

Feeding Britain Working Party on Benefit Administration

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Evidence to the All-Party Parliamentary Group on Hunger

December 2015

## Introduction

This evidence is submitted on behalf of the Feeding Britain Working Party on Benefit Administration, with Child Poverty Action Group having been nominated at the Feeding Britain National Summit in June 2015 to convene the group. The Working Party consists of the following organisations: Child Poverty Action Group, Children's Society, Church Action on Poverty, Church of England, Church Urban Fund, First Love Foundation, Joint Public Issues Team, Mind, Oxfam, St Vincent de Paul Society, Trussell Trust, and YMCA England.

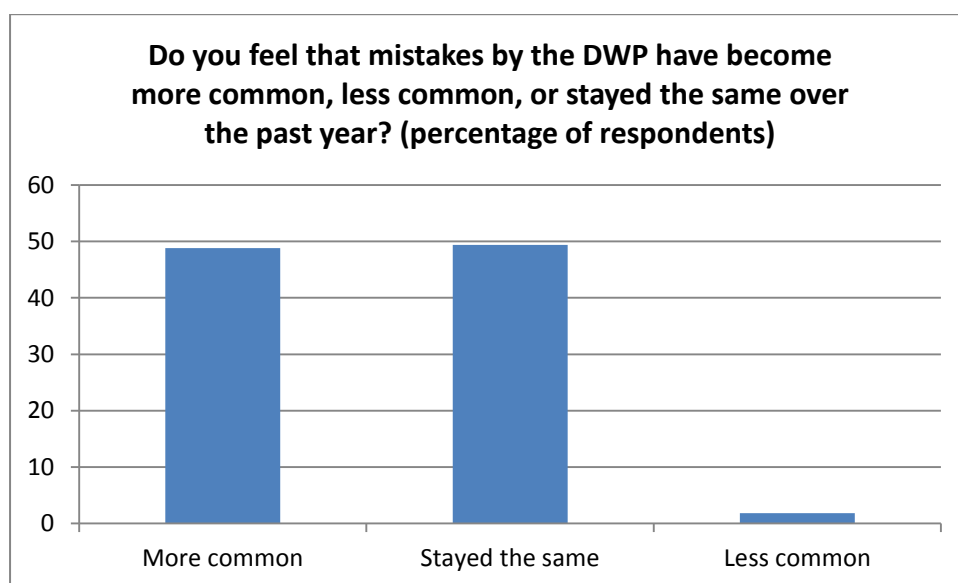
We largely restrict the evidence to areas upon which recommendations were made in the original Feeding Britain report (December 2014) and Emergency Use Only, published by Child Poverty Action Group, Church of England, Oxfam GB, and Trussell Trust (November 2014). The evidence is split into a general overview, followed by sections on short term benefit advances, sanctions and hardship payments, issues with disability benefits, local welfare assistance schemes, and communication between claimants and DWP.

The report draws on the expertise of many of the organisations in the working party, supplemented by freedom of information requests, parliamentary questions, and interpretation of national data. In addition, to inform this submission, Child Poverty Action Group conducted an online survey of the members of the National Association of Welfare Rights Advisers (NAWRA) from late October to early November 2015. The survey received 225 responses, answering a total of 18 questions about their experience of DWP benefits administration, and changes that have taken place over the past year. We will also be publishing an update to Emergency Use Only in early 2016, as a complement to this submission.

## Overview

### Mistakes

Welfare rights advisers tend to believe that there has been no general improvement over the past year in benefit delivery. According to the survey of the National Association of Welfare Rights Advisers (NAWRA), welfare rights advisers are split evenly between feeling that mistakes from the DWP have stayed the same overall, and that they have become more common. Among the 166 respondents who answered this question, 49.4 per cent felt that things had stayed the same, 48.8 per cent that mistakes had become more common, and only 1.8 per cent that they had become less common.



139 respondents were able to give examples of cases where DWP make mistakes. A large range of errors were reported, with a number being cited repeatedly, including: erroneously applying a habitual residency test to refugees; wrongly advising individuals regarding whether they should be claiming ESA or JSA; sending standard template letters with errors, such as missing or incorrect dates and figures; lost forms; erroneous sanctions; and a failure to notify claimants of their right to apply for hardship payments. Many of these issues are discussed in the relevant sections below.

### Emerging issues

Respondents to the National Association of Welfare Rights Advisers (NAWRA) survey were asked to identify significant changes in benefit administration that had affected their clients over the past year, with 127 offering a response (around 71 per cent of those who had answered the final quantitative question). Of these, ten reported no or no significant new issues.

Thirteen respondents specifically mentioned universal credit, with concerns generally relating to the DWP having difficulty handling complicated cases and communicating the system to clients, and to the delays that are in-built in the system, which one respondent explicitly linked to increased

referrals to food banks. Another said that 'universal credit is a mess. Any calculation that involves anything slightly different or complicated usually results in clients being sanctioned, or the award being incorrect'.

A similar number of respondents mentioned a changing, harsher attitude from DWP staff, with others specifically mentioning the rudeness that their clients had been experiencing from the DWP. Several linked this to a loss of compassion and a move to DWP being a 'sanctioning regime'. Sanctions themselves were raised separately by a number of other respondents.

Other issues raised included missing letters, slower processing – in general and of PIP and ESA claims in particular – and harsher ESA assessments.

## 1. Short term benefit advances

### *Feeding Britain recommendations*

In recommendations 52-54, the Feeding Britain report urged the government to simplify the application process for short term benefit advances (STBAs), and publicise their availability more widely, to examine the possibility of allowing advice workers to apply for STBAs on their clients' behalf, and to consider paying STBAs automatically if a benefit claim has not been paid within five working days.

