

**Norwich City Council**  
**SCRUTINY COMMITTEE**  
**ITEM 8**

**REPORT for meeting to be held on 16 July 2015**

**Benefit sanctions and their impact**

**Summary:**

To look at how the council can work with partners to help those who may be affected by benefit sanctions with a particular focus on young people and the homeless.

**Recommendation:**

That scrutiny committee considers what further work may be undertaken within existing resources and make recommendations to cabinet if further suggestions are made.

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## Background

1. At the meeting on 11 June 2015 scrutiny committee added to its work programme an item to consider benefit sanctions and their impact, with particular reference to younger people and homelessness.
2. A representative from the Department of Work and Pensions (DWP) has been invited along with representatives of two key voluntary agencies whom the council has commissioned as part of a wider debt, money and welfare advice consortium (Equal Lives and Mancroft Advice Project).
3. The Mancroft Advice Project (MAP) component of the consortium (supported jointly with Norfolk County Council) was commissioned specifically to work with younger people at risk of sanctions.
4. Appended to this report is a longer document looking at the most recent data available on sanctions as applied to residents of Norwich. It is anticipated that these data can act as an evidence base upon which to make further enquiries to fulfil the purpose of the topic. These are DWP datasets and these numbers and comments therefore represent council officers' understanding and interpretation of these data.
5. As a city council we are unable to overturn or stop national policy. However we may be able to work with others to reduce the risks of a person being sanctioned or mitigate some of the implications of being sanctioned.

## Data Headlines

6. In 2014 there were approximately 2,000 Job Seekers Allowance (JSA) and 50 Employment and Support Allowance (ESA) sanctions in Norwich (slightly more if one includes sanctions imposed after a review or appeal)
7. In line with general national trends the number of JSA claimants in Norwich referred for a sanction decision increased quite strongly in 2013 before reducing (albeit at levels higher than in 2009 – 2012) in 2014, particularly from late 2014, against a backdrop of falling numbers of JSA claimants.
8. Approximately 35-45% of those decisions resulted in a sanction, which is lower than the national rate of around 50%.
9. Very generally JSA sanction rates in Norwich at about 5% of JSA claims mirrors the national picture compared to more fluctuating rates in referral.
10. Three in four sanctions were applied to a claimant who was neither disabled nor a lone parent. However one in five was applied to a claimant with a disability.
11. About a quarter of JSA claimants in 24 were under 25. However 43% of sanctions were applied to someone in that age group.

12. As the appended report says we do not have local data on housing tenure. However national data from Homeless Link suggests that 31% of homeless JSA claimants had been sanctioned compared to 3% of the non-homeless group.
13. The main reasons for being referred for a sanction in 2014 were:
  - Failure to participate in a scheme for assisting person to obtain employment (such as Work Programme) without good reason (36%)
  - Not actively seeking employment (33.1%)
  - Failure to attend or failure to participate in an adviser interview without good reason (16.5%)
14. Of these reasons though those referred for not participating in a scheme were sanctioned at a rate of one in four whilst those “not actively seeking employment” were sanctioned in 87% of the cases
15. Recent data also suggest that whilst overall 42% of referrals resulted in a sanction being applied those that were taken to a decision review resulted in a sanction at half that rate but those at “mandatory reconsideration” were sanctioned seven out of ten times and all cases at full appeal.
16. It does appear that recently the severity and level of sanction has increased with more “intermediate” sanctions being applied and around one in ten sanctions being “higher level” (which results in loss of benefit for between 13 and 152 weeks. We cannot say for how many weeks these higher levels have been applied).
17. There were large increases (from a very low starting base) in ESA referrals in 2013 and 2014 resulting in about 50 sanctions in 2014. Many referrals are cancelled prior to a decision.
18. National data suggested the sanction rate is around 2% (compared to around 5% for JSA).

