This evidence submission summarises the UK and international evidence on benefit sanctions as they apply to sick and disabled people, together with my (BBG’s) recommendations for how the system should be reformed. This builds on several years of work in this field (including 9 months on secondment at DWP), including previously giving oral evidence to the Committee, and I refer to more detailed written summaries of the evidence where available. (Some parts of this submission are extracts from my recent Demos report, Geiger 2018).

The submissions also mentions further, ongoing research on age-, ethnicity- and gender-related inequalities in sanctioning that I am doing jointly with Rob de Vries and Aaron Reeves.

In response to the overarching questions, ‘To what extent is the current sanctions regime achieving its policy objectives?’, I divide my response in two: whether the current sanctions regime is meeting its objective in increasing employment, and secondly whether the current sanctions regime is fair. These are the two most common justifications that are given for sanctioning sick and disabled benefit claimants.
The effectiveness of sanctioning

The employment impacts of sanctioning

The overwhelming majority of stakeholders that I have spoken to believe that conditionality would be counterproductive for sick and disabled people (see Geiger 2018). The international research evidence suggests that they are right.

It is true that programmes that combine sanctioning and support – such as the Support for the Very Long-Term Unemployed (SVLTU) Trailblazer in the UK1 and Personal Roads to Individual Development and Employment (PRIDE) in the USA2 – can sometimes increase employment outcomes for disabled people, though not, as has been claimed, Pathways to Work in the UK.3 However, the employment impacts were relatively small, and the programmes were only aimed at those with less severe disabilities who are not claiming disability benefits. More importantly, even the OECD (2010), which is generally supportive of conditionality, accepts that it is impossible to tease apart the role of conditionality in these studies, and that the extra support alone could cause these positive impacts.

In a recent academic paper (Geiger 2017), I reviewed the only six studies I found that allow us to focus on the impacts of conditionality itself on disabled people, separate to the provision of support:

- Four studies have looked at the impact of mandatory rehabilitation-focused meetings on those on sick leave and disability benefits (in Australia, Denmark, Norway and Sweden).4

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1 The Support for the Very Long-Term Unemployed (SVLTU) Trailblazer was a randomised trial of a combination of support (either a work placement or intensive case management) and conditionality (compliance interview and frequent signing-on), among long-term JSA claimants. The number of days in work of JSA claimants who self-reported as disabled increased in the following 2 years, but there was no impact on employment at the end of the follow-up period DWP (2013), Support for the Very Long Term Unemployed trailblazer: longer term analysis of benefit impacts Ad-hoc statistical analysis 2013 - quarter 4, London, Department of Work and Pensions.

2 A randomised trial of the Personal Roads to Individual Development and Employment (PRIDE) program in New York – a combined support and conditionality intervention for disabled recipients of Temporary Assistance for Needy Families (TANF), excluding the most disabled claimants – resulted in a noticeable increase in employment. However, most people still never had a job across 4 years (the increase in being employed at all over 4 years was from 40 per cent to 45 per cent, and the number employed for four successive quarters from 20 per cent to 25 per cent), and total income barely changed (increases in earnings were outweighed by losses in cash assistance). Sanctioning was also much more common than employment outcomes (the number sanctioned at least once over 2 years rose from 8 per cent to 32 per cent)Butler, D., Alson, J., Bloom, D., Deitch, V., Hill, A., Hsueh, J., Jacobs, E., Kim, S., McRoberts, R. & Redcross, C. (2012), What Strategies Work for the Hard-to-Employ? Final Results of the Hard-to-Employ Demonstration and Evaluation Project and Selected Sites from the Employment Retention and Advancement Project. OPRE Report 2012-08, Washington, DC, Office of Planning, Research and Evaluation (OPRE), Administration for Children and Families, U.S. Department of Health and Human Services.