### *Evidence / other recommendations from Emergency Use Only*

Emergency Use Only found that awareness of STBAs was low among food bank clients, with less than half of those waiting for a benefit claim to be decided aware that they could apply for an STBA. The level of successful claims for STBAs was running even lower, at just over a quarter. The report recommended increasing awareness of STBAs, and simplifying the process for claiming them. It also recommended improving data collection to better identify and monitor the need for STBAs, and considering making them available to claimants who are missing tax credit payments.

### *Government responses*

The government committed to providing more information about STBAs to claimants online and in Jobcentres. They also committed to updating staff guidance, and to reminding staff of the process for considering an STBA, to ensure that claimants who are at risk know about the availability of STBAs. However, very little information was provided at the time on what this would mean in practice.

The government rejected the recommendation to allow advice workers to submit claims on their clients' behalf, and also rejected the recommendation to consider automatic STBA payments after a certain period of time.

### ***Update***

Short-Term Benefit Advances can be made by DWP on request where a person has made a claim for an eligible benefit and it has yet been awarded, provided that they are likely to be entitled to the benefit and are in 'financial need' as a result. STBAs replaced the Social Fund Crisis Loan, known as an 'alignment payment', from 2013/14 onwards.

However, the number of people receiving STBAs is much lower than the number of people receiving the equivalent payment under the old Social Fund. In 2013/14, only 169,000 STBA claims had a positive outcome, compared with 834,500 alignment payments in 2012/13 – an 80 per cent fall.

Part of the explanation is that many fewer people are applying for STBAs (313,000 in 2013/14). Unless there has been a sharp reduction in the need or demand for such payments, which seems unlikely in the current climate, this strongly suggests that many potential applicants are either unaware of the existence of STBAs, or are being deterred from applying.

As noted above, the Emergency Use Only research into food bank use found that between 28 and 34 per cent of the food bank users in the study were waiting for a benefit, and yet only a minority were aware that they could apply for an STBA. DWP are keen to point out that their benefit payments are being processed faster than in their past, and that they are meeting their targets. This research suggests, however, that even the 'normal' waiting period for benefits may be too long for many people without a financial buffer. Also, the research suggested that people may be coming to food banks when they would previously have gone to the Social Fund for help, because the new system of STBAs is not well-publicised, and in some cases because they are being directly referred there by Jobcentre staff.

Specific issues identified in the caseload work included:

- People not automatically being told they can request an STBA if they are experiencing hardship as a result of waiting for a benefit claim to be processed
- Lack of information about the availability of STBAs
- Some claimants being told they were not eligible to make an STBA claim, even though they met the criteria (and subsequently received one with support from a welfare rights advisor)
- Some claimants being advised by Jobcentre Plus to access the local welfare assistance schemes or use a food bank instead.

### **Government responses to written parliamentary questions**

*4 February 2015:* 'The Department has already undertaken testing and messaging with a small number of staff and claimants. Once the products have been introduced, we will, of course, monitor their effectiveness and impact, including on the number of requests for STBAs.'

*4 March 2015:* '... the designs have now been reviewed by the Social Security Advisory Committee. More information will be provided to claimants about STBAs online ...'

*24 March 2015:* '... more information now on Gov.uk ... there will be posters and leaflets in all Jobcentres by the end of March.'

*4 June 2015:* '... Guidance has also been updated and staff reminded of the process for considering STBA requests.'

*19 October 2015:* 'All Jobcentres displayed posters about STBAs and staff were up-skilled in the processes and procedures of STBAs. Staff follow guidance that states customers should only be referred to other local sources of help if they cannot get an STBA or any other form of DWP support in the first instance ... Persistent non-compliance of the process by staff could lead to disciplinary action being taken.'

*20 October 2015:* '... We are continuing to monitor the impact of this activity on the number of requests for STBAs.'

National data shows that the number of people applying for STBAs continues to fall in 2015, in spite of the DWP's awareness-raising campaign. In the last 12 months (up to September 2015), there were 228,000 applications for STBAs, compared with 313,000 in 2013/14. Over the same period, the number of positive outcomes – where the primary benefit was paid or an STBA award made – has also declined, from 169,000 in 2013/14 to 140,000 in the year to September 2015.

Focusing on the period since DWP's publicity campaign was rolled out at the end of March, the number of applications for STBAs is significantly lower than during the same period in the previous year – down from 105,000 between Apr-Aug 2014 to 86,000 in Apr-Aug 2015. The number of positive outcomes is about the same as the previous year, as a higher proportion of applications are now being awarded (see Table 1).

Regional data shows a large variation in the number of applications for STBAs relative to the stock of JSA claimants (see Table 2). In February 2015, there were, on average, around 50 JSA claimants for every STBA applicant in Great Britain. However, this ratio varied from around 30:1 in Scotland and 40:1 in the North West and Wales to 70:1 in Central and up to 100:1 in Southern England. This suggests that the administration of STBAs varies widely between regions, and presumably between Jobcentres. (Whilst we requested data at Jobcentre level, we were told that the Regional level is the lowest level the Departmental systems record this data.)

Individual welfare rights advisers and food bank managers are still reporting difficulties in accessing STBAs for their clients. For example, the Deputy Manager at the Reading Community Welfare Rights Unit said:

'We have yet to encounter a single client who has managed to access an STBA regardless of whether we have been involved or not ... More often than not, the local Jobcentre sends the claimant to sort out the food bank/LA crisis support scheme referral.' (October 2015)

They have raised this issue 'several times' with the local Jobcentre, and have been told that they will ensure that staff are made aware of STBAs, but without effect: 'Finding opportunities to contact someone sensible at the JC and set up a meeting is well nigh impossible.' Similar experiences have been reported informally by several food bank managers that the Church of England have spoken to in different areas, showing that the DWP guidance is not being consistently adhered to.