## **Possible implications and commentary**

19. We cannot necessarily demonstrate direct causal relationships between sanctions and other outcomes. However some anecdotal evidence and officer feedback suggests some of the following:
  - Some homeless residents are “opting out” of the system altogether and consequently may be unable to meet any level of basic living or housing costs
  - There has been a marked increase in the use of local food banks in recent years, although there are likely to be multiple factors in this increase and not solely sanctions

- It is not clear to some officers about how much advice is incorporated into a formal sanctions decision notice to support claimants
  - In all cases after a sanction housing benefit payments are suspended pending proof of the change in income. We know of some cases where housing benefit is cancelled pending a fresh claim when the information required is not provided or the need not understood. All sanctioned claimants can still claim Housing Benefit (HB) but they may not be aware of this.
  - Housing staff report increases in workload trying to follow up suspended housing benefit claims to encourage residents to keep their HB claim live as well as increases in arrears, although an exact amount is not readily quantifiable
20. We recently commissioned a new financial debt and money advice consortium, two members of which (MAP and Equal Lives) have been invited to attend this meeting for their views on this topic. The MAP component in particular was specifically commissioned to work with younger people most likely to be at risk of sanctioning as it was recognised that this was likely to be a problem in Norwich. The data appear to bear this out.
21. These data also suggest that in some cases early advice and challenge may reduce the risk of a sanction being applied after a decision referral has been requested. However it also suggests that where a resident has been identified as not actively seeking work their chance of being sanctioned, once referred for a decision, are much higher. It may of course be the case that referrals via work programmes (where one in four referrals result in a sanction rather than nine in ten) are governed by less flexible rules, allowing work programme and similar providers little leeway to refer or not if certain criteria are met. This may be a useful question to raise with the DWP to understand what scope there may be to limit the number of referrals if these more often than not do not result in a sanction being applied.
22. Although national evidence suggests that the sanctions regime does seem to increase the numbers of people moving off benefits, it raises questions as to whether it has the desired effect of increasing the numbers moving into employment
23. We do not at this stage know how conditionality and potential sanctioning will impact working households under the new Universal Credit system where low income households within any amended tax credit system may need to demonstrate they are looking to “improve” their employment. This may also be a useful line of enquiry to understand how this has operated within Universal Credit pathfinder areas
24. It should also be noted that Discretionary Housing payments (DHP) cannot be used to make good losses of JSA / ESA following a sanction.

## Possible lines of enquiry

It is of course up to members of the committee to decide areas to pursue. However bearing in mind the scope of the topic and the desire to make a positive impact on the lives of residents some possible areas may include:

### DWP

25. How can information sharing around sanctions be improved to mitigate possible negative impact on HB claims, particularly when conditionality starts to effect working households under Universal Credit?
26. What scope is there to offer advice within formal sanction notifications?
27. If just one if four referrals from work programme or similar schemes results in a sanction what scope is there to filter referrals where sanctioning is ultimately unlikely?

### MAP

28. How can young people be supported to ensure that they are entering into a 'Claimant Commitment' with the DWP that enhance their chances of employment, whilst still being achievable?
29. Are there any realistic opportunities to promote simple messages which may reduce the risk of sanctioning (also applicable to Equal Lives)?

### Equal Lives

30. How can the increased emphasis on supporting ESA claimants to enhance their employability avoid the risk of increased sanctions that has attended increased JSA conditionality?
31. Are there any particular actions or the offering of particular advice which may reduce the risk of a person with a disability being sanctioned?

### Council operations

32. What other approaches can be developed in partnership with DWP and others to ensure that JSA/ESA sanctions do not inadvertently compromise HB claims?

## **Appendix - Benefit sanctions in Norwich (notes)**

Further to a June 2015 report from the New Policy Institute (NPI) on 'The rise of sanctioning in Great Britain'<sup>1</sup>, this paper looks at the statistical evidence on the prevalence of benefits sanctions in Norwich. It concentrates primarily on the sanctioning of claimants of Job Seekers Allowance (JSA) as these make up the vast majority of sanctions<sup>2</sup>. All data are sourced from the DWP's 'Stat-Xplore' database<sup>3</sup> and are based on the residency of the claimant being in Norwich as opposed to including all claimants at Norwich Jobcentre.

