

From the Secretary

Ms Vikki Knight  
DWP  
Caxton House  
Tothill Street  
LONDON  
SW1H 9HA

date

Dear Vikki,

**REPORT OF THE SOCIAL SECURITY ADVISORY COMMITTEE MADE UNDER SECTION 174(2) OF THE SOCIAL SECURITY ADMINISTRATION ACT 1992 ON THE JOBSEEKER'S ALLOWANCE (MANDATORY WORK ACTIVITY) REGULATIONS 2011**

I enclose the Committee's report on the above regulations to be forwarded to the Secretary of State. You will see that a section of the report has been left blank for you to insert the Department's EM and associated draft regulations as Appendix 1.

If the regulations are laid, a copy of the report should also be laid before Parliament as an Act Paper, in accordance with Section 174(2) of the Social Security Administration Act 1992, together with a statement, as in Sections 174(2)(a) and (b).

I would be grateful if you could ensure that we receive six copies of the Act Paper and of the associated Statutory Instrument, for distribution to Committee Members and to those who responded to the consultation. At the same time, please make arrangements with TSO for the Act Paper to be published electronically (we shall then be able to include a link from our website 'library' of published reports to the TSO website).

Yours sincerely,

Gill Saunders  
Committee Secretary (ADI x21506)  
*By email*

**From the Chairman**

The Right Honourable Iain Duncan Smith MP  
Secretary of State for Work and Pensions  
Caxton House  
London SW1H 9DA

date

Dear Secretary of State,

**REPORT OF THE SOCIAL SECURITY ADVISORY COMMITTEE MADE UNDER SECTION 174(2) OF THE SOCIAL SECURITY ADMINISTRATION ACT 1992 ON THE JOBSEEKER'S ALLOWANCE (MANDATORY WORK ACTIVITY ) REGULATIONS 2011**

## **1. Background**

1.1 At the Committee's meeting on 18 November 2010, officials from the Department for Work and Pensions (DWP) presented proposals for our consideration relating to The Jobseeker's Allowance (Mandatory Work activity) Regulations 2011. A detailed Explanatory Memorandum (EM) of the Department's position accompanied these proposed draft regulations (Appendix 1). Officials subsequently made a number of amendments to the EM we had considered at the meeting, and a revised version (the document attached at Appendix 1A) was provided for our consideration.

1.2 Following discussions with officials, we decided to take these regulations on 'formal referral' for the preparation of this report. On 26 November we published a press release inviting comments on the proposals to reach us by 20 December 2010.

1.3 We received sixteen responses. Details of the organisations and individuals who responded are at Appendix 2. We are grateful to those who responded and to officials of the Department for Work and Pensions for their assistance.

## **2. The Proposals**

2.2 The Secretary of State proposes to make regulations to introduce mandatory work activity from April 2011. Mandatory work activity will be a non-voluntary work placement for customers in receipt of Jobseeker's Allowance. Each placement will consist of up to 30 hours activity per week

lasting for up to four weeks. Participants will remain under full conditionality and will be expected to be actively seeking work, be available to take work, and attend normal fortnightly interviews at a Jobcentre Plus office. The placements aim to enhance claimants' employment prospects by providing opportunities for them to develop skills and attributes important in the world of work.

2.3 Claimants who, in the opinion of their Jobcentre Plus Personal Adviser, are doing just enough to satisfy the conditions of entitlement to benefit, can be referred to undertake mandatory work activity. They can be referred at any point during the course of their award although the Department expects that most will be referred after they have been unemployed for 13 weeks or more. Potential participants will not be able to volunteer for the scheme. Around 10,000 places will be available each year.

2.4 People participating in the Work Programme or other contracted provision will not be referred to mandatory work activity.

### **3. Summary of the Department's Position**

3.4 Mandatory work activity is one of a number of changes the Department for Work and Pensions (DWP) is introducing with the aim of assisting Jobcentre Plus to get their claimants into work. This measure is intended to change the behaviours of a minority of claimants by requiring them to participate in work activity and thereby learn the attitudes and skills needed to make a successful return to the workplace.

3.5 The Department notes that Jobcentre Plus advisers have indicated through staff consultations and anecdotal evidence that they would welcome a programme to enable them to tackle the small number of people who are in their view, doing the bare minimum to comply with the requirement to actively seek work. The Department considers that mandatory work activity will provide the setting through which these people can be assisted to change attitudes and approaches in their search for work such as turning up on time, taking supervision and working as part of a team.