A separate issue, highlighted in response to a series of written parliamentary questions by Frank Field, is around the decision-making process for STBA claims. Of the 228,039 STBA applications in the last 12 months, 52,517 were refused because the primary benefit was paid instead (a positive outcome for the applicant), and 110,000 went forward for a decision, of which 87,534 were successful. That leaves 65,522 claims unaccounted for; these are claims declined without a formal decision, because there was a doubt about whether the claimant would be entitled to the benefit being claimed - and therefore the Jobcentre could not be sure that there was any benefit to advance. According to welfare rights advisers, such cases should still receive a decision.

Furthermore, DWP Ministers were unable to provide any information on the number of cases where an STBA was awarded but the applicant was subsequently refused the benefit applied for. Such

information would be very useful in knowing whether decision-makers are appropriately balancing the risk of making an advance payment against a benefit that is not forthcoming, on the one hand, against the risk of not making an advance payment to a claimant who is potentially at risk of destitution. More generally, DWP Ministers were unable to provide any specific information about the reasons for refusal, admitting that they collect limited data on these requests.

In summary:

- The number of application for STBAs has continued to decline in the past year in spite of the DWP’s publicity campaign, suggesting that its efforts to raise awareness of STBAs have not been effective and/or that other barriers are preventing people from accessing these payments.
- There is anecdotal evidence that many Jobcentres are not following the DWP guidance for claimants waiting for a benefit to be processed, referring them directly to food banks or local welfare assistance schemes, rather than first considering their eligibility for an STBA. Some Jobcentres have apparently indicated that ‘they do not do STBAs’.
- There is also evidence that Jobcentre advisers are not following the correct procedures, with a large number of claims – over 65,000 in the last year - being rejected without a formal decision. DWP should carry out an urgent review to assess whether decision-makers are appropriately balancing the risk of making an advance payment against a benefit that is not forthcoming, on the one hand, against the risk of not making an advance payment to a claimant who is potentially at risk of destitution.
- Regional data shows a wide variation in the proportion of JSA claimants applying for and receiving STBAs, suggesting the due processes are not being applied consistently across the country. Data for individual Jobcentres was not available from the DWP, but should be examined to identify those that are processing a disproportionately low number of STBAs relative to their caseload.
- In response to the Feeding Britain report, the government rejected the recommendation to allow advice workers to submit claims on their clients' behalf, and also rejected the recommendation to consider automatic STBA payments after a certain period of time. The evidence presented here suggests that both these recommendations should be seriously re-considered in light of the apparent failure of the measures implemented in their place.

**Table 1: Total number of STBAs and equivalent payments**

<b>Crisis loan alignment payments<sup>1</sup></b>	<b>Total number of applications</b>	<b>Total number of successful awards</b>
2007/08	-	690,000
2008/09	-	866,000
2009/10	-	1,100,000
2010/11	-	1,163,500
2011/12	-	971,000



2012/13	-	835,000
<b>STBA payments<sup>2,3,4</sup></b>		
2013/14	313,000	169,000
2014/15	248,000	142,000
Oct '14-Sep '15	228,000	140,000
Apr '14-Aug '14	105,000	58,000
Apr '15-Aug '15	86,000	57,000

1. Figures are from a response to an FOI request to the DWP (FOI 3207) on 10 September 2014 (rounded to the nearest thousand).
2. This includes the total number of STBAs 'referred to the decision maker and allowed' and the total number of STBA requests that were 'refused because the primary benefit can be paid'.
3. The footnote to the FOI request states that 'due to differences between Crisis Loans and Short Term Benefit Advances, it is impossible to directly compare these advances to Crisis Loans for alignment to benefit'.
4. Figures for 2013/14 and for October 2014–September 2015 are from responses to written PQs by Frank Field on 11 September 2014 and 19 October 2015.
5. Figures for 2014/15, April 2014–August 2014 and April 2015–August 2015 are from replies to FOI requests to the DWP on 2 April 2015 (FOI 907) and 2 November 2015 (FOI 4003).

**Table 2: Number of STBAs claims by region (JSA claims only)**

	Total JSA claimants	STBA requests (JSA only)	Ratio of claimants to STBA requests
Central England	196,550	2,743	72:1
London & Home Counties	121,160	2,794	43:1
North East England	141,740	2,846	50:1
North West England	83,230	2,021	41:1
Scotland	84,500	2,701	31:1
Southern England	109,790	1,098	100:1
Wales	48,520	1,176	41:1
<b>Total</b>	<b>785,490</b>	<b>15,379</b>	<b>51:1</b>

Source: Response to Freedom of Information request to DWP (FOI 4004) on 2nd November 2015.

1. The regions used for the STBA analysis do not quite match those used for the JSA claimant data, so the figures for London & Home Counties are not directly comparable.

## 2. Sanctions and hardship payments

### *Feeding Britain recommendations*

The report made a number of recommendations around sanctions. Recommendation 58 called for the extension of the recommendations of the Oakley Review to cover all JSA claimants, while recommendations 59-62 concerned making a sanction lawful only if certain standards of information to clients are met, informing claimants of their right to appeal, increasing discretion for Jobcentre Plus staff in not implementing sanctions where they are satisfied that a requirement was missed due to error or circumstances beyond a claimant's control, and implementing a 'yellow card' warning system before sanctioning. Recommendation 63 concerned ensuring that sanctions do not impact upon payment of housing benefit.

