably reduced amount of benefit for a period ranging from a minimum of 4 weeks to a maximum of 156 weeks (3 years).

For ESA your benefit will be suspended until you agree to participate in the work seeking activities after which there will be a sanction from 1 week to 4 weeks

For a single claimant in 2014/15 that loss can amount to £72.40 per week, and sometimes more.

Why you could be sanctioned?

When a person claims JSA or ESA they must agree to follow the conditions of entitlement for that benefit.

For example, if you are claiming JSA you must agree with a personal adviser at DWP, to do everything possible to look for work. This agreement is now known as the "Claimant Commitment" and before benefit can be paid it must be signed by both the person claiming the benefit and the personal adviser.

Jobseekers Allowance claimants are expected to comply with the following:

- To be available for employment

Generally this means that you must be ready to take up full time work immediately, for the minimum wage and within 90 minutes travelling time from your home.

- To be actively seeking employment

This includes taking reasonable action to obtain paid work, for example applying for jobs, writing a CV, registering with an employment agency.

- Many people are sanctioned because the agreement they made with their personal adviser is unrealistic and impossible to keep to, or
- because they are unable to provide evidence of their job search activity

If you are not available for work and actively seeking work your entitlement to jobseekers allowance will stop. You will need to reclaim JSA and a minimum sanction of four weeks will be placed on your new claim for benefit. [Note: This could in turn interrupt your entitlement to housing benefit.]

- To comply with any Jobseeker Direction

You will need to do any reasonable specified activity that your adviser tells you to in order to increase the likelihood of obtaining paid work. For example, attending skills assessments, participating in training, attending an employment programme, doing work experience or going on a work placement, and even 'improving your personal appearance'. **Note:** It is not enough just to turn up you will also be expected to take part in the activity.

Failure to do what you agreed in your claimant commitment without a good reason may result in your benefit being sanctioned for a minimum of 4 weeks.

- You must not leave a job voluntarily or lose a job through misconduct

You will be asked why you left our last job and the DWP may also ask your former employer why you left. You may need to provide supporting evidence of why you left. If you fail to satisfy the DWP that you did not leave your job voluntarily or lose it through your misconduct this may result in your benefit being sanctioned for a minimum of 13 weeks.

IMPORTANT: IF YOU HAVE BEEN SANCTIONED YOU MUST STILL CONTINUE TO BE AVAILABLE FOR WORK AND BE ACTIVELY SEEKING WORK. IF YOU DO NOT, YOU MAY LOSE YOUR ENTITLEMENT AND YOUR CLAIM WILL BE CLOSED.

Some Employment and Support Allowance (ESA) claimants may also be at risk of sanctions. This does not apply to those who are in the 'Support Group' but does apply if you have been placed in the Work Related Activities Group. The requirements are:

- attend or take part in any work-focused interviews

These interviews can be in various locations and in some cases can be done over the phone.

- take part in compulsory work-related activities

This however does not include looking for actual paid employment

If you fail to attend or take part in a work focused interview or take part in work-related activities without a good reason you may see your benefit payment stopped until you agree to do so. After you agree you to participate you will then face a further sanction of between 1 and 4 weeks.

Some Income Support claimants are also required to attend and take part in work focused interviews. Again if you fail to attend or take part in a work-focused interview without a good reason you may see your benefit payment stopped indefinitely or until you take part in work focused interview.

Good reasons

If you have a "good reason" for not complying with the conditions that caused your sanction then the sanction should not be applied. You will need to convince the DWP that what you did, or didn't do, was reasonable for you in the circumstances.

The DWP should consider all of the reasons why you didn't comply with your benefit conditions, For example:

- You may not have understood that you were required to attend an interview. This could be due to a learning, language or literacy difficulties, or because your personal adviser gave you misleading information
- You were attending a medical or dental appointment (or accompanying someone you have to care for) and it was not possible to rearrange the appointment
- You had transport problems and there was no reasonable alternative available
- Your religious practices stopped you attending
- you were attending an interview with a prospective employer
- you were actively following opportunities for work as a self-employed earner
- you (or a dependant) had an accident, sudden illness or relapse of a health condition.
- you were attending a funeral for a close relative or friend
- your condition or disability made it impossible to attend.