3.6 The Department does not intend to provide detailed guidance and criteria within the regulations as it believes that the best way to select participants for the programme is via Adviser discretion. Guidance will be issued to Jobcentres on the benefits and aims of mandatory work activity which will emphasise that it is not intended to be a sanction, but to be a way of changing behaviours and moving claimants closer to the labour market. It will be for providers to decide how best to make provision according to the needs of the local area.

3.7 People undertaking mandatory work activity will be expected to continue to carry out active steps to seek employment and will be required to sign on fortnightly during the placement. Sanctions of 13 weeks (or 26 weeks where there has been a previous sanction) will be available for claimants who fail to complete or participate in the scheme when required by a Personal

Adviser to do so. The Department also believes that the existence of mandatory work activity, plus the possibility of sanctions, will have a deterrent effect for other claimants who will see that the expectations regarding conditionality are taken seriously.

## **4. The Committee's View**

### **Introduction**

4.1 We considered the proposals at our regular business meeting on 18 November 2010. We had a number of concerns as discussed below.

### **General Principle**

4.2 Published evidence is at best ambivalent about the chances of 'workfare' type activity improving outcomes for people who are out of work. The Department's research indicates that "there is little evidence that workfare increases the likelihood of finding work"<sup>1</sup> unless conditions are as close to work as possible. This evidence suggests that the mandatory work activity must be carefully tailored to an individual's specific needs and carefully timed to be of maximum effectiveness.

4.3 We are concerned that mandating an individual to this scheme could also have the opposite effect to the one intended. As we discuss below, there is evidence to suggest that by limiting the time available for job search, activities such as mandatory work activity can in fact reduce the participants' chances of finding employment.<sup>2</sup>

4.4 We are worried about the precedent set by appearing to punish claimants who are satisfying the conditionality rules (otherwise they would be subject to a sanction) but who, in the view of a Personal Adviser appear to display what is deemed to be the 'wrong attitude'. We are concerned that these regulations are appearing to amend the body of case law which defines what 'actively seeking work' means and that people will be sanctioned by being sent to mandatory work activity even though they are doing what the law requires. Although detailed guidance may be developed by the Department at this stage it seems that referral is to be based purely on the views and opinions of the Personal Adviser. Claimants can be fully engaged with the conditionality requirements but in effect a claimant can still be mandated to do more.

4.5 We also wonder why, given that the Department views mandatory work activity as a beneficial change, people will not be permitted to volunteer to take part. This seems to us to signal that being mandated to mandatory work activity is regarded as a punishment rather than an opportunity to learn and develop new behaviours and skills. Employers are unlikely to value references

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<sup>1</sup> Richard Crisp and Del Roy Fletcher Department for Work and Pensions Research Report No 533 *A comparative review of workfare programmes in the United States, Canada and Australia* p3  
<http://research.dwp.gov.uk/asd/asd5/rports2007-2008/rrep533.pdf>

<sup>2</sup> Ibid

that come from forced work schemes, as they will not perceive such a reference as evidence that the participant has the skills to undertake an actual job and are more likely to see mandatory participation as a negative sign of participants' work readiness and willingness to work.

4.6 We think that as this scheme is designed for people doing the bare minimum to satisfy JSA conditionality, there is a risk that the presence of mandatory work activity on a jobseeker's CV could stigmatise a jobseeker when applying for a job in the future, indicating as it does, a Departmental view that the person exhibits an inappropriate attitude to work. There is the potential for an employer to confuse this activity with 'community payback' further stigmatising the jobseeker.

### **Details about Placements**

4.7 We are struck by how little detail is available about the nature of the placements. The Department told us that they want to allow a good deal of flexibility in the provision of placements so that local issues could be addressed, and consequently they are leaving the detail to mandatory work activity providers in conjunction with Jobcentre Plus. Whilst we welcome the move towards personalisation and the taking into account of local conditions, we are worried that in providing flexibility there is a real danger of variation not just in the type but also in the quality of provision from one locality to another.

4.8 We question the nature of the 'work' on offer. The Department expects that placements would have some kind of community benefit, but again are leaving the bulk of the detail to the providers and consequently this could not be given to the Committee. We were given a list of criteria for community benefit, but noted that one of the items on the list was 'working towards the profit of the host organisation.' We would like more detail about exactly what the Department means by this as we are concerned about the potential exploitation that could occur. We note that for some other unpaid work schemes, such as mandatory work experiences on the New Deal, there has been a paucity of quality work available for claimants in some other schemes and we are very concerned that this is a exploitation of people who have no choice.