In recommendation 52, the Feeding Britain report called for simplifying the application process for hardship payments, and for providing greater information to claimants about the support available and how to access it. In recommendation 55, the report called for DWP to monitor closely the impact of changes designed to speed up hardship payments, and, if necessary, to consider further action to ensure a decision on hardship payments is made at the same point as a sanction decision.

Recommendation 63 addressed implications of sanctions for housing benefit claims, recommending that Jobcentres should either tell claimants to contact their local authority or do so themselves when a decision to sanction is made, to ensure that there is no disruption to housing benefit payments.

### *Evidence / other recommendations from Emergency Use Only*

Emergency Use Only found sanctions to be a major driver of food bank use: between 20 and 30 per cent of clients at the three food banks from which data was collected were there because their benefits had been reduced or stopped because of a sanction. Furthermore, awareness of hardship payments was low, with under half aware that they were able to apply for them. Only a small minority had been awarded hardship payments (18 per cent in Durham and 1 of 28 and 2 of 28 in Epsom and Ewell and Tower Hamlets respectively). The report therefore called for improved communications around sanctions – in line with the Oakley Review recommendations – and for a decision on hardship payments to be made at the same time as a decision to sanction, and for hardship payments to be made available to all claimants in the first 14 days of a sanction.

The report also identified an issue whereby JSA sanctions were in many cases leading to the erroneous closing of housing benefit claims by local authorities, leaving claimants without access to housing support. It recommended a technical fix whereby all sanctioned claimants were left with £0.10 a week, in order to ensure that the claim remains open.

### *Government responses*

The government promised to implement the recommendations in the Oakley Review of the operation of JSA sanctions. This includes identifying improvements to letters notifying claimants of a sanction. More recently, the government responded to the Work and Pensions Committee report on sanctions, where it accepted in principle that hardship payments should be available to a wider group of claimants within 14 days of a sanction, as well as that a decision maker should instigate an

initial appointment for hardship where a claimant is either vulnerable or has dependent children. It also committed to a version of a 'yellow card' warning system for sanctioned claimants.

With regard to the specific issue around housing benefit, the government sought to resolve the issue through producing and publishing additional guidance for local authorities to ensure that they classify sanctions in the correct way, and act accordingly.

### **Update**

Since the Feeding Britain report in December 2014, much of the work around conditionality and sanctions has been stymied by the electoral and parliamentary cycle, as well as the slow response from government.

The government did belatedly respond to the Work and Pensions Committee report on sanctions in October, committing to trial a new system to give claimants a warning notice of the intention to sanction, and to introduce changes around hardship payments so that they can be claimed earlier, and, in some cases, without a separate application process. While the proposal for a system of pre-sanction warning is welcome, this falls some way short of a true 'yellow card' system where a first offence may not incur a financial sanction.

It is important that all sanctioned claimants will now automatically receive a written confirmation of this decision, but more important is that the DWP ensures the content and means of communication is clear and appropriate for claimants. Although the department is consulting with the sector on these issues, it is not obvious that advice is always fully recorded and considered, nor exactly how this process works.

### **Hardship payments**

As noted above, the government, in its response to the Work and Pensions Committee report on sanctions, accepted in principle that 'a Decision Maker should instigate the initial appointment for hardship where a claimant is either vulnerable or has dependent children', albeit qualified by the statement that they will 'need to conduct some further work on the feasibility of this recommendation'.

On 18 November, the DWP released statistics on hardship payments for the first time, covering April 2012 to June 2015. David Webster's analysis, the bulk of which is reproduced below, shows that awards of hardship payments rose significantly at the time of the introduction of the new, more severe sanctions regime. There has not, however, been a substantial change over the past year.

*'JSA hardship payments: What the new figures show', from analysis by David Webster*

**Figure 1** compares the number of JSA hardship payment awards month by month with the estimated number of JSA sanctions before challenges, i.e. reviews, reconsiderations or appeals. This is the correct comparison since sanctioned claimants lose their money immediately, and, even if successful in their challenge, will only receive a refund weeks or months later.