Other factor which may be relevant:

- you may have experienced domestic violence
- you may have a mental health condition or disorder
- you may be a victim of bullying or harassment
- you may be homeless
- you may have lost your job (or work experience placement) for reasons out with your control.

The DWP is entitled to take into account any history you have of previous failures to comply with a condition when deciding if you have good reasons. If the DWP does not accept your reasons your claim could be closed and you would need to make a new claim. In these circumstances, the sanction is applied to the new claim.

How to avoid being sanctioned

In order to minimise the risk of being sanctioned you should consider the following

Claim the correct benefit

- JSA may not be the correct benefit for you and you may be entitled to another benefit where sanctions are not so severe, for example Income Support. As such you should have your benefit entitlement checked by a welfare rights adviser.

Understand your claimant commitment

- Many people agree to a commitment that they cannot manage because they think that must do so to qualify for benefit. If your claimant commitment is unmanageable it can be revised. Get advice and if appropriate try and get it changed.

Tell the DWP of any problems you have

- Do you have children at school? Do you have child care issues? Are you helping to look after someone? Are you having health difficulties? Have you lost access to the internet? These are just some of the problems people have that cause them to have their benefit sanctioned. If you

do not tell the DWP of these types of problem then they cannot be taken into account when drawing up your claimant commitment or when making appointments for interview.

- If there is an emergency tell them as soon as possible, preferably in advance of meetings or appointments.

Attend your appointments

- It may seem obvious but go to your appointments and be on time or even slightly early. Where it becomes impossible to keep an appointment then make a phone call to explain your absence or to advise that you will be late. You should keep a note of the telephone number for such a situation.

Record all your activities

- You will need to show that you have done what you agreed to do,
- Keep a written record in a diary, keep it up to date and remember to include:
 - Dates, times and places
 - Any relevant letters including email, and computer print outs,
 - keep a note of any reference numbers,
 - Also note any advice that you were given so you can refer to it again should you forget. Include the name of the adviser who gave the advice.
- Put yourself in the shoes of the DWP and ask yourself what you would expect to see that would prove that all the things agreed in the claimant commitment have been completed.

Challenge the sanction decision

You have a legal right to challenge a sanction decision by asking for a reconsideration and if that fails by then lodging an appeal. At present around 54% of all reconsiderations result in the sanction being lifted and there is also a high success rate for appeals. A successful challenge not only lifts a sanction but reduces the length of time that a future sanction may be applied.

At the end of this pack there are reconsideration and appeal letters to help you challenge a decision.

If you think you were badly treated then regardless of any sanction decision you should consider making a complaint. You can complain directly using the DWP complaints procedure, or if you feel strongly enough you may prefer to complain through your local MP. Note that a complaint is different from a reconsideration or appeal and you should not delay asking for a reconsideration or appeal.

How to survive a sanction

If you are sanctioned you may not be paid any benefit for 4 weeks and possibly longer. However, depending on your circumstances, you may be able to make a claim for a Hardship Payment.

A Hardship Payment is a discretionary award of JSA that you can claim from Jobcentre Plus. To be entitled to a hardship payment you need to show that you or your family will suffer hardship unless a payment is made and that you have no other sources of support.

You can apply for a hardship payment by completing form **JSA/ESA10** which can be requested from jobcentre plus by telephone, in person or by post. The form is not currently available to download from the internet.

The hardship form will ask you about any responsibility you have for looking after children or other people and will ask about your health. It will also ask about any other benefits or other income you have; your debts; your savings; and your ability to get support from your family or other sources.

You should also list your expenditure. Food, gas and electricity, clothing and accommodation are examples of what could be considered as essential costs, however depending on your circumstances

there may be others – for example, travel costs for taking children to school or nursery, or travel costs to provide care to a disabled person. Make sure to mention any of these on your application form if they apply to you.

When to apply for hardship payments?

If you are a “vulnerable group” you can apply for a hardship payment immediately and if successful you will be paid the next time your benefit is due.

You are considered to be in a vulnerable group, if you (or your partner) are:

- pregnant or responsible for dependant children
- single and looking after a 16 or 17 year-old
- disabled or have a long-term physical medical condition,
- a carer entitled to the Carers Premium as part of their JSA,
- aged 16-17 (in some circumstances),
- aged under 21 and in the last 3 years were looked after by a local authority

If you are not in a vulnerable group you need to wait 15 days from when the sanction began before you can claim a hardship payment. If you qualify you will be paid the next time you would normally expect to get your benefit. This could mean that you have to survive for up to four weeks without any money.

