

# Conditionality, sanctions and hardship

Equality impact assessment

March 2011

# Conditionality, sanctions and hardship equality impact assessment

## Policy scope of this assessment

1. The aim of Universal Credit is to ensure that work pays and our package of employment support – including the new, integrated Work Programme – will allow us to respond flexibly to claimants' needs. In return, we expect claimants to do everything that can reasonably be expected of them to find work or prepare for work in the future as a condition of receiving support. This is known as conditionality and will be backed up by tougher sanctions to ensure claimants meet their responsibilities.
2. The Bill sets the framework for the application of conditionality under Universal Credit, and sanctions under Universal Credit and existing benefits, and provides enabling powers in relation to this framework. This assessment will consider the three main conditionality and sanctions changes we are introducing through the Bill.<sup>1</sup> We expect the impacts of the proposed changes to broadly stay the same. As we finalise policy through regulations, we will reassess equality impacts and, where necessary, update this assessment and/or carry out additional assessments. The three main changes we are considering in this assessment are:
  - a. **personalised conditionality for couples on benefit;**
  - b. **reform of the sanctions system so that it more effectively encourages recipients to meet their responsibilities; and**
  - c. **changes to hardship payments.**
3. We are also introducing a claimant commitment to support these changes and the application of conditionality more generally. All claimants - with some exceptions e.g. to allow for sudden ill health - will be required to accept their claimant commitment as a condition of entitlement to benefit. Accepting the commitment will not be burdensome - it will be part of contact that a claimant would otherwise have with us (e.g. as part of a planned interview or as part of the claim), and we will ensure it can be accepted using a variety of channels suitable to a claimant's circumstances. The commitment does not change the

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<sup>1</sup> Separate EIAs will be prepared in relation to changes to (i) conditionality for partners which are not being made by the Bill, as we finalise proposals; and (ii) to conditionality for lone parents - (see "Removing Income Support eligibility for lone parents with a youngest child aged five or over").

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requirements a claimant must meet, rather it is intended to help explain any requirements as clearly as possible. We do not believe there are any equality impact issues associated with its introduction.

4. We will begin to make these changes in the existing benefits system and they will be carried forward under Universal Credit, though with some adjustments to take account of Universal Credit being an in and out of work payment.

## Consultation and involvement

5. In July 2010 we published the consultation document *21st Century Welfare* (Cm 7913). The consultation period ran from 30th July to 1st October. We received 1668 responses via telephone, post, email and through our online consultation site (including replies from over 300 organisations representing the private, voluntary and public sectors and nearly 600 from DWP staff), including from:
  - United Kingdom Disabled People's Council
  - The National Council of Women of Great Britain
  - The Poverty Alliance
  - TUC
  - Welfare Rights Unit
6. Issues raised by consultees included, that:
  - it is reasonable to apply conditionality to the receipt of benefit, and that for those able to work, the existing requirements to be available for and actively seeking work could be extended to require claimants to carry out work that supports local communities; and
  - if conditionality is increased, protections must be put in place to ensure that vulnerable people are not penalised.

## Impact Assessments

7. The following section assesses the impact of each of the three key policy changes: personalised conditionality, reform of the sanctions system, and changes to hardship payments. For each policy change we include a summary of the planned changes; an assessment of the extent to which different groups will be affected by the planned changes; potential issues arising from the impact of the policy on particular groups; and finally, proposals to maximise the benefits and mitigate any costs resulting from the proposed changes.

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# A: Personalised conditionality for couples on benefit

8. Under Universal Credit, requirements will be set according to individual capability and circumstance. Compared to the current system this will, in particular, mean a change for some couples. This assessment considers the impact on couples.
9. Under the current system, assessments of entitlement to income-related welfare benefits such as Income Support (IS), income-based Jobseeker's Allowance (JSA) and income related Employment and Support Allowance (ESA)/Incapacity Benefit (IB) are calculated on a family basis. Where two members of a couple require support, currently only one member of the couple (the 'claimant') makes the claim for benefit. The claimant is required to meet the full conditionality requirements of the particular benefit claimed and receives additional payment for their partner. In the case of JSA the claimant must demonstrate that they are actively seeking and available for work as conditions of entitlement. In ESA and IS, the claimant is only required to take part in Work-Focused Interviews<sup>2</sup> (although we are introducing a requirement that most ESA claimants who are capable of doing so take part in work related activity to help them to prepare to move into work). The partner, however, is only expected to attend either a single Work Focused Interview (in the case of partners of ESA and IS claimants) or, in the case of partners of JSA claimants, one Work Focused Interview (WFI) every six months.
10. The exception to this approach is for couples who do not have dependent children in their household, and who are claiming JSA. These couples are generally required to make a joint claim for JSA and both members of the couple are required to meet full JSA labour market conditions, including the requirement to actively seek employment, except for in certain defined circumstances. They will also have equal access to Jobcentre Plus service and support.