4.9 We were told firmly by the Department that mandatory work activity is not work, or forced work, but rather closer to work experience in its emphasis on learning work behaviours. Our concerns are firstly, that we do not know what this will entail and secondly, that the efficacy of the experience will be diluted unless there is a sense that it is 'real' work.

4.10 We are also worried that there seems to be no process in place to monitor employers or to end their involvement should they be found to be exploiting participants or requiring them to undertake inappropriate work (or work experience). In view of this we are very concerned that the Department is unable to give us details of the complaints procedure that would be in place should individuals feel that they are being asked to undertake inappropriate 'work'. Again we are told that these would be the responsibility of individual providers, apparently with no quality control beyond the Department approving

the overall procedure at the time of recruitment. This lack of safeguards is, in our opinion, an important shortcoming of the proposals.

### **Time available to satisfy jobseeking and other requirements**

4.11 We are concerned that the time available during the week for participants to take part in jobseeking activity is very limited, particularly for claimants in rural areas. Given that the work activity will be for up to 30 hours, and travel could be up to one and a half hours each way, this leaves limited time for looking for work – particularly if the job search area is one and a half hours travel in the opposite direction from their home (so three hours from their place of work activity). Such a situation is quite likely in very rural areas. This could also apply to parents who have to take their children to school or childcare before attending the place of work or work activity. For claimants without internet access at home or with limited literacy skills, this could impact further on the time they have to jobseek. Research has shown that participation in workfare type programmes can have a “chilling” effect on jobsearch activities, and there is a risk here that occupying someone for at least 30 hours on work-like activity will leave little time or energy for them to continue to seek permanent work.<sup>3</sup>

4.12 A further complication for participants with children could be that childcare needs can change very quickly due to unexpected circumstances, and parents could find themselves suddenly without childcare if, for example, a relative who is caring for their children is ill or their child is unwell. There needs to be some provision made within guidance to take account of these circumstances. This could lead claimants to struggle to satisfy conditionality requirements and mean that they are at risk of being sanctioned, and have serious knock-on effects on childcare arrangements.

4.13 We note that the Department provided no details of what would happen if a participant needed to attend for example, a hospital appointment or a probation interview during their working hours. Similarly there is no provision for a parent who may need to take time off to care for a child who has just been taken ill. The requirement for participants to continue to jobseek may also reduce the attractiveness of the programme to potential providers who may not appreciate having someone working for them who could potentially disappear at very short notice, for example to attend an interview.

### **Expenses**

4.14 We are worried that claimants will face additional expenses without reimbursement. The Department told us that Jobcentre Plus would not be meeting any of the participants’ expenses and that they would expect (but not require) providers to fund travel and anything necessary to carry out the placement, such as specialist clothing. However, childcare expenses will not normally be paid. This could leave participants seriously out of pocket. It could also restrict their availability to participate if they are unable to fund suitable childcare or afford travel costs, leaving them at risk of sanctions.

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<sup>3</sup> Crisp and Fletcher, op. cit., p15

4.15 There may also be tax implications for participants should they become subject to tax during the same tax year (for example, if they start work). For example, expenses for ordinary commuting are usually taxable, as are some other workplace 'benefits' including reimbursement of childcare costs. It is not clear whether this will apply to participants in this scheme.

## **Sanctions**

4.16 We are very concerned about the use of sanctions and particularly so because it rests on an Adviser's assessment of the individual's attitude to work rather than on more concrete evidence such as failure to complete an activity in an agreed plan. The use of 13 weeks as the first penalty is disproportionate given both that the usual penalty in JSA is two weeks (thereafter four weeks and up to 26 weeks at present), and that the work activity itself lasts no longer than four weeks.

4.17 Evidence from the Department's Equality Impact Assessment and DWP research<sup>4</sup> shows that ethnic minority claimants and those with a learning difficulty tend to be disproportionately sanctioned for not actively seeking employment. This, alongside other societal factors, could lead to these groups being disproportionately referred to this scheme and, as a consequence, at even greater risk of sanction.

4.18 We are worried that sanctions will impact excessively on people with multiple barriers to working. Evidence<sup>5</sup> (including the DWP report quoted above) shows that it is precisely those people who, perhaps because they have caring responsibilities or a disability, find it most difficult to meet their obligations in taking part in unpaid work activity. They experience difficulties as 'workfare' programmes generally do not address their particular needs. In the case of mandatory work activity there is no provision for particular needs to be met beyond whatever the customer has agreed with the Personal Adviser in the Jobseeker's Agreement.

4.19 We are concerned that there is no incentive for a sanctioned person to re-engage with the programme, as the Department states that any sanction will remain in force even if a person returns to the placement. If the point of mandatory work activity is to assist a participant in changing behaviour, this seems peculiarly punitive and is counter-productive if it does not reward a positive change in attitude.

4.20 We are also concerned about the way in which the 'good cause' provisions are designed to work. At present there are instances in JSA legislation where, if the claimant satisfies one of a prescribed number of

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<sup>4</sup> Mark Peters and Lucy Joyce *A review of the JSA sanctions regime: Summary research findings* Department for Work and Pensions Research Report No 313, p 17 <http://research.dwp.gov.uk/asd/asd5/rports2005-2006/rrep313.pdf>

<sup>5</sup> Julia Griggs and Martin Evans, *Sanctions within conditional benefit systems: a review of evidence*, Joseph Rowntree Foundation, December 2010 <http://www.jrf.org.uk/publications/review-of-benefit-sanctions>

circumstances they will necessarily have 'good cause' for failing to do whatever is required of them. In other instances the legislation sets out the matters which are to be taken into account in reaching a judgment as to whether or not a claimant has good cause. In this case the Department is proposing that for mandatory work activity the criteria for granting 'good cause' will be left open in the regulations apart from stating that the Secretary of State must take account of the person's circumstances including, in particular, their mental health.

### **Legal implications**

4.21 We are concerned that placements should not be used by employers as a way to obtain free labour and especially if it were at the expense of a paid post. We feel that an employer could potentially work around the requirement of additionality by providing a rolling placement, whereby they take on a different individual every four weeks for a lengthy period of time, and in doing so be able to fill a post at no cost.

### **Review/appeal process**

4.23 There is no point in the process where a person can object to being referred to mandatory work activity: it appears from the replies given by the Department that the only point where an individual can appeal is if they are receive a sanction. In this case, where the criteria for referral are less than clear, this could lead to people not understanding the referral and having no method of challenge or redress if inappropriately referred. Similarly there is a lack of a defined complaints process for the participant.

### **Child Poverty Impacts**

4.24 The Department's Equality Impact Assessment states that mandatory work activity "*will* help reduce child poverty"<sup>6</sup> [our italics]. This seems a rather sweeping statement and is made without an evidential basis. We are worried that there is no recognition that there could be a risk of greater child poverty if a participant on the scheme were to be sanctioned, or is expected to meet their own childcare costs in order to participate.

## **5. Summary of Responses to the Consultation**

5.1 We received responses from organisations and individuals, some of whom have had experience working as providers of previous work schemes and programmes.

### **Purpose of the scheme**

5.2 There are concerns that this scheme is a punishment rather than a way to help people improve their skills and help them get back into work. One respondent suggests that the type of people who derive most value from work experience programmes are those who are already motivated in their job search as these placements can help to improve confidence as well as provide a work reference. One respondent questions whether this scheme is

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<sup>6</sup> Mandatory work activity Equality Impact Assessment, p.32 para 42.

really necessary, suggesting that if a claimant is not doing enough to actively seek work, the current sanction regime should be utilised.

### **Referral to the scheme**

5.3 Most respondents are concerned by the level of discretion proposed for Advisers. Several respondents are very worried at the prospect of disabled people being referred to mandatory work activity without proper safeguards being put in place around unrealistic expectations of what they could do. Others point out the potential to adversely affect people with complex needs, including people who are homeless or disabled, and question whether Jobcentre Plus staff would have sufficient training and guidance to be able to deal with this type of client. Two further respondents note that the criteria for referral (including lack of timekeeping skills and/or lack of interpersonal skills) could include people with certain 'invisible' disabilities such as dyslexia, dyspraxia, autistic spectrum disorders, and mental health problems such as bipolar disorder.

5.4 Several respondents are concerned that potential participants could be referred to the programme at any point during the lifetime of their award. There appear to be no trigger points for referral, such as the length of time a person has been receiving JSA. Respondents think that this could mean that someone could be referred on the first day of entitlement, comply with all the conditionality for mandatory work activity and then immediately be re-referred. Most of the respondents are very concerned that some parameters around the concept of 'good cause' are not set out in the regulations but would be left to the discretion of the adviser.

5.5 One respondent is concerned that claimants could be repeatedly referred to the scheme should the Personal Adviser think that their attitude has not changed.

### **Length of placement**

5.6 Two respondents, one with experience of arranging work experience placements and one with experience of arranging voluntary posts, think that four weeks is not long enough to really change an individual's attitudes, and that it would be very easy for someone to avoid the placement by using the periods of sickness allowable in JSA.

### **Communications**

5.7 Respondents said that clear communications need to be provided to potential participants. Participants should be clear both about what is expected of them on the placement but also about what the placement will be providing for them. There also needs to be clear communication about the possibility of sanctions. In fact, many respondents question the evidential basis for the efficacy of the sanctions regime as a whole.

### **Childcare costs**

5.8 Many respondents comment about the lack of provision for childcare costs. One said that this would effectively make it impossible for a single parent to be able to participate in the scheme, leaving them vulnerable to

sanctions. One suggests that childcare costs should be met in full and that this should be covered in the regulations. Other respondents note that the Department expects that mandatory work activity will reduce child poverty as it would increase employability, but that it fails to note that around half of all children living in poverty have a parent in work.

### **Sanctions**

5.9 Several respondents are very concerned about the sanctions regime. Two point out that the proposed level of sanction is very harsh, and that evidence shows that sanctions generally do not have the desired effects on behaviour. One respondent said that the provisions for good cause should be covered in the regulations rather than be left to adviser discretion.

### **Outcomes**

5.10 Two respondents query whether the scheme would provide the expected outcomes, citing experience of previous welfare-to-work programmes which had promised much but had not delivered as many sustained employment outcomes as had been expected. There will be no requirement placed on placement providers to provide participants with training or additional support so respondents feel that the scheme is in essence a punitive measure.

5.11 One respondent questions whether this type of work experience is valued by employers, citing DWP research which found that welfare to work programmes seldom provide claimants with the skills and experience to gain employment.<sup>7</sup>

### **Conditionality**

5.12 One respondent is extremely concerned about the requirement to continue to participate in fortnightly Jobsearch Reviews. They argue that it is not fair to expect participants in the scheme to comply both with the requirements of the scheme and those set out in their Jobseeker's Agreement. They feel that it is unfair and unworkable to expect participants to comply with the full conditions of their Jobseeker's Agreement whilst undertaking full-time unpaid work.

### **Complaints and appeals process**

5.13 One respondent is concerned that there is no means of redress for participants. They note that where a participant is sent to a placement which is not suitable, for example with lack of supervision and without meaningful or productive activity, it is important for there to be a clear independent complaints procedure.

### **Evaluation**

5.14 Two respondents comment on the lack of meaningful evaluation of the scheme. One suggests that customer feedback should be an integral part of the evaluation, and another suggests that the employment outcomes of participants should be monitored.

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<sup>7</sup> Crisp and Fletcher, op.cit.

## **Labour market impacts**

5.15 Two respondents are worried about the likelihood of job substitution with participants being used to undertake jobs that employers would have otherwise paid existing or new employees to undertake. They feel that this is a particular risk given the current tough economic conditions in the labour market. One respondent feels that this scheme could see the terms and conditions of existing staff undercut by unpaid workfare staff and notes that previous schemes (such as the Future Jobs Fund and the Community Task Force) had additional checks to guard against employee substitution which mandatory work activity does not.

5.16 Two respondents broadly welcomed the initiative and agreed that it could help people to develop or maintain good effective work habits. They also pointed out that it would have the additional benefit of reducing opportunities for people to work in the informal economy.

## **6. The Committee's Conclusions**

6.1 This is not the first time that officials have presented mandatory work activity-type regulations to the Committee. We considered the previous Government's proposals for 'Work for your Benefit' early in 2010 and raised many of the concerns outlined above. These regulations did not proceed and we are troubled that the issues we raised at that time have still not been addressed satisfactorily in this new set of proposals.

6.2 The evidence on the efficacy of 'workfare' schemes is, at best, mixed. The Department's research notes that the characteristics of a successful welfare to work scheme are that placements need to be "...as close to work as possible: allowing the development of good work habits; providing future employers with evidence of self-motivation and providing participants with a wage".<sup>8</sup> The mandatory work activity scheme satisfies only some of these criteria: it is expected that the customer will 'work' close to full-time hours and will need to develop the habit of getting to work on time, being supervised, working as a team member and so on. However there is no financial reward for participation, and given the lack of detail as to the type of work activity which will be provided, it is difficult to identify whether it will in fact be of any benefit.

6.3 Notwithstanding the paragraph above, on the evidence presented we found little to suggest that the programme can be effective. In particular we remain sceptical about the effectiveness of mandation. As we have pointed out in the past, coercing benefit claimants, for example to take skills training, has not demonstrated improved employment outcomes for participants. There is little evidence that short duration mandated schemes of this kind will

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<sup>8</sup> Professor Paul Gregg, *Realising Potential: A Vision for Personalised Conditionality and Support*, Department for Work and Pensions, 2008 <http://www.dwp.gov.uk/docs/realisingpotential.pdf>

help to change behaviours and incentivise positive engagement with the labour market. This is most likely to be achieved by schemes that motivate individuals and improve their skills. Evidence from for example, studies of short custodial sentences and sentencing to community payback programmes seems to suggest that short programmes are very ineffective.

6.4 We are opposed to an initial 13 week sanction, particularly as the sanction continues even if the person re-engages. The serving of the whole sanction where there has been re-engagement is counter-productive to the aim of addressing work related capacity and skills. There is a real risk that people referred to the programme will be sanctioned and the evidence suggests that this will most likely impact those who already face multiple barriers in their search for employment, and notably those with learning difficulties or who speak English as a second language .

6.5 The lack of funding for childcare has the potential to cause problems for participants and given that travel expenses *will* be met, sends a curious signal as to the relative weight of the various barriers preventing people's move into the labour market. To not provide reasonable childcare costs for participants risks neglecting the Department's legal responsibilities to promote and take action to bring about gender equality. Women may in these circumstances be able to legitimately claim that they are being placed at a disproportionately higher risk of sanctions by being mandated to participate in a programme without adequate childcare being in place. As one of our respondents pointed out, the inability to pay for childcare is as significant a barrier as not being able to afford the bus fare to work. The proposals also take insufficient account of the particular difficulties likely to be encountered by people living in rural areas.

6.6 We have commented before on sanctions, noting that people with mental health problems, learning disabilities, literacy difficulties and who do not have English as a first language are particularly prone to sanctions.<sup>9</sup> Recent research from the Joseph Rowntree Foundation<sup>10</sup> has looked at the international evidence about sanctions and found that disadvantaged claimants facing multiple barriers to work are at higher risk of being sanctioned. This reinforces the need to properly recognise re-engagement when it occurs.

6.7 Whilst we support personalisation and the drive towards greater localisation as a way of meeting the particular needs of a diverse group of people, there is real potential here for lack of consistency and variation in the quality of provision. This could be seen in the type of placement, the activity participants would be expected to do, in the selection of participants and in the way sanctions are applied. Evidence has shown that there is a real risk that certain groups will be disproportionately mandated and disproportionately

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<sup>9</sup> SSAC Occasional Paper No. „Sanctions in the Benefit System: Evidence Review of JSA, IS and IB Sanctions, February 2006 <http://www.ssac.org.uk/occasional.asp>

<sup>10</sup> Julia Griggs and Martin Evans, *A Review of Benefit Sanctions*, Joseph Rowntree Foundation, December 2010, <http://www.jrf.org.uk/publications/review-of-benefit-sanctions>

referred for a sanction. There needs to be clear and unambiguous guidance provided to avoid inconsistencies plus proper monitoring to pick up any anomalies in referral and sanction rates between areas. Additionally, the Department needs to have in place a transparent communication strategy to let claimants know why they have been referred and what will be expected of them, including the potential and the criteria for sanction.

6.8 We have reported before on sanctions (in our occasional paper *Sanctions in the Benefit System: Evidence Review of JSA, IS and IB sanctions*, 2006). We recommended at the time that communications associated with sanctions should be improved so that jobseekers understand what is required of them and the penalties should they fail to comply. There is a risk with mandatory work activity that without this clear and transparent communication participants will not understand why they have been referred and what the consequences will be if they do not comply with the mandation.

6.9 We are extremely concerned that 'benchmarks' have been set for both referrals to Decision Makers, and for the numbers of those referred which result in an adverse decision as reported in a recent written answer to a parliamentary question. These benchmarks have been set as:

- that a minimum of 6% of the JSA live load is referred to Decision Makers to consider areas of doubt arising from entitlement and sanctions, and;
- at least 50% of these referrals result in decisions adverse to the customer.

Although the Department states that their intention is to use the benchmark to assess the performance of the jobcentre district, we are concerned that Advisors may find themselves under pressure as if the benchmarks are targets to be met, and consequently this may lead to an increase in inappropriate referrals.

## 7. Recommendations

### 7.1 Key Recommendation:

**We recommend that mandatory work activity does not proceed.**

7.2 If the scheme does go ahead we recommend that you adopt the following suggestions around the principles below (fully described in Appendix Three):

- **Selection of Participants**
- **Placements**
- **Sanctions**

Yours sincerely

Richard Tux

**APPENDIX 1**

**THE DEPARTMENT'S EM AND DRAFT REGULATIONS (officials to insert pages)**

## **APPENDIX 2**

### **List of Respondents to the Consultation Exercise (in order of date received)**

In addition to the organisations listed below the Committee received two responses from individuals.

Trades Union Congress  
RNIB  
BTCV Employment Services  
MIND in Croydon  
Single Parent Action Network  
Homeless Link  
Crisis  
Child Poverty Action Group  
Working Links  
iansyst  
Citizens Advice Bureau  
HIV Scotland  
St Mungo's  
Law Centre (NI)

## **APPENDIX 3**

### **Suggested Principles**

#### **Selection of Participants**

1. We recommend that detailed guidance is provided to Personal Advisers on the criteria for selection and the factors to take into account when considering the hours participants are expected to take part in the work activity and to carry out job search. This should include understanding of factors such as childcare, travelling time and disability. This guidance should be made public.
2. We recommend that detailed information is provided to potential participants about the criteria for selection and the sanctions regime.
3. We recommend that provision is made for participants to receive support before they are referred to mandatory work activity to address other issues that may be preventing their successful return to employment: travel, childcare, disability, skills, education and so on.
4. We recommend that parents should have childcare costs met for the duration of the placement.
5. We recommend that guidance should be put in place so that claimants are not repeatedly referred to the scheme within a prescribed linking period of four months.
6. We recommend that jobsearch and unpaid work combined should take no more than 30 hours to allow reasonable travelling time and time to drop children at childcare for participants

#### **Placements**

7. We recommend that there is robust monitoring of placements to ensure that:
  - Participants are treated properly and appropriately;
  - The placement is of the required quality – including providing access to training and provision of good quality work activity; and
  - Employers are not using the participant/s to replace waged workers or solely for their own financial gain.
8. We recommend that detailed guidance be given to employers about the type of work participants can be asked to undertake and what they will be expected to provide for the participant, including their legal responsibilities (such as health and safety law).
9. We recommend that as part of the agreement to take on participants employers should be required to provide a reference for the participant after completing the placement.

10. We recommend that flexibility is introduced around the number of hours participants are expected to undertake mandatory work activity and actively seek work to take account of factors including (but not exclusively) travel to the placement, travel to the Jobcentre, childcare, and lunch and rest breaks.
11. We recommend that the Department should put in place a robust complaints process and communicate details of it to participants.

### **Sanctions**

12. We recommend that in the interests of simplicity, clarity and fairness, the sanctions applicable should be consistent with the sanctions available for other employment support provided by Jobcentre Plus, preferably with the first sanction limited to two weeks.
13. We recommend that any sanction should be removed if the participant re-engages with the scheme.
14. We recommend that the factors which need to be taken into account in deciding whether someone has 'good cause' should be prescribed in the regulations.
15. We recommend that hardship payments should be made automatically when it is evident at the time the sanction is being imposed that the person would qualify.
16. We recommend that given the increased role of sanctions in the welfare system, further research should be commissioned to:
  - test the effect of sanctions on earnings and sustained employment outcomes; and
  - look at whether there is any effect on the informal/grey economy; and
  - assess the long term impacts of sanctions.
17. We recommend that a thorough evaluation of the scheme should be set in place.
18. We recommend that 'benchmarking' should not be used to drive Adviser behaviour.