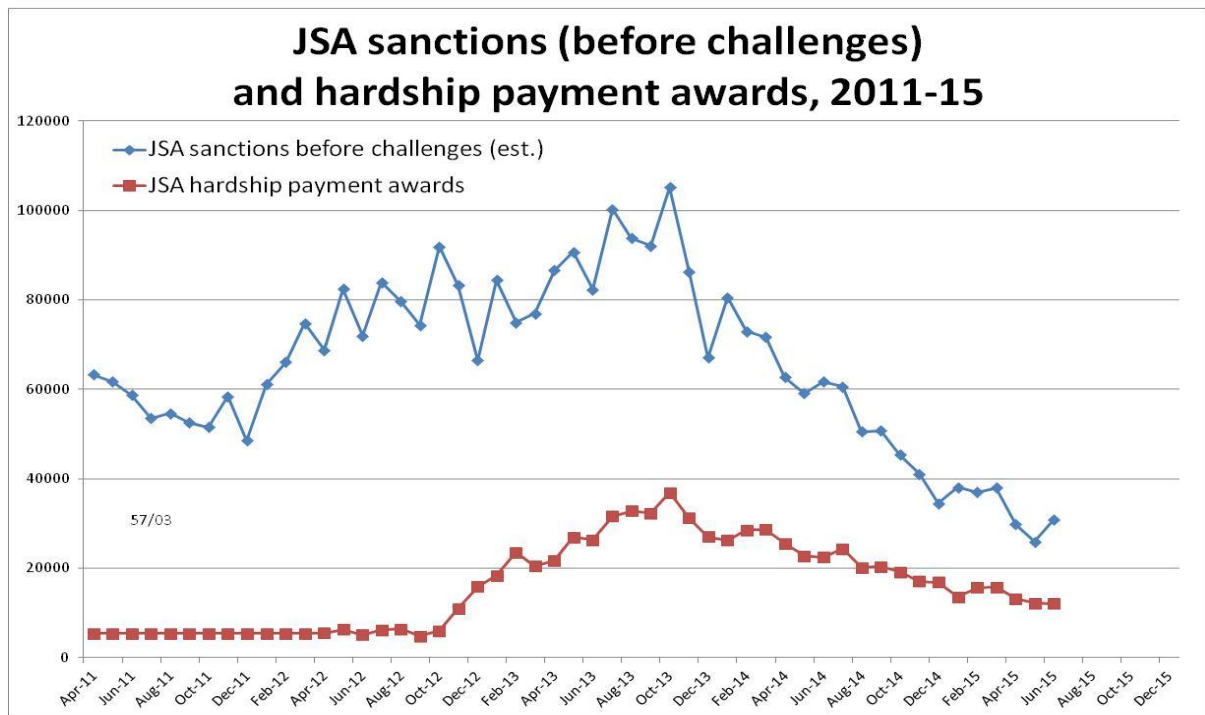
The most striking feature is the huge increase in the number of hardship payments immediately upon introduction of the more severe sanctions regime, with longer sanctions, on 22 October 2012.

Since then, the gap between the number of sanctions and the number of hardship awards has continued to narrow. This is shown more clearly in **Figure 2**. Before the October 2012 changes, JSA hardship awards were running at less than 10 per cent of sanctions. But they then rose steeply, to 30 per cent by February 2013, and they have since risen further, to over 40 per cent. The criteria for ‘hardship’ are specific to the sanctions regime and are particularly harsh – for instance, a person with cash in hand equal to their ‘applicable amount’ will be refused even if the money is owed to a payday lender (Decision Maker’s Guide para. 35198). If you get a hardship payment, it means that you have been completely cleaned out of resources, and exhausted all possibility of help from family and friends. The figures therefore show that the new regime is creating destitution on a horrifying scale.

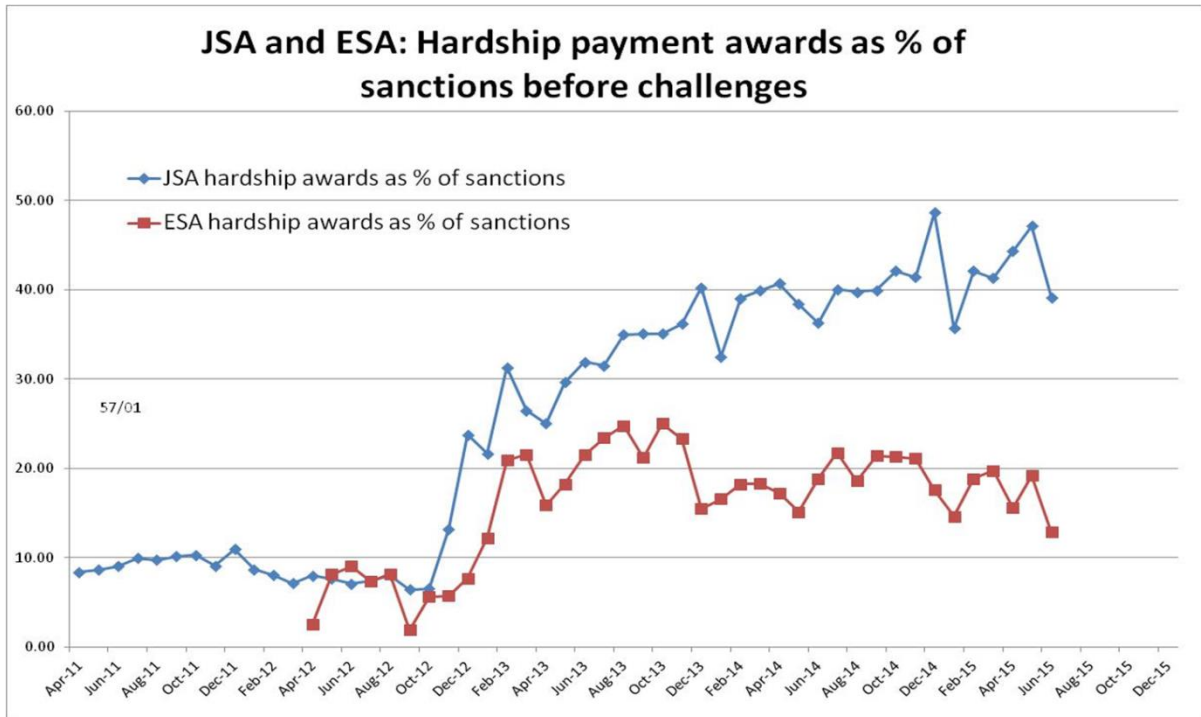
Also, as with any discretionary benefit, the complicated application process and lack of information given to claimants mean that many claimants never even apply for the ‘hardship payments’ they ought to receive, and even when an application is made, there are often delays in payment.

The former minister Esther McVey told the Work and Pensions Committee on 4 February that ‘the vast, vast majority of people applying for hardship payments get them’. Figure 3 shows that this is true. Just under 90 per cent of JSA applicants are successful. However, it is disturbing that this percentage has risen from only about two-thirds prior to the current regime. A higher proportion of a larger number of applicants are completely destitute.