For avoidance of doubt, the report refers only to the original decision made (which is to say the data do not include reviews, reconsiderations or appeals) and to the numbers of decisions made (as opposed to the numbers of individuals receiving a decision) unless otherwise stated.

This is not intended to be a comprehensive guide to the sanctions regime, but for clarity's sake there is a glossary of key terms provided as an appendix. It is worth also reading the referenced NPI report as background, although comparisons with that national picture are drawn out through this paper.

### **Trends in JSA sanctions**

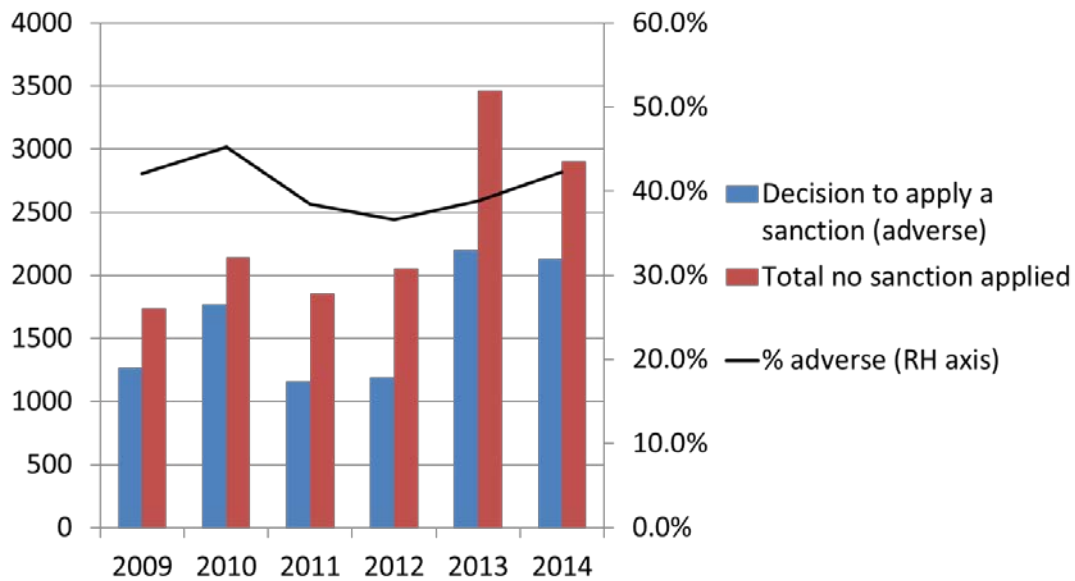
The first graph shows both the numbers of sanctions imposed in recent years, as well as the number of referrals made that did not result in a sanction being imposed either because it was an 'non-adverse decision' or the referral was cancelled or reserved (see glossary). It also shows (on the right-hand axis) the proportion of sanction referrals that resulted in an 'adverse' decision i.e. where a sanction was imposed.

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<sup>1</sup> <http://npi.org.uk/publications/social-security-and-welfare-reform/rise-sanctioning-great-britain/>

<sup>2</sup> In 2014 there were approximately 2,000 JSA sanctions and 50 ESA sanctions