Hardship payments are paid at a lower rate than normal weekly benefit. If you qualify your entitlement would only be 60% of the basic weekly benefit for a single person. For example, a single person over 25 would receive a hardship payment of £43.44 per week.

If you or your partner is pregnant or there is a serious illness in the family then the hardship payment is paid at a slightly higher weekly rate.

The Scottish Welfare Fund

If you are sanctioned you may be able to apply to the Scottish Welfare fund for a Crisis Grant

There is a limit to the number of times you can receive assistance from the Scottish Welfare Fund because of a crisis but do not be put off applying.

For information on contacting or making a claim for a payment from the Scottish Welfare fund, see the useful contacts list

Housing Benefit and Sanctions

If you have been sanctioned this may affect your entitlement to Housing Benefit.

The DWP have three different kinds of sanction for Jobseekers Allowance claimants, they refer to these as low, intermediate and higher level sanctions. Those who are subject to an intermediate sanction will see their award of Jobseekers Allowance stopped and the DWP will notify the Housing Benefit office of this.

If the Local Authority's Housing Benefit Section is advised by the DWP that your JSA or ESA entitlement has ended, your Housing Benefit entitlement will be suspended and they will write to you for more information about your income.

If you do not respond promptly to their request for information a decision to end your Housing Benefit may be made.

If you have difficulty getting evidence about your income let the Housing Benefit office know about this to ensure that they do not close your claim. - **See the list of useful contacts on how to contact the Housing Benefit office.**

What to do if you are sanctioned

You may have tried hard to avoid a sanction, you may have complied with every instruction given, kept your job search up to date and attended every appointment both eagerly and on time. You may still be sanctioned.

In some cases a sanction may be imposed before you receive written notification. In which case you may not discover you have been sanctioned until you go to the bank to get your money and find there is nothing there. Whether you are sanctioned this way or are notified in writing, you should consider doing all of the following.

1 Ask for a hardship payment (see above)

2 Ask for a reconsideration

- If you ask for a reconsideration the DWP must look at their decision to sanction you again. You can ask for a reconsideration over the phone but it is recommended you do so in writing, even if this is just to confirm an earlier verbal request. If the decision is reviewed in your favour the sanction is lifted if not you will have a right of appeal.
- If you intend to appeal against the sanction decision you must ask for the reconsideration first.
- The time limit for asking for a reconsideration is one month from the date the decision was made. If you are out side the one month you can ask for a reconsideration if you have a good reason for the delay. There is no guarantee that a late request will be considered so it is advisable to make the request with the one month time limit. If it is more than 13 months then there is no scope to ask for a late reconsideration.
- See the back of this pack for an example of a letter for asking for a reconsideration

3 Appeal

If you are sanctioned you can appeal against the decision to sanction you to an independent appeal tribunal. To do so you must have firstly asked the DWP for a reconsideration and have been issued with a new decision called a Mandatory Revision notice.

Many people are put off appealing and often for the following reasons:

- it takes months and the sanction will be over before the appeal is heard,
- I got a hardship payment and I can manage for four weeks with the help of family and friends
- the DWP told me I have no chance of winning the appeal
- I don't have the confidence to go through with the appeal

We would however strongly encourage you to appeal against the decision. If you do not appeal it means you are accepting that the DWP were correct to sanction you and correct to cut your benefit. It also means that you are laying yourself open to potentially longer sanctions should it happen again in the future.

The success rate at appeals against sanction decisions is high and if you win then you not only get your money back but you also reduce your vulnerability to a sanction in the future.

You have the right to be represented and have a Welfare Rights Officer attend the tribunal with you, so you do not need to go on your own.

To lodge an appeal you must do so in writing. You can use the official appeal form provided by the tribunal service or in a letter that identifies the decision and gives reasons for the appeal.

To assist you to lodge an appeal we have provided at the back of the pack an appeal letter that you can use. This letter identifies the Welfare Rights Service of Glasgow City Council as your representative. You should know that this service is free and completely confidential.

The time limit for lodging an appeal is one month from the date the revision notice was made. If you are out side the one month you can ask for a late appeal if there are exceptional circumstances. There is no guarantee that a late appeal will be admitted so we strongly advise that you lodge your appeal within the one month time limit. If it is more than 13 months then there is no scope to ask for a late appeal.