**Figure 1**



**Figure 2**



*‘ESA hardship payments’, from analysis by David Webster*

Sanctioned ESA claimants are not quite as badly off in that they currently retain the ‘work related activity component’ of about £25.75 per week, although this is being abolished from April 2017 through the Welfare Reform and Work Bill. They are also generally a less disadvantaged group than JSA claimants, in that long term sickness and disability are less concentrated among economically disadvantaged people than is unemployment. These factors probably explain why, although ESA hardship awards rose sharply after the changes (for ESA, these were from 3 December 2012), the proportion of sanctioned claimants receiving hardship payments has never risen as high as for JSA. They have risen from under 10 per cent during 2012 to around 20 per cent since then, with the proportion declining slightly in later months (**Figures 2 and 4**). The proportion of ESA applicants claiming hardship payments who receive them is very high, and similar to that for JSA (**Figure 3**).

Figure 3

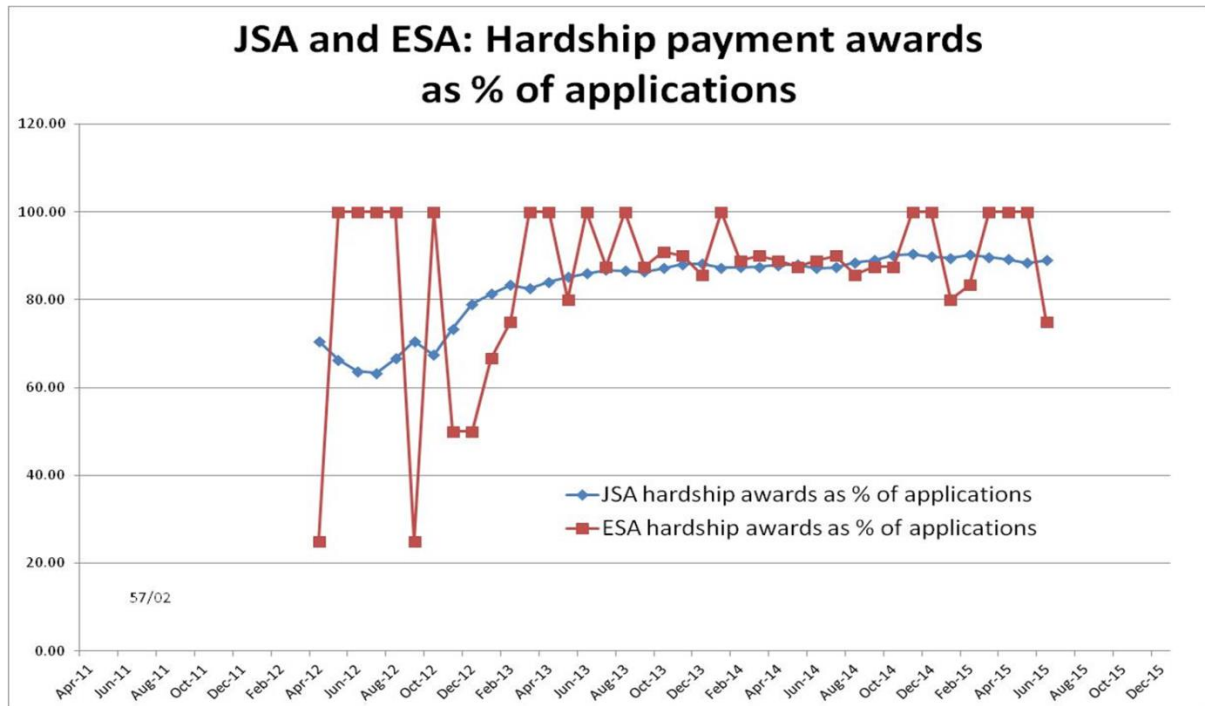
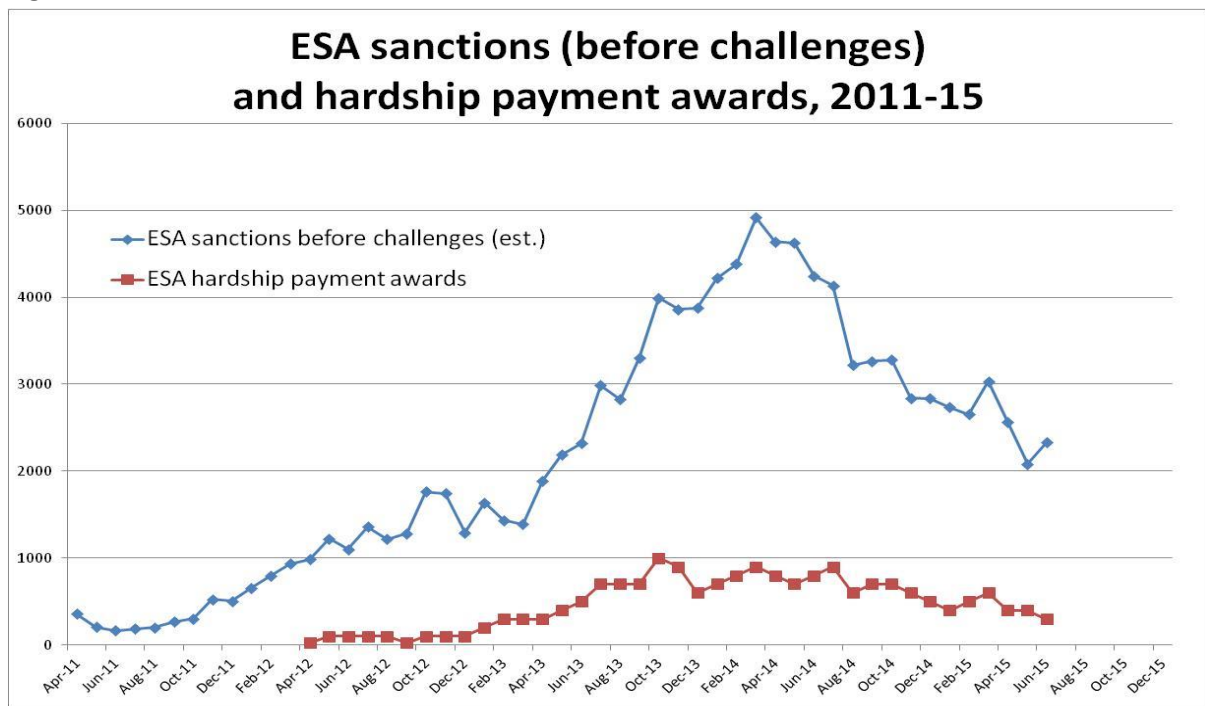