<sup>3</sup> <https://stat-xplore.dwp.gov.uk/>

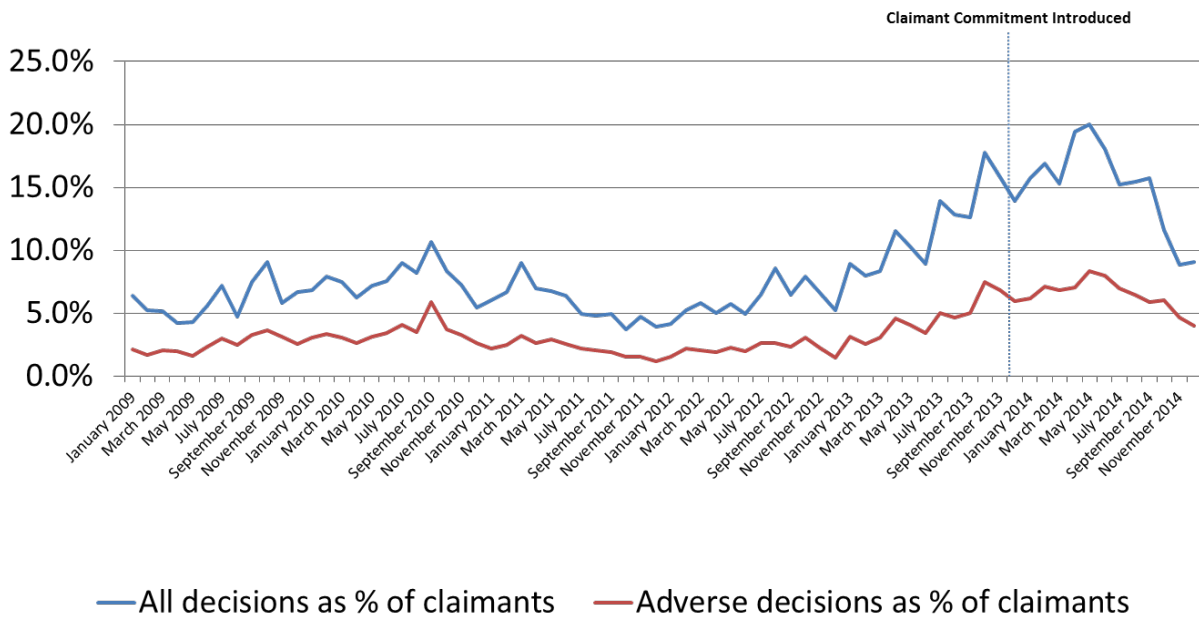


As can be seen from this graph, the total number of Norwich residents referred for a sanction decision increased markedly in 2013 before decreasing again in 2014, though the level remains above the scale of the years 2009-12. The number of these decisions that resulted in a sanction being applied also increased between 2012 and 2013 before decreasing slightly in 2014. This broad trend echoes the national picture, with NPI noting that ‘the large fall in the number of sanctions between 2013 and 2014 was almost entirely due to the reduction in the number of JSA claimants, not the system becoming less harsh.’ However, the reduction between 2013 and 2014 in Norwich was less marked than nationally.

The proportion of those referred for a sanction decision that resulted in a sanction remained fairly level over the period, staying with the range 35% - 45%. This looks to be lower than the national rate which was around 50% in 2014, meaning that Norwich residents were less likely to receive an adverse decision than on average if referred.

### **The sanction rate**

The next graph shows the relationship between the total number of JSA claimants in Norwich per month since 2009 and the numbers of sanction referrals and decisions.



This shows that the likelihood of being referred for a sanction decision has increased over the period, with a slight spike in late 2010 and then another increase throughout 2013 to a peak in mid-2014, before again a drop-off over the rest of the year.