## Couples Conditionality under Universal Credit

11. Where both members of a couple are out of work, we believe it is right that both individuals should be required to find work or prepare for work if they are capable of doing so. This will increase the likelihood of one or both members of the couple finding employment and all the benefits that brings.
12. Under Universal Credit all couples will be required to make a joint claim. We will no longer apply the concept of a partner and instead all claimants will have to meet conditionality requirements in line with their personal circumstances and capability. The policy is designed to enable more people to move back to work, or closer to the labour market - improving outcomes for individuals and families. We will, of course, ensure that any requirements imposed on a claimant are

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<sup>2</sup> A Work Focused Interview (WFI) is an interview relating to work or work preparation.

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appropriate and reasonable taking into account each individual's capability and circumstance.

13. Couples with a child under five but over one will need to nominate which of them is the "responsible carer". The responsible carer will only be required to attend Work Focussed Interviews (WFIs). Where the youngest child is at least 5 years old but under 13, requirements will always take into account childcare needs. For example, a claimant may be able to restrict their availability for work to jobs that can fit around school hours.
14. As now, financial support will remain unconditional for those who we do not expect to be able to work or prepare for work, including where a claimant:
  - has been assessed as having Limited Capability for Work and Work-Related Activity (i.e. claimants in the current ESA Support Group);
  - has regular and substantial caring responsibilities for a severely disabled person; or
  - is the responsible carer for a child under the age of 1

### **Changes in couple conditionality in advance of Universal Credit**

15. We expect to start to move towards this position in advance of Universal Credit through changes using existing legislation. A separate EIA will be produced relating to these changes as we finalise proposals.

### **Equality impact**

16. There are currently 281,000 couples with children claiming JSA, IS only, IS and IB or ESA and 117,000 couples without children claiming IS only, IS and IB or ESA<sup>3</sup> (combined). Whilst the changes are gender neutral, the partners within these couples may see changes in their conditionality regime following the introduction of Universal Credit.

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<sup>3</sup> The group excludes couples without children who claim JSA as these are already treated as a Joint Claim.

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**Table 1: Evidence Base<sup>4</sup>**

		<b>Proportion of partners affected by the introduction of personalised conditionality as broken down by group</b>
<b>Gender</b>	<b>Male</b>	27%
	<b>Female</b>	73%
<b>Age</b>	<b>&lt;25</b>	11%
	<b>25 - 29</b>	12%
	<b>30 - 34</b>	13%
	<b>35 - 39</b>	14%
	<b>40 - 44</b>	15%
	<b>45 - 49</b>	14%
	<b>50 - 54</b>	12%
	<b>55 - 59</b>	9%
	<b>Disability</b>	<b>Yes</b>
<b>No</b>		73%

### **Disability**

17. Table 1 indicates that 27% of the partners who will be affected by the introduction of personalised conditionality have a disability. We also know that a significant number of partners of existing claimants with a health condition or disability will be affected by the changes. We need to ensure that any requirements imposed on a claimant are reasonable for the individual and always take into account caring responsibilities.

### **Race**

18. Survey evidence<sup>5</sup> from the evaluation of Work Focused interviews for Partners (WFIP) and New Deal for Partners<sup>6</sup> (NDP) found that 17% of partners were from an ethnic minority background, a significant majority of whom (88%) said that English was not their first language. This evidence highlights the ongoing need to consider what support might be required when extending conditionality to groups with particular language needs.

### **Gender**

19. Whilst the policy is gender neutral, the majority (73%) of partners who will be affected by the introduction of personalised conditionality are female. A

<sup>4</sup> Work and Pensions Longitudinal Study May 2010

<sup>5</sup> The quality of data on ethnicity is linked to the degree of contact with customers. As contact with partners in couples increases there will be greater opportunity to increase the coverage of ethnicity data.

<sup>6</sup> Coleman, N. et al (2006) "Work Focussed Interviews for Partners and Enhanced New Deal for Partners: Quantitative Survey Research", DWP research report 335

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potentially significant number of these claimants will have caring responsibilities. We will ensure that any requirements imposed on a claimant are reasonable and take into account their caring responsibilities.

### Age

20. The policy will apply to people of all ages claiming Universal Credit. As shown in the table, there are no particular age groups who are affected more significantly than other age groups by the introduction of this policy.

### Policy response

21. Applying conditionality to each member of a couple on the basis of their personal circumstances and capability, and providing appropriate support, will help more people move off benefits and into work. This is in contrast to the current system where partners of claimants (excluding most people claiming joint-claim JSA) who may be fully capable of work are effectively ignored by the benefit system, with only minimal requirements to attend work focussed interviews. Although the overall effect of the policy is intended to be positive for all groups, the equality impact analysis shows that we need to take care to ensure that any requirements imposed are reasonable for the individual in question - taking account, in particular, of any caring responsibilities or the needs of any disabled person affected by these changes. We have taken steps to ensure this is the case. Legislation will provide certain safeguards:

- no requirements may be imposed on any individual who: is assessed as having limited capability for work and limited capability for work related activity; has regular and substantive caring responsibilities; or is nominated as the responsible carer for a child under 1.
- only Work Focussed Interviews (WFIs) may be required of any claimant who is nominated as the responsible carer for a child under 5; and
- nobody assessed as having limited capability for work can be required to look for work.

22. Beyond this we will continue to strengthen our approach to personalised conditionality and continue to ensure that:

- Jobcentre Plus has in place communications policies such as the use of interpreters to take account of contact with people whose first language is not English;
- some claimants are able to limit their job search to fit around school hours (as is the case with lone parents);
- requirements will be personalised to take account of caring responsibilities (including for a partner), and disability related barriers to work, including mental health;
- Jobcentre Plus provides support to parents and carers through time with an adviser and tailored training provision. Relationship managers, (formerly known as partnership managers) working with key partners, will also help parents and carers access local services;

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- lessons learnt from the Partners Outreach for Ethnic Minorities (POEM) programme are taken into account;<sup>7</sup> and
- advisers provide more ongoing support to build up the skills and confidence of the significant numbers of existing partners who have had lengthy gaps from paid employment.

### Other conditionality changes

23. In addition to the changes proposed for couples, the Bill makes clear that ESA claimants in the work-related activity group can be required to undertake work experience and work placements as work-related activity.
24. Work experience and work placements can help the claimant understand more about their career options and skills, increase confidence, and provide valuable experience that makes them more attractive to an employer. This has the potential to increase labour market equality for disabled people who are currently far less likely to be in work than the overall adult population (46.1% of disabled people are in work, compared with 71.2% of the adult population).
25. We recognise that work experience will not always be appropriate for a claimant with limited capability for work, and are putting in place a number of safeguards to ensure requirements are always reasonable:
  - advisers will work with each individual to understand their capabilities. For example, it might not be reasonable to require someone to undertake full time work experience, but it might be reasonable to require them to undertake work experience for a few hours a week in a role that did not impact on their health condition.
  - Claimants in the Support Group – that is those who have both a limited capability for work and a limited capability for work-related activity - will not be required to undertake any work-related activity.
  - A claimant can request a reconsideration if they believe their requirements are unreasonable and if they fail to undertake the activity, they will have the opportunity to show good reason for this before a sanction is imposed.
26. We will consider any equality impacts further as we finalise proposals through regulations.

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<sup>7</sup> The Department piloted an outreach programme for Partners: the 'Partners Outreach for Ethnic Minorities' (POEM), beginning in 2007. POEM was designed to support people of working age who were not in contact with Jobcentre Plus services, who were neither working nor claiming benefits. The evaluation found that it was important to distinguish between those who could begin looking for work within the first few appointments with their advisers, and those who required more support - for example building confidence and receiving support with English. Some partners needed more guidance on their career options, and some needed coaching in UK business culture.

## B: Reform of the sanctions system

### Current sanctions system

27. The current JSA sanctions regime does not work effectively. It is too complex, sanctions for some failures are set at too low a level and claimants are not always clear about the sanction they will receive. The sanctions for the most serious failures are variable from one to 26 weeks. These currently apply, for example, where a claimant refuses employment; leaves employment voluntarily or due to misconduct; or neglects to avail himself of a reasonable employment opportunity. Where a claimant fails to meet either or both of the conditions of entitlement to be available for and actively seeking work this will lead to disentanglement. However, claimants can re-claim immediately and receive the full amount of JSA so long as they can show they are now meeting their conditions of entitlement. Sanctions for other failures, such as for not following a direction from an adviser (e.g. a requirement to complete a CV), lead to fixed sanctions of two weeks for a first failure, four weeks for a second failure, and up to 26 weeks for a third failure in some circumstances (e.g. where the sanction is received during participation in contracted employment support).
28. The ESA sanctions regime is similarly complex and opaque. ESA claimants in the Work Related Activity Group are required to attend WFIs. If they fail to meet this requirement, benefit is reduced by 50% of the work related activity component (WRAC) for up to four weeks or until the customer re-engages. If the non-compliance continues beyond four weeks, benefit is sanctioned at 100% of the WRAC until the claimant re-engages.
29. Income Support claimants who are required to attend WFIs can also be sanctioned for failing to do so – a non-compliant claimant's benefit will be reduced by 20% of the applicable amount for a single claimant of 25 or over until they re-engage. However, sanctions are cumulative. A 20% reduction can be imposed for each non-attendance or non-participation at a Work Focused Interview meaning the claimant's benefit could be reduced to just 10p.

### Changes to sanctions regime under existing benefits and Universal Credit

30. The Welfare Reform Bill will lay the foundation for a clearer and stronger sanctions system that will act as a more effective deterrent to non-compliance. We will introduce four levels of sanctions. These sanctions will only apply when claimants do not meet their requirements. The sanctionable amount under Universal Credit will be fixed at an amount broadly equivalent to the amount that will be sanctioned under existing benefits.
31. **Lower level sanctions** will be applied before the introduction of Universal Credit following non-compliance with those JSA requirements which are not covered by higher or medium level sanctions, and following non-compliance by claimants in the ESA Work Related Activity Group (WRAG). They will also be carried forward

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into Universal Credit for jobseekers and those assessed as having Limited Capability for Work (i.e. former ESA WRAG) who do not meet work preparation requirements (e.g. writing a CV), work focused interview requirements or connected requirements (e.g. supplying information and evidence). We intend that there will be two components to a lower level sanction – an open ended component which will end when a claimant re-engages, followed by a fixed period of 1 week for a first sanction, 2 weeks for a second, and 4 weeks for third and subsequent sanctions. The open-ended component is intended to encourage claimants to quickly re-engage and the fixed component will provide a clear deterrent against non-compliance.

32. Universal Credit is intended to support a much wider range of claimants in a much wider range of circumstances than JSA (e.g. payments will include components for housing and children) so requirements will not be conditions of entitlement. A jobseeker who does not undertake all reasonable work search and be available for work will not, therefore, be disentitled from Universal Credit. Instead **medium level sanctions** will be applied. The first sanction will be for four weeks; second and subsequent sanctions will be for three months. Prior to the introduction of Universal Credit, disentitlement for these failures will continue but if the claimant reclaims JSA, his new claim will be subject to a sanction of up to 3 weeks for a first disentitlement and up to 12 weeks for a second (subject to an expiry period).
33. **Higher level sanctions** will be applied to jobseekers who do not – without good reason - meet their most important requirements, which might include accepting reasonable job offers and taking part in Mandatory Work Activity. We intend the first sanction to be for a fixed period of three months, six months for the second, and three years for the third and any subsequent sanctions (exceptions to this rule will include circumstances where a claimant leaves a job voluntarily, and there is only a short period – e.g. two weeks – left of the employee's contract). These sanctions can only be imposed following non-compliance with requirements only applicable to JSA claimants and those subject to all work-related requirements under Universal Credit.
34. Some claimants, such as some lone parents, will only be subject to work-focused interview requirements. Non-attendance can often be due to challenging circumstances rather than wilful evasion of the rules. The amount of the reduction for claimants in this group will be 20% of the sanctionable amount for a first sanction, and 40% for the second sanction. The sanction will end when the claimant can demonstrate re-engagement. Unlike under current IS rules, the sanction will be capped at 40% of the sanctionable amount.
35. Claimants will continue to be able to show good reason, and, as now, after a sanction has been imposed, claimants will continue to have the right of appeal.

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### Equality impact

36. The tables below show the proportion of sanctions received by different groups. These figures are based on 2009/10 JSA data, with existing sanction failures grouped under proposed new sanction levels: lower, medium and higher.

#### Gender

37. Compared to their representation in the JSA population, the data in table 2 shows that male claimants receive a higher proportion of lower and medium level type sanctions<sup>8</sup>, whereas female claimants receive a slightly higher proportion of higher level type sanctions. The data is based on JSA claims from a single year and may reflect differences in the length of male and female claims.

**Table 2: JSA sanctions by gender<sup>9</sup>**

	<b>Female</b>	<b>Male</b>	<b>Unknown</b>
<b>% of total JSA population</b>	28%	72%	less than 1%
<b>% of total of JSA population sanctioned</b>	22%	78%	less than 1%
<b>% of total lower level type sanctions</b>	20%	80%	less than 1%
<b>% of total medium level type sanctions</b>	22%	78%	less than 1%
<b>% of total higher level type sanctions</b>	31%	69%	less than 1%

#### Disability

38. Disabled JSA claimants are slightly less likely to receive a sanction at the higher and lower levels. This is principally due to disabled JSA claimants more often being able to show 'good reason'<sup>10</sup> for potentially sanctionable failures (thus

<sup>8</sup> We are using the number of disentitlements for failing to actively seek or be available for work as a proxy measure for medium level sanctions.

<sup>9</sup> DWP Sanctions Tabtool and Sanctions Evaluation Database

<sup>10</sup> Under existing legislation 'good reason' is referred to in a variety of different ways (e.g. 'good cause'). Under the Welfare Reform Bill these terms are being consolidated into 'good reason'. There is no substantive difference between 'good reason' and other variants of the term.

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avoiding a sanction being imposed). As now, Universal Credit claimants will not be sanctioned if they show 'good reason'.

**Table 3: JSA sanctions by disability status<sup>11</sup>**

	<b>Not disabled</b>	<b>Disabled</b>	<b>Unknown</b>
<b>% of total JSA Population</b>	79%	20%	1%
<b>% of total JSA population sanctioned</b>	85%	15%	less than 1%
<b>% of total lower level type sanctions</b>	85%	16%	less than 1%
<b>% of total medium level type sanctions</b>	80%	20%	less than 1%
<b>% of higher level type sanctions</b>	86%	14%	less than 1%

### Race

39. Black and Asian claimants receive more medium level type sanctions compared to their representation in the overall JSA population. Conversely, White claimants receive a higher proportion of higher level type sanctions. There is no robust analysis as to why this occurs, but it may be due to different average claim durations, which may lead to a lesser or greater frequency of some sanctions.
40. In developing the new sanctions system we will need to consider how best to ensure all claimants fully understand the consequences of non-compliance across the full range of sanctions.

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<sup>11</sup> DWP Sanctions Tabtool and Sanctions Evaluation Database. We are not able to provide accurate figures for sanctions by DDA status, and have therefore used administrative self-certification of disability status as a proxy.

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**Table 4: JSA sanctions by ethnic group<sup>12</sup>**

	<b>White</b>	<b>Mixed</b>	<b>Asian or British Asian</b>	<b>Black or Black British</b>	<b>Chinese or Other Ethnic Group</b>	<b>Prefer Not to Say</b>	<b>Unkn own</b>
<b>% of total JSA Population</b>	<b>79%</b>	<b>2%</b>	<b>5%</b>	<b>6%</b>	<b>2%</b>	<b>6%</b>	<b>1%</b>
<b>% of total JSA population sanctioned</b>	<b>76%</b>	<b>2%</b>	<b>6%</b>	<b>7%</b>	<b>2%</b>	<b>5%</b>	<b>2%</b>
<b>% of total lower level type sanctions</b>	<b>77%</b>	<b>3%</b>	<b>5%</b>	<b>7%</b>	<b>2%</b>	<b>5%</b>	<b>2%</b>
<b>% of total medium level type sanctions</b>	<b>65%</b>	<b>3%</b>	<b>10%</b>	<b>12%</b>	<b>3%</b>	<b>5%</b>	<b>2%</b>
<b>% of total higher level type sanctions</b>	<b>84%</b>	<b>1%</b>	<b>4%</b>	<b>3%</b>	<b>1%</b>	<b>5%</b>	<b>1%</b>

### Age

41. Claimants aged 18-24 receive a higher proportion of all levels of sanction, compared to their representation in the JSA population as a whole. A 2006 report<sup>13</sup> noted that the higher proportion of young people sanctioned was considered by some to be a consequence of their attitude towards sanctioning, which was said to be more relaxed than those from other groups, possibly the result of younger claimants often being financially supported by their family.

<sup>12</sup> DWP Sanctions Tabtool and Sanctions Evaluation Database

<sup>13</sup> A Review of the JSA Sanctions Regime: Summary Research Findings (p.17). Available at [http://research.dwp.gov.uk/asd/asd5/report\\_abstracts/rr\\_abstracts/rra\\_313.asp](http://research.dwp.gov.uk/asd/asd5/report_abstracts/rr_abstracts/rra_313.asp)

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**Table 5: JSA sanctions by age<sup>14</sup>**

	<b>Under 18</b>	<b>18-24</b>	<b>25-49</b>	<b>50+</b>
<b>% of total JSA Population</b>	<b>less than 1%</b>	<b>31%</b>	<b>54%</b>	<b>15%</b>
<b>% of total JSA population sanctioned</b>	<b>less than 1%</b>	<b>48%</b>	<b>46%</b>	<b>7%</b>
<b>% of total lower level type sanctions</b>	<b>less than 1%</b>	<b>52%</b>	<b>43%</b>	<b>5%</b>
<b>% of total medium level type sanctions</b>	<b>less than 1%</b>	<b>40%</b>	<b>50%</b>	<b>10%</b>
<b>% of total higher level type sanctions</b>	<b>less than 1%</b>	<b>44%</b>	<b>47%</b>	<b>9%</b>

### **Sanctions for claimants with limited capability for work**

42. We do not have historical data<sup>15</sup> on the equality impacts of the proposed sanctions system for those who are assessed as having Limited Capability for Work (claimants currently in the ESA Work Related Activity Group). The proposed system would introduce longer sanctions for this group and at a higher financial value than is currently the case (though sanctions will only ever be at the lower level). In mitigation, sanctions for this group will only be imposed where there is a failure to comply with a requirement for no good reason. Requirements imposed on this group cannot include requirements to look for work or be available for work, and must always be reasonable given the circumstances and capability of the individual claimant. We will consider any equality impacts further as new data becomes available and as we finalise proposals through regulations.

<sup>14</sup> DWP Sanctions Tabtool and Sanctions Evaluation Database

<sup>15</sup> We will shortly publish new data on ESA sanctions including by main disabling condition.

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### Policy Response

43. The aim of our changes is to create a clearer, stronger sanctions system that is easily understood by all claimants and acts as a more effective deterrent to non-compliance. Sanctions do not exist in a vacuum – they are there to encourage claimants to take reasonable steps to find employment or move closer to the labour market – something that is in their interests.
44. Changes to the system, including the introduction of the claimant commitment (which will contain information about the consequences for failing to meet requirements), will help to incentivise claimants to meet their responsibilities and may help to reduce the overall number of sanctions and disentitlements<sup>16</sup>.
45. The introduction of the higher level sanction of up to 3 years for JSA claimants (and those subject to all work-related requirements under Universal Credit) who repeatedly fail to comply with requirements, and the introduction of a fixed sanction following disentitlement for certain failures, are expected to deter the minority of claimants who set out deliberately to abuse the system.
46. For lone parents and couples with a child under the age of five (but over 1) on IS or ESA (or those claimants only subject to Work Focused Interviews under Universal Credit) the reforms will introduce a cap on the proportion of benefit that can be subject to sanction for failing to meet requirements. We only expect claimants in this group to attend periodic WFIs and a failure to do so is not considered to be as serious as failures by claimants expected to be closer to the labour market. The sanction is therefore lower.
47. Claimants will continue to be able to show good reason, and, as now, after a sanction has been imposed, claimants will continue to have the ability to appeal. We will also maintain safeguards for vulnerable people and ensure that mental health conditions are taken into consideration.

### C: Changes to the Hardship Regime

48. Hardship arrangements are an essential part of the sanctions regime and should be seen as a form of mitigation.

#### Current Hardship regime

49. JSA claimants who are sanctioned (or, in certain circumstances disentitled) can apply for and receive hardship payments of income-based JSA if they can show that they or their dependants would suffer hardship in the absence of such a payment. The assessment takes account of whether the claimant or anyone else in the household has access to savings or earnings and whether the lack of a hardship payment would prevent the purchase of very basic necessities (e.g. electricity, clean water and a basic diet). The payment equates to their current

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<sup>16</sup> Availability for work and actively seeking employment will remain conditions of entitlement under JSA (and therefore failing to meet these conditions will lead to disentitlement). Under UC they will be work-related requirements and subject to sanction.

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weekly JSA payment less a proportion of their applicable amount. Most claimants must demonstrate they are actively seeking and available for work in order to be eligible for hardship payments. Payment can be made from the outset of a sanction for vulnerable people in hardship. Non-vulnerable claimants in hardship will generally need to wait fourteen days before becoming eligible for payment. Approximately 40,000 hardship payments are estimated to be made in a year.

### **Changes to the Hardship regime under existing benefits and Universal Credit**

50. The Bill provides for enabling powers to allow hardship payments to be made under both existing benefits and Universal Credit. These powers are broadly the same as under existing provisions that enable JSA hardship payments to be made where a claimant is subject to a sanction. They will, however, allow for the possibility of payments to be made recoverable in prescribed circumstances. We are also considering whether payments should only be available for part of the length of a sanction for claimants who repeatedly fail to meet their requirements. The changes we are making to hardship will not affect claimants in a vulnerable group (by virtue of their own circumstances or those of their dependents). We will consider the definition of vulnerable groups to ensure it is compatible with changes being made to existing benefits, and within Universal Credit. We will consider further the impact of any such change as the policy is developed.

51. As a result of the proposed changes to ESA sanctions, we will ensure ESA claimants in the work related activity group also have access to hardship payments. ESA hardship payments will not be recoverable. These hardship provisions will be carried forward into Universal Credit so that claimants with limited capability for work will have access to non-recoverable payments.

### **Equality impacts**

52. The Bill only provides enabling powers to allow for hardship payments. As the proposed changes to payments will only affect non-vulnerable groups and any recovery of payment for non-vulnerable groups will be gradual, we do not expect there to be equality impact issues. We will consider any equality impacts further as data becomes available and as we finalise proposals through regulations.

### **Policy response**

53. In terms of non-vulnerable claimants, our plans are to mitigate the need for repayments by setting manageable repayment rates, not charging interest, and not requiring re-payment until the claimant reaches the end of their sanction or where they otherwise have sufficient income or capital.

## Other protected characteristics

### Gender reassignment

54. The Department does not hold information on transgender people and it is not likely that this will be available in the future. However the Government does not envisage an adverse impact on these grounds.

### Sexual orientation

55. The Department does not hold information on sexual orientation of claimants and it is not likely that this will be available in the future. However the Government does not envisage an adverse impact on these grounds.

### Religion or belief

56. The Department does not hold information on the religion or beliefs of claimants and it is not likely that this will be available in the future. However the Government does not envisage an adverse impact on these grounds.

### Pregnancy and maternity

57. The Department only holds information on pregnancy and maternity where it is the primary reason for incapacity. It cannot therefore be used to accurately assess the equality impacts; however, the Government does not envisage an adverse impact on these grounds.

## Monitoring and evaluation

58. DWP is committed to monitoring the impacts of its policies and we will use evidence from a number of sources on the experiences and outcomes of the protected groups.

59. We will use administrative datasets to monitor trends in the benefit caseloads for the protected groups and in the level and distribution of benefit entitlements.

60. We will use survey data (for example the Family Resources Survey and Labour Force Survey) to assess trends in the incomes of the protected groups and in the employment outcomes.

61. We will use qualitative research and feedback from stakeholder groups to assess whether there are unintended consequences for the protected groups, and whether the policy results in adverse consequences for particular groups.

62. We will utilise feedback from Departmental employee networks and internal management information. For example we will monitor the level of appeals and complaints in order to assess the broader impact of the policy.

63. We will draw on broader DWP research where appropriate, as well as any research commissioned specifically as part of the evaluation of the measure.

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64. The material in this Equality Impact Assessment covers the equality groups currently covered by the equality legislation, i.e. age, disability, gender (transgender), and ethnicity. From April 2011 sexual orientation, religion and pregnancy/maternity will also be covered by the equality legislation; with the exception of maternity, these groups will not be captured in the Departmental administrative information. We have requested that information on religion and sexual orientation be included in the main survey used for low income and poverty analysis from April 2011. Also, as part of our actions in the context of the data requirements under the Equality Act, we are looking across DWP activities to identify and address further gaps in data provision wherever reasonable.

## Next steps

65. We expect to revise this EIA as the Bill goes through its Parliamentary stages and in more detail as the policy develops in regulations.

## Contact details

66. For further details about this assessment please contact us:

**Post** Economy and Employment Division, Department for Work and Pensions, 2nd Floor, Caxton House, Tothill Street, London, SW1H 9NA

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## Annex: Background Evidence Base

1. The profile of the working age benefit population by equality strand is set out here. This provides a point of reference against which we can judge whether the changes to the overall package of conditionality and sanctions proposals have a differential effect.<sup>17</sup>
2. The profile of those claiming working age benefits by equality strand is also set out below.

### Working age population and benefit recipients by protected group<sup>18</sup>

3. The working age population is approximately equally split between female and male. The JSA population contains a significantly higher proportion of males (72%); the ESA population has slightly more males than females (58% to 42%) while the IS lone parent population is almost exclusively female (98%).

**Table 1: Gender**

	<b>Female</b>	<b>Male</b>
<b>Working Age Population</b>	48%	52%
<b>JSA Population<sup>19</sup></b>	28%	72%
<b>ESA</b>	42%	58%
<b>IS Lone Parents (youngest child &lt;5)</b>	98%	2%

<sup>17</sup> Note that there are differences in profile between the working age population and the population as a whole - the working age population provides a better natural comparison group for working age benefits than the general population.

<sup>18</sup> Working Age population figures from Labour Force Survey Q2, 2010; Working age definition: males aged 16-64 and females aged 16-59; JSA figures from Tabtool and Sanctions Evaluation Database; ESA figures from Department for Work and Pensions Longitudinal Study February 2010.

<sup>19</sup> JSA claimant count figures for September 2009 from Nomis. These breakdowns are expected to change as more lone parents move onto JSA as a result of the recent change in the Income Support eligibility rules

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**Table 2: Disability Status<sup>2021</sup>**

4. 14% of the working age population is disabled<sup>22</sup>. The JSA population has a slightly higher proportion of claimants with a disability (20%), compared to the working age population, whereas the proportion of IS claimants with a disability is slightly lower (11%) than the proportion within the working age population. 93% of the ESA / IB population is DDA disabled.

	<b>Not disabled</b>	<b>Disabled</b>
<b>Working age population</b>	86%	14%
<b>JSA Population<sup>23</sup></b>	79%	20%
<b>ESA / IB</b>	7%	93%
<b>IS (lone parents)</b>	89%	11%

5. The working age population is principally White (88%). There are a higher proportion of ethnic minorities in the JSA population compared to their representation in the working age population, especially Black or Black British claimants.
6. There are a higher proportion of white claimants in the ESA population (93%) compared to their representation in the working age population and a lower proportion in the IS population (76%). There are a higher proportion of Black and Black British IS claimants (7% against 3% of the working age population) as there are for claimants of unknown ethnicity (9% against less than 1% of the working age population).

**Table 3: By Race<sup>24</sup>**

	<b>White</b>	<b>Mixed</b>	<b>Asian or British Asian</b>	<b>Black or Black British</b>	<b>Chinese or Other Ethnic Group</b>	<b>Prefer Not to Say</b>	<b>Unknown</b>

<sup>20</sup> Family Resources Survey 2008/09. The definition of disabled used here is that given in the Equalities Act 2010 as required by statute.

<sup>21</sup> Note that Working Age Population and JSA claimants' disability status is determined by answer to self-reported disability question whereas ESA recipients have been assessed.

<sup>22</sup> By the Disability Discrimination Act (DDA) definition

<sup>23</sup> Claimant count from NBD on 16<sup>th</sup> September 2009 as Nomis figures unavailable.

<sup>24</sup> Working Age population figures from Labour Force Survey Q2, 2010; Working age definition: males aged 16-64 and females aged 16-59; JSA figures from Tabtool and Sanctions Evaluation Database; ESA figures from Department for Work and Pensions Longitudinal Study February 2010.

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<b>Working Age Population</b>	88%	1%	6%	3%	1%	2%	less than 1%
<b>JSA population<sup>25</sup></b>	79%	2%	5%	6%	2%	6%	1%
<b>ESA</b>	93%	-	-	-	-	-	7% <sup>26</sup>
<b>IS Lone Parents (youngest child &lt;5)</b>	76%	2%	4%	7%	2%	-	9%

7. Compared to within the Working Age Population overall there are a higher proportion of young people (18 – 24) in the JSA population, a lower proportion claiming Incapacity Benefit (IB)/Severe Disablement Allowance (SDA), a proportionate number on ESA and a significantly higher proportion on IS. People aged 25-49 are proportionately represented on JSA and ESA, have a slightly lower proportion (compared to their representation in the working age population) on IB/SDA and a slightly higher proportion on IS. People 50+ have a lower proportion of claimants on JSA compared to their representation in the working population, but a higher proportion on IB/SDA and ESA.

**Table 4: By age<sup>27</sup>**

	<b>Under 18</b>	<b>18-24</b>	<b>25-49</b>	<b>50+</b>
<b>Working Age Population</b>	4%	15%	56%	25%
<b>JSA Population<sup>9</sup></b>	less than 1%	31%	54%	15%
<b>IB/SDA</b>	0%	4%	49%	47%
<b>ESA</b>	1%	14%	55%	29%
<b>IS Lone Parents (youngest child &lt;5)</b>	1%	39%	59%	less than 1%

<sup>25</sup> JSA claimant count figures for September 2009.from Nomis.

<sup>26</sup> Sample too small to divide between ethnicities.

<sup>27</sup> Ibid

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8. Employment and Support Allowance and Incapacity Benefit are designed for people who have a health condition or disability that means they have a limited capability for work. The table below shows the distribution of IB/ESA customers by medical condition, with mental health and behavioural conditions being the most common.

**Table 5: ESA Claimants by medical condition<sup>28</sup>.**

Mental and Behavioural Disorders	43%
Diseases of the Nervous System	6%
Diseases of the Circulatory or Respiratory System	7%
Diseases of the Musculoskeletal system and Connective Tissue	17%
Injury, Poisoning and certain other consequences of external causes	6%
Other	22%

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<sup>28</sup> Source: Department of Work and Pensions Longitudinal Study February 2010 (Figures may not equal 100% due to rounding)