Figure 4



CPAG experience from advice work is that more clients are being assisted to apply for hardship payments, though there is not much evidence of this from the statistics so far. It must be emphasised, however, that these only take us up to June 2015, little more than half way through the period being considered. Indeed, JSA hardship payment awards stood at 16,800 in December 2014, and at 12,100 in June 2015. For ESA, the respective figures were 300 and 500. As a proportion of sanctions before challenges (and after), JSA hardship payment awards fell from 48.7 per cent (and

57.7 per cent) in December 2014 to 39.2 per cent (and 44.9 per cent) in June 2015. That said, there is a degree of volatility in the figures, which is reflected when looking at six month averages. In the six months to December 2014, JSA hardship payments as a proportion of sanctions before challenges (and after) stood at 42.0 per cent (and 49.1 per cent), dropping only slightly when considering the six months to June 2015, to 41.6 per cent (and 48.4 per cent).

### **Communications around sanctions**

The government has returned to a system whereby everyone who is sanctioned on JSA will receive an automatic written letter. The experience of CPAG, however, is that these letters do not make it clear why individuals have been sanctioned, or when. Meanwhile, the group have been unable to verify whether the DWP is continuing to test variations in the style and content of letters, with the aim of boosting the proportion of claimants who open and engage with the letters they have been sent.

The DWP have produced, as recommended by the Oakley Review, a guide to benefit sanctions, though this is placed on the DWP website, and it is unclear whether hard copies are readily available, or how easy claimants have found it to locate the guidance.

Meanwhile, there is little evidence that sanctions letters have improved, with it still not being immediately clear, in general, from looking at them what exactly the breach was, or even that benefit payment has been stopped. Nor do letters routinely contain information on applying for hardship payments. A typical recent example of a sanction letter is reproduced below, precisely as sent (with the name removed). This letter does not use the word 'sanction', and, confusingly, has a subheading entitled 'how you will get your money'.

### ***Example of an actual sanction letter, August 2015***

Date 17 August 2015

Dear Mr T,

#### **YOUR CLAIM FOR JOBSEEKER'S ALLOWANCE**

#### **CHANGES IN YOUR JOBSEEKER'S ALLOWANCE**

We have looked at your claim again following a recent change.

We cannot pay you Jobseeker's Allowance from 7 August 2015.

This is because we recently told you that a decision would be made about a doubt:

- on whether you failed to take part in the Mandatory Work Activity Scheme.  
We have now decided that you failed to take part in the Scheme and that you did not have good reason for doing so.  
This decision applies from 7 August 2015 to 5 November 2015.

If you are looking for work, and you intend to dispute or appeal against this decision, or to apply for hardship payments, you should continue to provide signed declarations as instructed on your ES40.

We cannot award National Insurance contribution credits for this period.

From 6 November 2015 your Jobseeker's Allowance will be £73.10 a week.

We have used the tax years ending 5 April 2004 and 5 April 2005 to assess your claim.

The attached sheet shows how we worked this out. If you want more information please get in touch with us. Our phone number and address are at the top of this letter.

This assessment is based on how much the law says you need to live on. You have not paid, or been credited with, enough Class 1 National Insurance Contributions for them to be used in this assessment.

#### **HOW YOU WILL GET YOUR MONEY**

Your money will be paid every two weeks while you are still entitled to Jobseeker's Allowance.

Jobcentre Plus staff work to offer a complete service through your Jobcentre. If you have an enquiry about your claim for Jobseeker's Allowance you will be referred to the most appropriate officer.

To claim milk tokens, from November 2004, the pregnant member of the household must obtain and complete a claim form from your local Jobcentre Plus office.

If you want to know more about how we worked out your income-based Jobseeker's Allowance, please get in touch with us. Our address and phone number are at the top of this letter.

You should keep this letter, as you must show it if you are getting help with things like free prescriptions and other National Health Service charges.

#### **PLEASE KEEP THIS LETTER FOR YOUR INFORMATION**

It will help us if you have this letter when you make any enquiries or need an explanation about the decision.

Regarding informing claimants of their right to appeal sanctions decisions, there is no evidence that this is being offered systematically, and, indeed, evidence from the NAWRA survey suggests that the



experience of many advisers is that their clients have not been told of this. In the letter above, the possibility of appeal is mentioned indirectly, but without any details of how this is to be taken forward.

### **Implications of sanctions for housing benefit**

Central government has issued guidance to all Jobcentres, as described above. Guidance to JSA claimants, however, says that anyone sanctioned should speak to the centre to ensure they don't lose housing benefit – so that runs in contradiction to this new guidance.