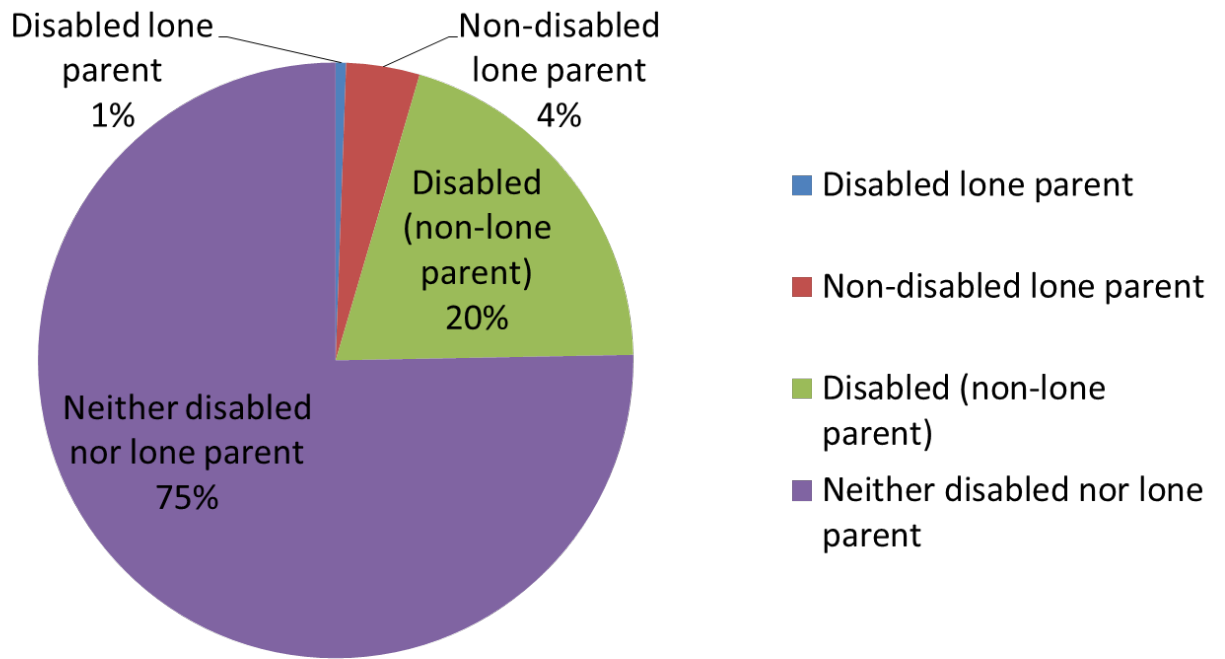
Although this is not directly comparable with the NPI report, we can still conclude that 'rate' of claimants in Norwich who are sanctioned over the last couple of years has been roughly in line with the national rate of around 5%. Again one can see as with the previous graph a high people number of people were referred for a sanction decision in 2013 and the first half of 2014, and as NPI observe 'while obviously not as bad as being referred for a sanction and then being sanctioned, referral itself is still a stressful matter.' However, it would appear that, locally at least, the rate that claimants are being referred for a sanction decision and then actually sanctioned has fallen off dramatically in the latter half of 2014.

It may be that one cause of both the increase and subsequent decrease in referral and sanction rates was the introduction of the 'claimant commitment' which was rolled out in Norwich around December 2013. This is intended to make jobseekers more accountable for their efforts to find work. As well as a new process it signalled a change of culture for both DWP staff and claimants, and we can speculate that this took time to become embedded as a way of working and that more people fell short of the new requirements until they became accustomed to the increased conditionality.

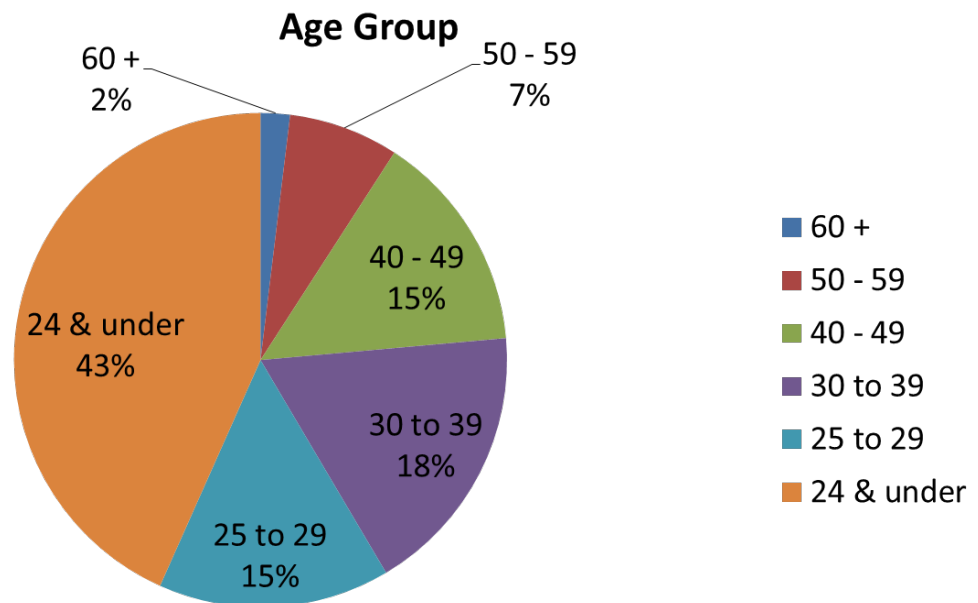
### Who is being sanctioned?

Two charts give us a bit of detail of who was actually sanctioned in 2014. The first looks at the disabled status and lone parent status of claimants, which is very similar to the national picture:





The second looks at the age profile of those sanctioned.



This shows quite clearly that claimants aged 18-24 are disproportionately likely to be sanctioned, with 43% of all adverse sanctions being applied to that group, whereas on average in 2014 they only made up 24% of the claimant count. In a 2014 report<sup>4</sup>, the Joseph Rowntree Foundation suggested various reasons for this trend, but that it is consistent with international evidence on the issue.

<sup>4</sup> <http://www.jrf.org.uk/sites/files/jrf/Welfare-conditionality-UK-Summary.pdf>

We have looked at data on the ethnicity of those being sanctioned, but the numbers involved were too low to tell us anything meaningful. Similarly, there was nothing significant to be derived from gender profile.

Although we do not have access to data on the housing status of those being sanctioned locally, Homeless Link undertook research in 2013 that showed that nationally '31% of homeless people on Jobseekers Allowance (JSA) had been sanctioned, compared to just 3% of typical claimants'<sup>5</sup>

### **Why are people being sanctioned?**

As with the national picture, there were three main reasons for Norwich residents to have a sanction applied in 2014, namely:

- Failure to participate in a scheme for assisting person to obtain employment (such as Work Programme) without good reason (36%)
- Not actively seeking employment (33.1%)
- Failure to attend or failure to participate in an adviser interview without good reason (16.5%)

Of these, the first referral reason is least likely to end in a sanction being applied with only 1 in 4 referrals resulting in a sanction and over half the referrals being cancelled. We understand that this is due to the lack of discretion granted to Work Programme providers about whether they refer participants for a sanction decision in the event of being late, for example. Conversely, a sanction was applied around 87% of the time if referred for a decision for 'not actively seeking work' in 2014. It may therefore be possible to conclude that failure to demonstrate "actively seeking work" significantly increases the chance of being sanctioned than infraction of Work Programme or similar scheme rules.

In terms of likelihood of being sanctioned, there was a difference in 2014 between stages of the decision-making process. At the original decision stage, 42% of referrals resulted in adverse decisions, whereas at decision review this fell to 21%, rose 68% at mandatory reconsideration and further to 100% at appeal (although there were only 7 appeals on sanction decisions). This indicates that there is a good case for asking for a decision to be reviewed, but less likelihood of a positive outcome for the claimant if it goes to mandatory reconsideration or appeal. Consequently receiving appropriate advice could help people who have been sanctioned to decide what action to take.

### **Level of sanctions**

Owing to the change of sanctions regime in October 2012, it is difficult to derive much meaningful information on trends over time, but between 2013 and 2014 there was a decrease in the proportion of 'lower-level' sanctions imposed in Norwich and

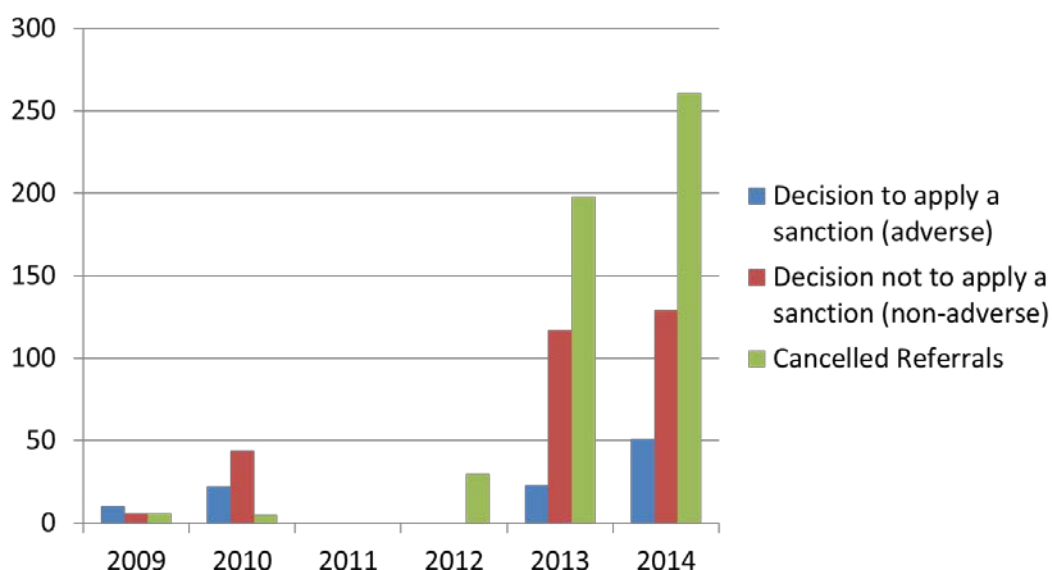
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<sup>5</sup> <http://www.homeless.org.uk/connect/news/2013/sep/23/benefit-sanctions-hitting-homeless-people-hardest-0>

an increase in intermediate level sanctions. Although in practical terms both these levels of sanction result in losing benefit for between 4 and 13 weeks, intermediate level sanctions also involve the JSA claim being closed. Higher level sanctions can result in losing benefit for between 13 and 152 weeks; there were around 200 higher level sanctions (or 10% of all sanctions) imposed in Norwich in both 2013 and 2014.

## ESA sanctions

The next graph gives an overview of ESA sanctions over recent years:



As can be seen, numbers of Norwich ESA claimants referred for a sanction decision and ultimately sanctioned remain low relative to JSA, albeit having increased from almost nothing in 2011 and 2012, as was the case nationally. There are quite a high proportion of referrals that are cancelled before a decision is made and a very small number of actual sanctions imposed (51 in 2014). As the volumes are so low, there is very little meaningful analysis to be undertaken. At a national level NPI note that 'around 2% of the stock is sanctioned on average each month.'

## Unanswered questions

The data that we have looked at above can tell us a certain amount about the patterns and prevalence of sanctions, but it cannot tell us about a series of issues that are raised by the regime. The first of these is that we cannot tell what the impact of those sanctions has been. National evidence suggests a number of possible impacts:

- The Work and Pensions Committee identified in their report on sanctions<sup>6</sup> that 'there is clear evidence that benefit sanctions tend to increase exits from benefits—known as benefit off-flow' but raised questions about whether this was necessarily people moving into employment, and if so, what the quality of

<sup>6</sup> <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmworpen/814/81402.htm>

that employment was. There is some anecdotal evidence locally and nationally that some more vulnerable people are disengaging from the system, as they struggle to navigate the conditionality and sanctions regime

- Homeless Link found in their 2013 research (referenced above) that there were a number of impacts on homeless people, including accommodation problems, food poverty, increased debt, 'survival crime' and anxiety
- Again, the Work and Pensions Committee noted that there had been 'largely qualitative evidence that benefit sanctions were a significant contributory factor to a recent rise in referrals to voluntary sector food aid', but local data does not give us a robust evidence base from which to draw this conclusion
- The Oakley Review of sanctions<sup>7</sup> found evidence that individuals who have been sanctioned for JSA also have inadvertently had their Housing Benefit claim suspended, which then could lead to increased arrears, and even loss of accommodation on occasion. This has happened in Norwich, partly due to the quality of information received from DWP when an individual has been sanctioned. In practice notification is received from the DWP that JSA entitlement has ended and therefore HB is suspended and the claimant written to. In the event of further contact not being received HB is cancelled.

The other question that is raised is about the future of sanctions. There appears to have been a decrease since mid-2014 in the rate and number of referrals and sanctions being applied, which may mean that this is an issue that is declining in significance. However, we have yet to see Universal Credit rolled out in Norwich, which means a change of system for the DWP and claimants, albeit mirroring the 'claimant commitment' regime already instituted under JSA.

The more distant horizon is that when the current Working Tax Credit system is integrated into Universal Credit, then this will mean the advent of 'in-work' conditionality i.e. that working claimants will not just have to meet the existing financial eligibility criteria, but will also be subject to conditions around increasing or improving their employment, depending on their circumstances. This means that individuals and households who are not habituated to conditionality will have to navigate this for the first time, with all the attendant risk of sanctioning, described by NPI as 'an alarming prospect'.

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<sup>7</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/335144/jsa-sanctions-independent-review.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/335144/jsa-sanctions-independent-review.pdf)

## Glossary

**Original:** An original decision is made by a decision maker following a referral by a Jobcentre Plus or employment programme staff member.

**Decision review:** An explanation of a sanction decision can be made by the claimant, or the claimant's representative; or Jobcentre Plus staff acting on behalf of the Secretary of State. This explanation may identify circumstances which may lead to a revised decision.

**Mandatory Reconsideration:** This is a formal application for a revision of a sanction decision. Mandatory reconsiderations were introduced in 28th October 2013.

**Appealed:** A claimant can appeal a decision notified. Prior to 28th October 2013, a claimant could appeal at any time (within a time limit) following the issue of either an original or reconsidered decision. From 28th October 2013, a claimant cannot appeal against a decision until they have requested a mandatory reconsideration from the Department for Work and Pensions and received a mandatory reconsideration notice. An appeal is heard by Her Majesty's Court and Tribunal Service (HMCTS)

**Decision not to apply a sanction (Non-Adverse):** this a decision found in favour of the claimant, i.e. a sanction or disallowance is not applied. A non-adverse decision can be made at the original decision making point, at reconsideration, or on appeal.

**Decision to apply a sanction (Adverse):** this a decision found against the claimant, i.e. a sanction or disallowance is applied. An adverse decision can be made at the original decision making point, at reconsideration, or on appeal.

**Reserved Decisions:** a reserved decision is where a sanction would be appropriate but cannot be imposed because the claimant does not have a current claim to JSA. A case would be re-referred if the claimant reclaims JSA within the period of the reserved decision.

**Cancelled Referrals:** A cancelled decision can occur in specific circumstances:

(a) the claimant stops claiming before they actually committed the sanctionable failure. For example, if a claimant failed to participate with the Work Programme scheme on 25 October 2012, the referral would be cancelled if the claimant ended their claim prior to 25 October.

(b) the claimant has left employment voluntarily or through misconduct, but the period of employment in doubt did not immediately precede their JSA claim.

(c) there has been no response, within 10 calendar days, to an enquiry sent to the Jobcentre and it is not possible to obtain the information required from another source.