3 A report by the think-tank Reform called for greater conditionality for disabled benefit claimants, arguing that ‘there is some evidence of effectiveness for claimants with health conditions where conditionality has been applied’ Pickles, C., Holmes, E., Titley, H. & Dobson, B. (2016), Working welfare: a radically new approach to sickness and disability benefits. London, Reform.. Their main evidence for this is the Pathways to Work initiative, the Labour government’s 2003 trial requiring incapacity benefit claimants to attend a work-focused interview (supplemented by considerable investment in a wider package of support), where sanctioning was very rare and relatively minor. While earlier evaluations were primarily positive, later evaluations were not, and the National Audit Office ultimately branded the initiative a failure National Audit Office (2010), Support to incapacity benefit claimants through Pathways to Work. HC21 Session 2010-2011, London, The Stationery Office.

found positive impacts on return to work from sickness absence in Norway, but this is methodologically the weakest of the studies. The three stronger studies found either no effect (in Australia), or for two randomised controlled trials (in Denmark and Sweden), negative effects of conditionality.

- Two studies from the UK have looked more directly at the impact of sanctioning. The methodologically weaker of these finds suggestive evidence that sanctions may be partly driving people from unemployment into inactivity, and possibly also into employment (Reeves 2017). Much stronger evidence comes from a recent study by the National Audit Office (National Audit Office 2016), which found that Work Programme providers that relied more heavily on sanctioning for ESA claimants had noticeably worse employment outcomes for identical (randomly assigned) people – a finding that was the reverse of that for JSA claimants.

My conclusion in the paper is therefore ‘the limited but robust existing evidence focusing on disabled people suggests that sanctioning may have zero or even negative impacts on work-related outcomes’.

In response to the Committee’s question, Is the current evidence base adequate and if not, what further information, data and research are required?

A randomised trial of conditionality for sick and disabled claimants would provide stronger evidence, although it would be legislatively and ethically challenging to design. There are two relatively straightforward pieces of research that the Committee may want to recommend in its place:

1. An individual-level study of the impacts of sanctioning using administrative data. There are two ways of doing this in the absence of a randomised experiment: to compare people who are sanctioned vs. people that are not (which is a relatively weak method, as it is hard to control for differences between people), and to compare the behaviour of people who are sanctioned before vs. after their sanction (which in my view is a stronger method). This would require detailed administrative data held by the DWP that is not usually made publicly available, but which should be possible to share in a secure environment if the DWP wish to do so.

2. A study of sanctioning by different Work Programme providers. I have briefly described the National Audit Office study which exploited the random assignment of individuals to Work Programme providers within a given area, some of which were more likely to use sanctioning (National Audit Office 2016). This clearly shows the different impacts of sanctioning on JSA vs. ESA claimants, but it does not enable us to examine the impacts for JSA claimants who self-reported a health problem or disability. This should be available in DWP administrative data, and re-running the NAO analysis on this group would provide valuable further evidence on the impacts of sanctioning among this key group.

I should stress that despite the technical proficiencies of the DWP’s own analysts, the credibility of this research in the midst of a politicised field would be enhanced by being undertaken by an external expert.

The wider impacts of sanctioning

This partly responds to the Committee’s question, What effects does sanctions policy have on other aspects of the benefits system and public services more widely?

Melbourne Institute of Applied Economic and Social Research..
Less evidence is available about the wider impacts of conditionality on disabled people. Nevertheless, as sanctioning involves withdrawing money from people who lack jobs (even if mitigated by hardship payments), it is unsurprising that research has linked sanctioning in general with destitution and food bank use. For disabled people the issues may be even more acute, given the greater costs of disability, the greater challenges that many disabled people have in the labour market, and the added challenges of responding to sanctions by those with learning disabilities and mental ill health (Dwyer et al. 2016). Alongside these financial impacts, the stress of conditionality itself may also negatively affect disabled people’s health. We have already seen that the rollout of the WCA led to increases in suicides and mental ill health (Barr et al. 2016), and there is widespread anecdotal evidence that this is partly attributable to anxiety about the conditionality regime.

The fairness of sanctioning

The other main justification that is given for sanctioning sick and disabled claimants is that it is fair: the public expect claimants to make efforts to gain work in return for claiming benefits. While I have done a detailed study of public opinion about sanctioning in principle (Geiger 2018), I here focus instead on whether conditionality is fair in practice.

The practice of conditionality in the UK

Concerns about the practice of conditionality have been raised by the government-commissioned review of sanctions by Matthew Oakley, a major qualitative academic study and innumerable disability and social welfare charities and campaigners. I similarly heard from many frontline welfare-to-work agencies, disability charity staff and disability activists alike. Unfair conditionality was felt to stem from a combination of a lack of expertise by Jobcentre advisers (who were regularly referred to as ‘generalists’ without detailed knowledge of disability), combined with the lack of time available for these advisers to really understand a person’s health and wider situation (an average of 88 minutes per claimant per year, according to some welfare-to-work agencies). They argued that this was worst for people with learning difficulties or mental health issues, who either lacked insight into their condition or would only talk about their situation once they trusted their adviser.

There is wider evidence that bears this out. Based on an FOI release of official data, I show that disabled people on JSA were 26–53 per cent more likely to be sanctioned than non-disabled claimants between 2010 and 2014. While the conditionality regime in ESA is more health-sensitive, a

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5 Almost one-third of destitute people in the UK said they had been sanctioned Fitzpatrick, S., Bramley, G., Sosenko, F., Blenkinsopp, J., Johnsen, S., Littlewood, M., Netto, G. & Watts, B. (2016), Destitution in the UK. York, Joseph Rowntree Foundation.. A UK area-based study found that increased sanctioning of unemployment benefit claimants led to greater food bank use Loopstra, R., Fledderjohann, J., Reeves, A. & Stuckler, D. (2016), The impact of benefit sanctioning on food insecurity: a dynamic cross-area study of food bank usage in the UK. Sociology working paper 2016-03, Oxford, Department of Sociology, University of Oxford..

convenience survey of WRAG claimants still found that only about 20 per cent thought their adviser recognises all the barriers they face, and over half thought their action plan was inappropriate for them (Hale 2014).

Inequalities in the sanctioning of JSA claimants in general

It is also worth noting ongoing research that I am doing with Aaron Reeves (at the London School of Economics) and Rob de Vries (at the University of Kent) to look at sociodemographic patterns in sanctioning decisions. While this looks at JSA sanctions rather than ESA sanctions, it highlights further inequalities by gender, ethnicity and most of all, by age, as shown in the chart below (taken from de Vries et al. 2017):

![Figure 2. Median percentage of claimants sanctioned per month by age, gender, and ethnicity (Nov 2012-Dec 2016)](image)

We are currently doing further work to examine how far these inequalities are maintained after controlling for one another (and for other factors), and how far these explain differences between Jobcentre districts in JSA sanctioning rates.

The role of the WCA

The WCA is partly responsible for these problems. Because the WCA has governed conditionality, the system has assumed that people found ‘fit for work’ have no health-related barriers to work or work-related activity. Yet this is not what the WCA assesses – there are plenty of sick and disabled

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people who do not meet the criteria set out by the WCA, who are nevertheless temporarily or permanently incapable of doing certain tasks. Even when deciding whether someone should be placed in the WRAG or the conditionality-free Support Group, the WCA functional descriptors bear almost no relation to people’s capacity to undertake ‘work-related activity’ (see Geiger 2018 for details).

It is unclear how the situation has changed in the last few years. The use of sanctioning in general has declined, sickness provisions in JSA have improved, and more scope has been given to Jobcentre staff to personalise conditionality. A further flexibility that may have helped is the exceptional circumstances safeguard in the WCA (regulations 29 and 35), where people can be allocated to the WRAG or Support Group if any other decision would substantially adversely affect their health, which in many ways was a direct assessment of whether people could cope with conditionality. However, this avenue was closed with revised guidance in late 2015 that reduced the proportion allocated to the Support Group (as shown in the Introduction), which placed the onus for conditionality assessment back onto frontline staff.9

**International evidence on implementing conditionality**

In a recent academic paper (Geiger 2017), I reviewed the implementation of disability conditionality in several high-income countries – further detail is available in the paper, but I summarise the lessons for the UK here. The comparative research shows that countries implement conditionality for disabled people very differently, which is likely to influence both the fairness of the system and the impacts it has; the differences are summarised in the table below.

<table>
<thead>
<tr>
<th>How countries implement conditionality for disabled people</th>
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<tr>
<td>Low conditionality</td>
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<td>Conditionality weakly linked to rehabilitation</td>
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<td>Passive systems: on-paper requirements, but weak</td>
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<td>assessment and little that claimants can be required to</td>
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<td>do (eg Norway)</td>
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<tr>
<td>Supportive systems: substantial assessment and rehabilitation, and on-paper conditionality, but low conditionality applied (eg Sweden)</td>
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9 As concerns about the sanctioning of disabled people on JSA and ESA rose in 2012, doctors became ever-more likely to tell the DWP that their patient’s mental health would be at risk, and the proportion of WCAs where people were placed in the Support Group because of this risk rose from 5 per cent at the start of 2011 to 30 per cent in early 2015. However, from a DWP perspective the exceptional circumstances safeguard was not intended to be used in this way, and there were concerns at the increasing numbers of claimants being placed in the Support Group. In late 2015, the DWP therefore circulated new guidance that not only raised the bar for ‘substantial risk’, but also emphasised that ‘claimants must not be asked by DWP to do anything that is unrealistic or could put their health at risk’. Since then, the share of WCAs that go to the Support Group because of the substantial risk regulations has gone down to 9 per cent of completed claims, and greater numbers of disabled people are having to deal with conditionality requirements on both ESA and JSA. Figures are an updated analysis (to June 2016, from the March 2017 statistical release) of results presented in more detail in my blog post, ‘The return of the stricter WCA?’, Rethinking Incapacity, 21 Sep 2016, [https://www.rethinkingincapacity.org/return-stricter-wca/](https://www.rethinkingincapacity.org/return-stricter-wca/) (accessed 11 Nov 2017). The blog post also presents details of the changes in the DWP substantial risk guidance.
There are two key lessons for the UK that help explain why conditionality for disabled people has not been consistently fair. First, it is very difficult to know what a disabled benefit claimant is capable of doing. Some countries have strict on-paper conditionality that is not applied in practice, because frontline staff do not have the skills to assess people’s capabilities, nor suitable work-related activities that they could require them to do (eg the ‘passive system’ of Norway). In contrast, the countries that seem to manage to implement conditionality are those that invest in expert assessment and suitable rehabilitation activities for people to undertake. For example, in Denmark:

- Claimants are assessed via a multidisciplinary rehabilitation team meeting of four to six people representing different areas of expertise.
- When the multidisciplinary team cannot think of any steps that would help someone move towards work, they are found eligible for the disability pension.
- There are many options for claimants who are not fully fit for work yet have some potential work capability: they can be sent on a 1–5-year rehabilitation programme (Resource Activation), or referred to a ‘flex-job’ scheme that provides substantial employer subsidies to almost 2 per cent of the whole Danish working-age population.\(^{10}\)
- Where claimants’ work capability is unclear, they can also be sent on work trials or work tests to safely experiment with work tasks, before coming back to a further multidisciplinary team meeting.

In other words, unlike in the UK, conditionality in Denmark is closely linked to rehabilitation: people are provided with expert assessment to direct them to rehabilitation that is tailored to their condition, which they are then expected to take up.

Second, in most countries that manage to implement conditionality sanctioning is used as a last resort. In Denmark, even municipalities that use the threat of sanctions rarely actually apply them.\(^ {11}\) In the Netherlands, caseworkers must go through four steps before deciding that someone’s ‘participation behaviour’ is inadequate and that a sanction should be applied, and at each step the main aim is to encourage the claimant to start participating fully in the process (NVVG 2010). This makes disability assessment much easier. The pressure on the assessment is greatest when sanctions are applied, and this is not only rare, but only happens when the government has seen claimants multiple times.

This is not evidence that demanding systems are effective. But in terms of implementation, only demanding systems manage to require disabled people to carry out tasks that they can be reasonably confident they can perform.

Further research

In response to the Committee’s question, Is the current evidence base adequate and if not, what further information, data and research are required?

Two pieces of research would be easily achievable and would add considerably to the evidence base on implementation:


\(^{11}\) Sanctioning practices seem to vary by municipality; some municipalities do not even threaten sanctions as they feel this is counterproductive, others use threats for those who are not motivated to participate in the rehabilitation process. Even in the latter case, municipalities rarely impose sanctions Mehlsen, L., Holt, H., Bjerregaard Bach, H. & Thörnfeldt, C. (2015), Ressourceforlb: Koordinerende sagsbehandleres og borgeres erfaringer [Resource Activation: Coordinating caseworkers' and citizens' experiences]. SFI report 15:39, Copenhagen, SFI.
1. *A detailed study of how work coaches set requirements for sick and disabled people* There are concerns about the fairness of conditionality for disabled people, but I know of no research has been able to investigate the process in any detail – to understand what claimants actually say to work coaches, how work coaches interpret this, and how this information feeds into specific work requirements. (Some DWP research does include video-recorded Jobcentre meetings, but a detailed analysis of the interactions is not given in the research reports). Such research would require DWP buy-in, in order to facilitate research that is done jointly with matched claimants and work coaches. So far the DWP have been unwilling to allow independently-funded researchers the necessary access, but given the potential value to the DWP, it is to be hoped that this changes in the near future.

2. *A quantitative study of sanctioning rates for disabled vs. non-disabled claimants*. I have referred to some figures that I calculated from an FOI request, which show that sick/disabled JSA claimants are considerably more likely to be sanctioned than non-disabled JSA claimants. However, the FOI data only refers to 2010-2014, and no regular data is published. What is particularly frustrating is that the sanctioning data is published (Stat-Xplore allows us to split sanction decisions by ethnicity), but that we have no base data of how many claimants per se report a disability – which means we cannot easily look at the respective sanctioning rate. It would be a simple step for DWP to publish the total numbers of benefit claimants with disabilities, ideally in Stat-Xplore with the same breakdowns as sanction statistics (geography, month, age etc).

3. *Disability-related markers for Universal Credit sanctioning data*. As David Webster mentioned in the first oral evidence session (Q36), Universal Credit sanctioning statistics cannot be broken down by disability status – neither self-reported disability status (as in UC), or WCA disability status (as in ESA). This means that it is almost impossible to scrutinise the operation of sanctioning as it applies to disabled people in UC. It is a high priority for this to be resolved going forward.

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How could DWP sanctions policy be made to achieve its objectives better

The following Recommendations are largely adapted from my recent Demos report (Geiger 2018):

The government should reduce the extent of benefit conditionality disabled people face

The evidence consistently points to the need to reduce the extent of conditionality faced by disabled people. Making conditionality for disabled claimants fair is essential, but expensive. Conditionality is not just ineffective in getting disabled people back to work, but it may even be counterproductive. And while the evidence suggests that the public want some conditionality for disabled benefit claimants, the level of conditionality in the benefits system goes far beyond most members of the public’s sense of fairness. It is worth adding that the UK is already an outlier: while many countries require some sick/disabled benefits claimants to participate, few other countries actually sanction more than negligible numbers of claimants (Geiger 2017).

One possibility would be to reduce the level of sanctioning in the benefits system per se. Assuming that the government is committed to continuing with the current form of conditionality in general, though, the government could:

- **Reduce the numbers of disabled people subject to conditionality.** Support Group claimants should continue to be exempted from conditionality. If assessed correctly, these claimants will have severe disabilities, be claiming for long periods of time, and are very unlikely to get into work. Sanctions are particularly unlikely to have a positive impact on employment for these claimants, and are unlikely to be seen as fair by key actors or the general public, particularly in the current climate.

- **Reduce the scope of the conditions imposed on claimants.** For those disabled people who are subject to conditionality, their work coach should only ask them to make two commitments: to come to meetings, and to try to take steps towards finding work. (The experience of Pathways to Work is that this type of low-level conditionality does not damage the relationship with the claimant (Dorsett 2008)). Beyond that, work coaches should get disabled claimants to consider having ambitious aspirations, rather than making commitments that they are sanctioned for failing. (There are various ways this could be done within the Universal Credit infrastructure. This will create a space for ‘safe experimentation’ where people take risks in getting back to work, rather than hunkering down on benefits. The recent Green Paper hinted that for legal reasons only an initial meeting would be mandatory before the WCA; this should be continued for the WRAG after the WCA as a deliberate policy decision.

- **Reduce the likelihood that claimants will be sanctioned for minor non-compliance.** Sanctioning should only be considered when the work coach believes that claimants’ non-

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13 One option would be to put claimants into the Work-Focused Interview Only Group (which currently is not available on the grounds of disability, instead being used for those with substantial caring responsibilities). An alternative would be to put claimants into the Work Preparation Group, but to change work coach guidance so that only a standard commitment to move towards work is made, and the discussion instead focuses on non-binding, voluntary aspirations within the claimant commitment.

14 The government is bringing in a new ‘health and work conversation’ for ESA claimants before the WCA, intended to help people ‘to identify their health and work goals, draw out their strengths, make realistic plans, and build resilience and motivation’ (paragraph 92 of DWP and DoH, *Improving Lives*). The green paper says that the actions they subsequently agree to within the conversation ‘will be entirely voluntary in the period before the Work Capability Assessment’ (italics added) – which suggests that the claimant commitment (containing the agreed actions) will not result in sanctions at first. However, it implies that the conversation will force people to take these steps after the WCA, and (when the WCA is fully separated from conditionality) that this will become mandatory for most claimants in the longer term, which is not the approach recommended here.
attending or non-engagement is major, repeated and deliberate. If claimants are trying to
experiment with their capacity to work, they should be encouraged to try and fail, rather than
penalised for it. This chimes with what the public thought was fair: a sustained refusal to
engage is seen to be much worse than occasional lateness.

- Reduce the amount that people can be sanctioned. The value of sanctions is far above what
the public think is fair (even in an idealised situation where people’s capability is correctly
assessed). A revised system should begin with a warning, before moving on to ‘lowest-level’
sanctions\(^\text{15}\) of withholding less than half the benefit. At each stage the aim should be to get the
claimant to re-engage.

I have justified each recommendation on either the grounds of fairness or because if implemented they
are likely to improve employment outcomes, but crucially they will help contain the costs of
implementing conditionality for disabled people fairly, by minimising the need for expert assessment
and other safeguards. All of these aims are best served by a simple principle: the overwhelming
majority of disabled claimants should never be threatened with sanctions, let alone actually sanctioned
in practice.

The government should continue to rely on the WCA and fit notes to set maximum
conditionality groups for disabled people

In response to the Committee’s question, Are levels of discretion afforded to jobcentre staff
appropriate?

If disabled people are being treated differently from non-disabled people, there needs to be a gateway
into this separate system of conditionality, but there is currently no appetite to introduce an all-new
assessment for this purpose. It is therefore sensible to maintain current practice: the conditionality
group should be set by both the WCA (there is a different conditionality regime for those in the
WRAG from those on JSA, although they receive the same level of benefits) and fit notes.\(^\text{16}\) Some
tweaks to this system are sensible. The government should accept fit notes written by social care
professionals\(^\text{17}\) and that it is unreasonable to require claimants to get fit notes every 2 weeks for
sustained periods. Fit notes should therefore be presumed to continue for a set period unless there is
good reason to think that someone’s health has improved.

\(^{15}\) The lowest-level sanctions for Universal Credit are 40 per cent of the normal benefit rate, but these are currently only used
for people in the Work-focused Interview Requirement Only Group (currently reserved for carers), and everyone else can be
sanctioned for their full benefit for up to 3 years. It is recommended that their use is extended here, as they are much closer
to the public’s view of the appropriate level of sanctioning for disabled benefit claimants than the other levels of Universal
Credit sanctions.

\(^{16}\) Within Universal Credit, while requirements are personalised by the work coach, the scope of requirements is determined
by the conditionality group that claimants are assigned to: people who would be in the ESA WRAG into the Work
Preparation Requirement and Work-focused Interview Group, and people who would be in the ESA Support Group into the
No Requirements Group. Before undergoing the WCA, claimants are in the All Requirements Group. However, anyone with
a fit note from their GP or doctor is effectively in the Work Preparation Requirements Group (formally they are in the All
Work-Related Requirements Group but the Universal Credit Regulations stipulate that no work search or work availability
requirements can be imposed. See The Universal Credit Regulations 2013, para 99 (1) and (5)(c),

\(^{17}\) GPs are often not the best person for sickness authentication for those with learning disabilities, who are likely to find
other healthcare professionals or social workers more knowledgeable and able to write fit notes or equivalent certificates.
This follows similar recommendations by others: see Pickles et al, Working Welfare, p 38, and British Psychological Society,
Call to Action on Work Capability Assessment Reform.
The government should tailor any conditionality within these groups to claimants’ own description of their capabilities; this should only be challenged in exceptional circumstances, and on the basis of expert assessment.

In response to the Committee’s question, Are levels of discretion afforded to jobcentre staff appropriate?

Over a million sanctions have been applied to disabled benefit claimants since 2010. Disabled people and frontline welfare-to-work providers alike are already worried that disabled people are being sanctioned unfairly, and I there is evidence that they are right: disabled JSA claimants are more rather than less likely to be sanctioned than non-disabled JSA claimants. The current conditionality assessment, carried out by a mix of WCA and Jobcentre advisers, is not accurately assessing what people are capable of doing, and this contributes to the poor legitimacy of the WCA. In contrast, countries that implement conditionality successfully do so by providing claimants with expert assessment to direct them to rehabilitation that is tailored to their situation, which they are then expected to take up.

Universal Credit has the potential to make matters worse. Work coaches are not sufficiently well trained to make consistently fair decisions about what people are capable of, nor do they have sufficient time to make use of any expertise they have, as the Committee has previously noted. The reduction in spending on specialist employment support for disabled people removes the easy option of referring people to schemes that are known to take account of their health. And there is an emphasis in Universal Credit on all advisers being able to work with all claimants, which will reduce specialist adviser knowledge (although there are signs that this may be relaxed slightly in practice). Yet while it would be an improvement if specialist Jobcentre staff such as disability employment advisers were widely available and widely used, they would still struggle to set appropriate conditionality for all disabled claimants.

If claimants’ description of their own capacities is challenged, then relevant experts – particularly those with occupational health expertise – need to be involved. The Green Paper talks about trialling three-way conversations between the claimant, work coach and a healthcare professional (albeit in a different context, separate from conditionality), which may prove to be a sensible model for obtaining expert help. However this is implemented, it will be both expensive and damaging to the relationship between the work coach and the claimant. Invoking expert assessors to challenge claimants should therefore be an exceptional response to what work coaches feel to be a major, repeated and deliberate decision not to engage; it should be a rare exception, rather than the rule.

The government should strengthen safeguards to ensure disabled people are not unfairly sanctioned for failing to meet impossible conditions.

In response to the Committee’s question, Are adequate protections in place for vulnerable claimants?

Thinking about claimants who might struggle with the system is not just inherently important, or a case of avoiding bad headlines, although both of these are true. More than this, it is a legal requirement: the courts have already ruled that the government must not discriminate against those with mental health conditions in its disability assessment. The Committee itself has previously discussed safeguards (Work and Pensions Committee 2017: paras 30-31) and four seem particularly important:

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• New claimants at crisis points cannot be expected to attend interviews or communicate by letter or phone with the DWP, and should be placed in the No Requirements Group. When applying for Universal Credit, claimants should be asked questions which flag that they are at a crisis point. The DWP should then confirm this via the claimants’ doctors and medical records, with experts available by telephone or make home visits if sufficient medical information is not given.

• The system must also cope with existing claimants who suffer a crisis mid-claim. When a claimant does not turn up to a meeting or respond to contacts, this should be a flag to the DWP to contact the claimant’s doctor, other health or social care professional or named contact person to see if they are at a crisis point.

• Claimants who cannot be expected to negotiate with a work coach should not be sanctioned until they have been assessed by a health professional. Work coaches are particularly likely to make mistakes for claimants who cannot clearly communicate what they can do (because of communication barriers or a lack of insight into their condition). Health professionals are therefore required to understand the often hidden impact of their conditions.

• Where there is a risk to claimants’ health if they are sanctioned, additional safeguards need to be put in place. The criteria and assessment for this are slightly different from criteria for assessing work capability, but adequate safeguards are clearly essential – given the large number of claimants, there are substantial numbers of very vulnerable claimants within the system.

To maximise transparency and legitimacy, these safeguards should be monitored by a new reference group for protecting vulnerable claimants.

May 2018
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