IF YOU ARE SANCTIONED YOU HAVE STAND TO LOSE A MINIMUM OF FOUR WEEKS MONEY, EVEN ALLOWING FOR A HARDSHIP PAYMENT THE MINIMUM CASH LOSS TO YOU IS £115.84. APPEALS ARE FREE AND IF YOU WIN YOU GET YOUR BENEFIT BACK.

Useful contacts and websites

Organisation	About	Contact details
GAIN	Glasgow advice and information network. To help you locate advice services close to your home.	Phone: 0808 801 1011 http://www.gain4u.org.uk/
Glasgow City Council	The website of Glasgow City Council provides information about council services and links to information relevant to welfare reform.	http://www.glasgow.gov.uk/ http://www.glasgow.gov.uk/welfarereform
Scottish Welfare Fund	Can be accessed via the Glasgow City Council website	Phone: 0141 276 1177
Housing Benefit	Can be accessed via the Glasgow City Council website	Phone: 0141 287 5050
Gov.uk	The UK government portal. Where you will find information and claim forms etc on most benefits	https://www.gov.uk/
Jobcentre Plus	Use these numbers if you want to make your reconsideration request by telephone	Phone: 0345 608 8545 (from mobiles) Phone: 0845 608 8545 (from landlines)
HMCTS	For information on appeals including where to get the official appeal form SSCS1	http://www.justice.gov.uk/tribunals/sscs

Your contacts:

Use the space below to record any other addresses or contacts that you may find useful in your dealings with the Jobcentre Plus / DWP

JSA/ESA Reconsideration letter

Name:
(of Appointee)
Address:
Address:
Postcode:
NINO:

FREEPOST RTGH-KHLR-XAGH
Glasgow Northgate/Clyde & Fife
BDC
Mail handling Suite A
Wolverhampton
WV98 1DD

Dear Manager

Mandatory Revision Request

Please review your decision of _____ / _____ / _____ [date] to stop and/or sanction my entitlement to _____

☐ Jobseekers Allowance☐ Employment & Support Allowance

I do not accept that the decision maker has properly considered my circumstances or applied the law correctly in making the decision. **[Please see attached documents and/or the reverse of this letter for information relevant to this review request]**

If my review request is late, please accept that this was due to special reasons that meant that I could not have practicably requested a review any earlier. My special reasons are **[see over]**

I authorise you to release information relevant to this review to my Support Worker and for them to act on my behalf in relation to this review. Please ensure that they receive copies of all relevant correspondence. My **Support Worker** is

Name: _____ Contact number: _____

Address:

☐ English is not my first language, and I require an interpreter

Language:

Dialect:

Yours Faithfully

Signature:

Date:

Jobseekers Allowance (JSA) / Employment & Support Allowance (ESA) sanctions appeal

NAME:

Name of Appointee:

ADDRESS:

Date of Birth:

National Insurance No:

Send to:

HMCTS SSCS Appeals Centre

PO Box 27080

GLASGOW

G2 9HQ

Dear Sir/Madam

This is as an appeal against the JSA / ESA (*delete as appropriate) sanction decision dated: / /

My Grounds of Appeal are that

- ☐ The decision does not adequately reflect my circumstances. In addition I submit that the decision maker has failed to follow the correct procedures.
- ☐ I had good reasons for not attending my appointment/interview/job/placement and should not have received a sanction/should not have received the level of sanction (*please delete as appropriate)
- ☐ I had a good reasons for not taking part in Mandatory Work Activities/leaving my place of work or training course and should not have received a sanction
- ☐ Additional reasons (please see over)
- ☐ I enclose a copy of a mandatory reconsideration notice

SPECIAL REASONS FOR LATENESS (see over)

My representatives are

Welfare Rights Section, Social Work Services, Glasgow City Council, Granite House, 31 – 33 Stockwell Street, Glasgow G1 4RZ. I authorise them to act on my behalf. Please ensure they receive copies of all further correspondence and a copy of the appeal papers.

I do not consent to my appeal being heard without an oral hearing. I do not consent to less than the full advance notice stated in rule 29(2) of the Tribunal Procedure Rules 2008.

Yours faithfully

I require an interpreter in language: _____ Dialect: _____

Signature:

Date: