

Briefing note

To: Scrutiny Co-ordination Committee

Date: 4th February 2015

Subject: Welfare Reform – Follow up on the report on the Impact of Sanctions in Coventry

1 Purpose of the Note

- 1.1 To inform the Scrutiny Co-ordination Committee of progress since the publication of the Impact of Benefit Sanctions on People in Coventry report in October, and provide some information about the Department of Work and Pensions (DWP) response to the Oakley report into sanctions which recommended a range of improvements to the administrative processes underpinning sanctions decision making.

2 Information/Background

- 2.1 The Scrutiny Co-Ordination Committee on 8th October 2014 received a copy of the original report produced jointly by Coventry Law Centre, Coventry Citizens Advice Bureau and the University of Warwick on the Impact of Benefit Sanctions on People in Coventry. Following this Coventry Law Centre held three meetings with staff from the local Job Centre to progress the issues identified in the report. These discussions were based on 15 detailed case histories of cases dealt with by the Law Centre which were provided to DWP to enable them to track through what had happened to the clients concerned.
- 2.2 This report details the progress that has been made between partner agencies on welfare reform and in particular sanctions. It also includes some information about the DWP response to the Oakley report into sanctions which recommended a range of improvements to the administrative processes underpinning sanctions decision making.
- 2.3 As a result of these discussions, issues fall broadly into one of four categories: issue resolved; issues being addressed; outstanding issues – local; and outstanding issues - national. These are issues are listed below.

1	IMPACT OF SANCTIONS ON HOUSING BENEFIT	Outstanding Issue - National
<p>The nationally produced DWP Sanctions leaflet has been amended to include a reference to Housing Benefit stopping when claimants have been sanctioned. The leaflet advises people to contact their local authority to let them know about their new financial circumstances.</p> <p>It was initially agreed that DWP staff locally would issue this leaflet to claimants who had been sanctioned but practise has recently been changed following new national guidance that claimants are now expected to go on line and find the leaflet. The leaflet is issued to those they think may not be able to manage to do this. Coventry Law Centre is continuing to see people who have been sanctioned and are not aware that they need to contact the local authority to ensure that Housing Benefit is aware of the reason they have been sanctioned.</p>		

In addition there is no direct communication between DWP and the Local Authority to inform them of the reason benefit has stopped. This issue is also raised in the Oakley report and in response to this DWP stated that they would be producing a national fix in autumn 2014 but this has not happened to date.

2	MANDATORY RECONSIDERATIONS –	Outstanding Issue - National
<p>The Law Centre has requested that where claimants have multiple mandatory reconsiderations following multiple sanctions that all are considered by the same office to avoid misunderstandings and to ensure a consistent response. We have been informed that this is outside local DWP control. We have also been informed that due to the reduction in the number of claimants there are now some offices which do not have sufficient work so this is leading to cases being transferred to other offices to balance workloads.</p>		

3	LACK OF EVIDENCE FROM DWP FILES TO BACK UP THEIR DECISIONS	Outstanding Issue – National
<p>The Law Centre has requested that if DWP do not have the evidence to back up their decisions, they should not continue to impose a sanction, because legally the burden of proof in such cases is on DWP not on the claimant.</p> <p>In one recent case where a tribunal heard a number of sanctions cases all relating to one claimant the tribunal also made this clear and asked for it to be reported back via the appeals officer.</p> <p>DWP locally were not aware that this is happening and felt that they have measures in place to ensure that all evidence is retained electronically and should not later be lost. This issue affects other types of case as well as sanctions such as overpayments. The Job Centre has also said that this issue is out of their hands locally.</p>		

4	WORK PROGRAMME AND JOBSHOP PROCEDURES	Outstanding Issue – National and Local
<p>Claimants have been sanctioned after they have attended at the work programme or jobshop but had failed to sign in. The Law Centre has requested that action is taken to ensure that staff in work programmes and the jobshop to tell people that they need to sign in as this is unnecessarily increasing sanctions.</p> <p>The DWP view is that the process already in place in this regard is robust but that in the event of a mistake having been made they felt that the decision maker would get in touch with the Work Programme provider to check whether or not the person had been there. It was agreed that the issue would be raised again with local work providers.</p> <p>Letters issued to claimants are not always accurate with regards to the reasons given for the sanction so that where claimants have attended late the letters that are issued state that the person is being sanctioned for non attendance rather than lateness. The misleading wording of the letters is not something that can be changed by local DWP and should be picked up as part of the response to the Oakley enquiry.</p>		

5	UNIVERSAL JOBMATCH AND ONLINE JOBSEARCH	Outstanding Issue - National
<p>The Law Centre is concerned that there is too much emphasis on requiring claimants to register with Universal Jobmatch (UJ) and use UJ to find work. This statement is contained in documents given out about the claimant journey but it is not a legal requirement. Given this we want to ensure claimants not on UJ are not penalised. Not all jobs are available there and many people find work in other ways and many organisations are unhappy with the applicants they get from UJ which may lead them to not use it.</p>		

The DWP state that they are asking claimants to set up an account with Universal Jobmatch which DWP can assist them to do but that it is not a requirement that claimants then use Universal Jobmatch thereafter. It should be noted that claimants are not told there is no legal requirement for them to use UJ and many feel pressured to do so and to prioritise this method of searching for work which may be to the detriment of finding a suitable job vacancy.

6	INTERPRETERS	Outstanding Issue- National and Local
<p>The Law Centre has dealt with cases of vulnerable claimants not understanding what DWP staff have said to them due to limited English and where they have not been offered an interpreter. These situations have then contributed to claimants being sanctioned. National guidance on the use of interpreters has changed and DWP locally state they are working to ensure that claimants are able to understand what is being said to them. This is being achieved by asking claimants to bring a family member (including children) or friends with them to act as interpreters. Where this is not possible DWP staff check whether the claimant can understand what is being said and, if this is not possible, they will involve the Big Word, a telephone interpreting service.</p>		

7	MANDATORY RECONSIDERATION DECISIONS AND PROCESS	Outstanding Issue- National and Local
<p>Some people are not getting their Mandatory Reconsideration decisions and there are also confusions around the process with some cases where claimants raise issues and ask for a review not being treated as if they were a Mandatory Reconsideration (MR). The DWP has circulated internal guidance which states that claimants who have had a sanction cannot immediately request a MR but are required to go through additional steps before the MR. This has been introduced to reduce the numbers of people using the Mandatory Reconsideration process. The Law Centre provides support to claimants to ensure that they are not required to go through unnecessary steps in the dispute process so that they can get their cases resolved as quickly as possible.</p>		

8	CLARITY ABOUT DATES OF SANCTIONS	Outstanding Issue- National and Local
<p>The Law Centre has requested that DWP should include in their sanction decision letters a list of all the previous sanctions that have applied to the person during the preceding 13 months so that it is clear which sanctions can still be disputed. Often when claimants and advisors try to clarify the dates of previous sanctions over the phone with DWP they are given incomplete information and this then leads to claimants not disputing all of the sanction decisions which they had grounds for disputing. Job Centre Plus has told us that this is outside their control as it will require a change in the wording of the letter at a national level.</p>		

9	INACCURATE INFORMATION BEING GIVEN ABOUT SANCTIONS	Issues being addressed
<p>Inaccurate information has been given by Job Centre Plus (JCP) staff about sanctions due to some staff not being able to use all of the computer systems involved. Job Centre Plus is rolling out training to resolve this issue.</p>		

10	COMMUNICATION BETWEEN DWP AND WORK PROGRAMMES	Issues being addressed
<p>It has been acknowledged that communication between Work Programmes to DWP is poor and that relevant information on sanctions cases is not being passed from Work Programmes to DWP. DWP have acknowledged that in one example case this has led to a person being sanctioned incorrectly.</p> <p>DWP have implemented monthly meetings with work programmes to address this and also training is being arranged for Work Providers from the DWP Merthyr Tydfil office.</p>		

11	PROVISION OF DIRECT DIAL NUMBERS	Issues being addressed
<p>Coventry Law Centre has been given direct dial numbers to use to contact local DWP team leaders in Cofa Court about sanctions cases which is helpful. It would be useful if agreement could be reached on sharing these numbers with other local organisations. However cases at a dispute stage are not dealt with locally and DWP cannot offer a phone number direct to decision makers but are looking at the possibility of providing email addresses to improve communication.</p> <p>The Law Centre has experienced issues with DWP staff not always being able to interpret the information recorded on their computer systems. However it is understood that there is an on-going training programme to assist with this.</p>		

12	IDENTIFICATION OF VULNERABLE CLAIMANTS	Issues being addressed
<p>In two of our case studies the DWP had not recorded the claimant as vulnerable although in one case the claimant had had a conversation about her problems with her advisor and in the other a social worker had conveyed this information to DWP. If claimants are not identified as vulnerable they are not afforded the protection this gives them and they are more likely to be incorrectly sanctioned. DWP have stated that they encourage claimants to tell them about the issues that make it hard for them to look for work and have also said they would like to receive information about vulnerability from organisations involved in assisting claimants.</p>		

13	NON RECEIPT OF LETTERS	Issues being addressed
<p>Locally DWP has acknowledged that some letters were being suppressed, and not receiving letters remains a contributory factor in sanctions. The Law Centre has requested that this problem is raised nationally and that action is taken to ensure that people are not sanctioned for not responding to a letter they have not had.</p> <p>DWP have stated that nationally staff are aware of the issue and that there is an audit trail for letters so that they can check that letters have actually been received. DWP have stated that this should now be checked in cases where the claimant alleges non receipt of a letter relating to sanctions.</p>		

14	CONFLICTING JOB CENTRE ACTIVITY AND PERSONAL APPOINTMENTS	Issues being addressed
<p>The Law Centre has requested that DWP should ensure that the appointments they arrange do not clash with personal appointments as claimants who may make the wrong decision which appointment to attend have been sanctioned in these situations.</p> <p>This has not been agreed but information issued to claimants does now tell them what to do if a work activity related appointment clashes and once their JCP advisors are aware of issues to do with clashing appointments they should agree to a different time for any appointments that they need to attend at the jobcentre. It is left up to jobseekers to use their initiative to sort out these issues. If they do not do this then they may still be sanctioned. Claimants may also be asked for proof of other appointments e.g. with a doctor etc before DWP will agree to rearrange their appointment. However, whether these reasons will be accepted depends on circumstance and advisor discretion.</p>		

15	JCP REFERRALS TO ADVISORS/SUPPORT ORGANISATIONS	Issues being addressed
<p>Coventry Law Centre have requested that it would be helpful if claimants who have repeated sanctions could be offered support by Job Centre Plus offering them the opportunity to be referred to an appropriate external agency. Job Centre Plus staff have agreed to raise this with their managers to see if this could be offered in principle and if this is agreed more work will be done to come up with an agreed policy.</p>		

16	JOB SEARCH WORK PLAN COMPLETION	Issues being addressed
<p>Claimants with literacy/language problems have been sanctioned for failing to complete their work plans adequately. DWP state that they will accept verbal information of work search as well as evidence of other forms of activity such as might be recorded on smartphones. They feel that the action that they are taking provides adequate protection.</p>		
17	ESA VULNERABLE CLAIMANTS	Issues being addressed
<p>ESA sanctions are not for set periods like JSA sanctions but run for a penalty period after the person has complied. The Law Centre are concerned that if they are not given weekly opportunities to comply then their sanction may then run on longer than necessary. The DWP view is that once the sanction decision is made it is up to the customer to take the action required i.e. to ring the DWP if that is the reason they have been sanctioned or to attend at the work programme.</p>		
18	ISSUING OF DWP LETTERS	Issue resolved
<p>In one of the 15 cases an actively seeking work letter which should have been issued automatically by the DWP computer was not. This mistake could have affected other claimants and has now been addressed so should not affect others in future.</p>		
19	EVIDENCE FOR HARDSHIP PAYMENTS	Issue resolved
<p>With regards to evidence needed for hardship payments it has been agreed that tenancy agreements are only needed for claimants who are in rent arrears. The Redditch office who now deal with Hardship Payment applications are also aware of this.</p>		
20	HARDSHIP PAYMENT APPLICATIONS	Issue resolved
<p>It has been agreed that where claimants cannot afford the cost of the phone call to claim a Hardship Payment they can ask the local job centres to arrange for Redditch to call them.</p> <p>However, the Law Centre is concerned that there is very little information produced by DWP to explain the claims process or to promote take up of Hardship Payments.</p>		
21	VISITS TO ESA VULNERABLE CLAIMANTS BEFORE SANCTION	Issue resolved
<p>The DWP aim to visit vulnerable ESA claimants before they are sanctioned. However, in one of our case studies, this did not happen and the case had to be pursued through an appeal to get the sanction overturned.</p> <p>The DWP view is that this should not have happened and steps have been put in place to ensure that in all of these cases where a visit has been attempted but has not happened details will be sent to a manager before imposing a sanction and the matter will then be reviewed again by a Decision Maker. These safeguards should prevent ESA vulnerable claimants cases having to go to appeal.</p>		

2.4 Other relevant local work on sanctions

Customer Journey

In addition to these discussions some work has been done with local agencies to map the DWP customer journeys and the ways this interacts with other agencies work flows. Consideration is now being given to how this can be taken forward.

Social Security Select Committee

Coventry Law Centre has shared information with local MPs and members of the Social Security Select Committee which is currently considering the question of sanctions.

2.5 Issues arising from the Oakley report

The work being undertaken locally about sanctions needs to be seen in the national context. Matthew Oakley's report on sanctions contained a number of recommendations and the Government has now responded to these as follows.

2.5.1 Sanctions Guide

The DWP has updated their guide on sanctions to provide clear information about how to avoid sanctions and gives a small amount of information about hardship payments. The leaflet also tells people to contact Housing Benefit straightaway. If benefit has been stopped it tells people that they should provide information about their good cause arguments, about the Mandatory Reconsideration (although this is not in accordance with the regulations) and with the appeal process.

The DWP state that they aim to give clearer preventative messages earlier in the journey including an Easy Read guide to sanctions. This is to be ready early in 2015.

The new leaflet does not address one key issue which is that there is a huge disparity between what DWP are expecting of claimants in their claimant commitment and what the law says is the legal test of looking for work. The Law Centre can provide more information on this on request.

2.5.2 Sanctions Decisions

DWP have also stated they will ensure a decision is made before benefit payment is stopped. They will increase checking on decision making quality. Work Programme providers can also check before referring whether a referral would be appropriate.

DWP have stated they will give clear reasons for the sanction. However this is still not happening and sometimes does not happen at the Mandatory Reconsideration either.

3.5.3 Claimant Commitment

DWP are relying on the fact that the claimant commitment will clarify things but this is in fact adding to the confusion as the claimant commitment tends to have more steps in it than legally required and this is adding to the pressure on claimants who are increasingly not claiming benefits while they are unemployed.

2.5.4 Housing Benefit

The IT solution to prevent stopping of Housing Benefit in sanctions cases was supposed to be implemented by the autumn of 2014 but it has not been implemented.

2.6 Current Situation

The DWP state that they have accepted the recommendations from the Oakley report however, little progress has been made on actually implementing some of the Oakley recommendations. In addition there has been an enormous increase in the number of sanctions being applied to ESA claimants since the Oakley report was published.

Locally sanctions are continuing to cause immense hardship and difficulty for those affected and there is no evidence of a reduction in the number of sanctions.

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