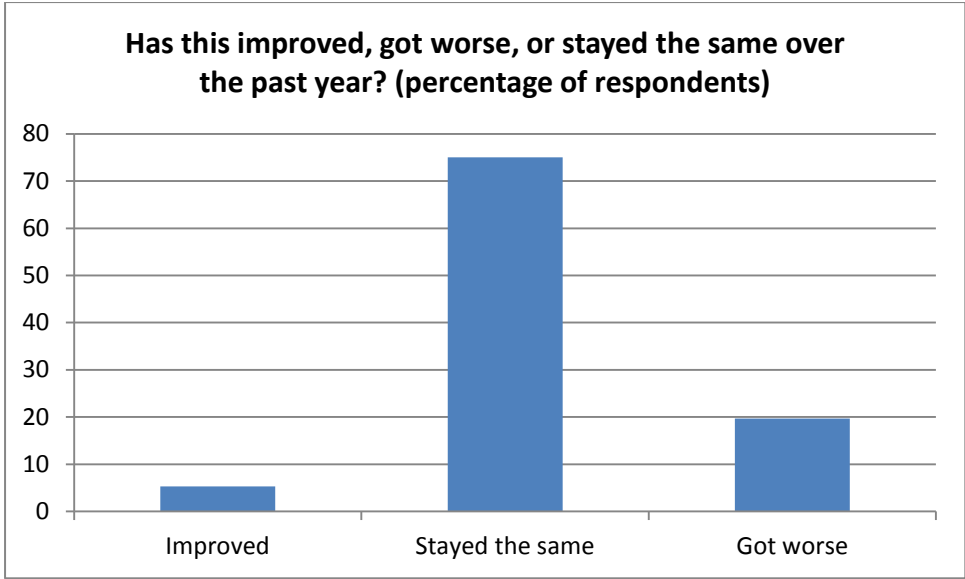
That said, evidence from CPAG's advice work in outlets of Tower Hamlets food bank suggests that this fix has thus far been broadly successful. This cannot be confirmed at a national scale, however, as information on this issue is not systematically collected.

The fix recommended in Emergency Use Only – of continuing to pay £0.10 a week to all sanctioned claimants, as currently happens with ESA – would be an unambiguous, universal solution. In all likelihood, it would be cheaper, too, due to the lack of need to issue guidance and ensure advisers are trained in its use. It would also ensure that this does not affect claimants who have been given a sanction for a failure in actively seeking work, where this results in a disallowance from JSA. There, the onus is on the individual to inform their local authority for the purposes of housing benefit, and thus this problem could continue to occur in those cases.

### **Mandatory reconsideration of sanctions**

In the survey of National Association of Welfare Rights Advisers (NAWRA) members, 144 people responded on the question of how long it takes to get a response to a mandatory reconsideration letter from when it is sent in sanctions cases. Respondents reported a range of different estimates, with the majority saying between 2 and 4 weeks. One respondent said this took '1 to 2 weeks' and another 'up to 2 weeks', but otherwise no respondents reported that it took under 2 weeks. Four respondents said it took 8 weeks or longer, while several simply answered 'forever'. A few respondents emphasised the variability of the length of time taken.

Three-quarters of respondents said that the situation had stayed the same over the past year, while almost a fifth said that things had got worse, and only 5.3 per cent that they had got better.



### 3. Issues with disability benefits

#### *Feeding Britain recommendations*

The Feeding Britain report called for the DWP to consider introducing a time limit for the mandatory reconsideration period for Employment and Support Allowance (ESA), alongside continuing to pay the benefit for the duration of claimants' mandatory reconsideration period (recommendation 57).

#### *Evidence / other recommendations from Emergency Use Only*

Emergency Use Only found that a number of issues affecting ESA were acting as drivers of food bank use for many claimants, notably money being stopped because of a claimant being found fit for work in an ESA assessment (affecting 9-16 per cent of food bank users in three food banks studied in the report), difficulties submitting medical certificates or application forms, and failure to attend medical examinations. It therefore recommended that those claimants awaiting mandatory reconsideration be treated in the same way as claimants appealing an ESA decision, that action be taken to reduce delays for those whose benefit award is dependent on the provision of medical certificates, and that the government take action to mitigate the impact of missed appointments for ESA.

#### *Government responses*

The government rejected Feeding Britain's recommendation on mandatory reconsideration, but did say that it plans to introduce a clearance time target for all benefits, starting from April 2016, and to set a target and report internally on this measure in the year prior to that.

#### **Update**

#### **Employment and Support Allowance: mandatory reconsideration of Work Capability Assessment decisions**

CPAG's advice work in Tower Hamlets food bank suggests that mandatory reconsideration of ESA 'fit for work' decisions is happening more quickly than was previously the case, typically being turned around in around two weeks. However, this has come at a cost: advisers report that the written consideration provided is less extensive than previously, and actual reconsiderations of decisions are rarer, to the extent that mandatory reconsideration has thus become a rubber stamping of the original decision – an analysis (and often phrase) repeated several times in the survey of National Association of Welfare Rights Advisers (NAWRA) members.

This has the effect that mandatory reconsideration does not serve its originally intended purpose of reducing the need for appeals, and in effect creates an added delay for claimants, with no commensurate improvement in quality assurance. For claimants who have experienced an incorrect decision, this has the effect of creating additional hardship, since ESA continues not to be payable during the period of mandatory reconsideration.

Once they have appealed, claimants also frequently have to wait a significant period of time to have their payment reinstated, due to the length of time it can take for the DWP to process appeals, first for the appeal documents to be delivered to the Direct Lodgement Centre (DLC) of Her Majesty's

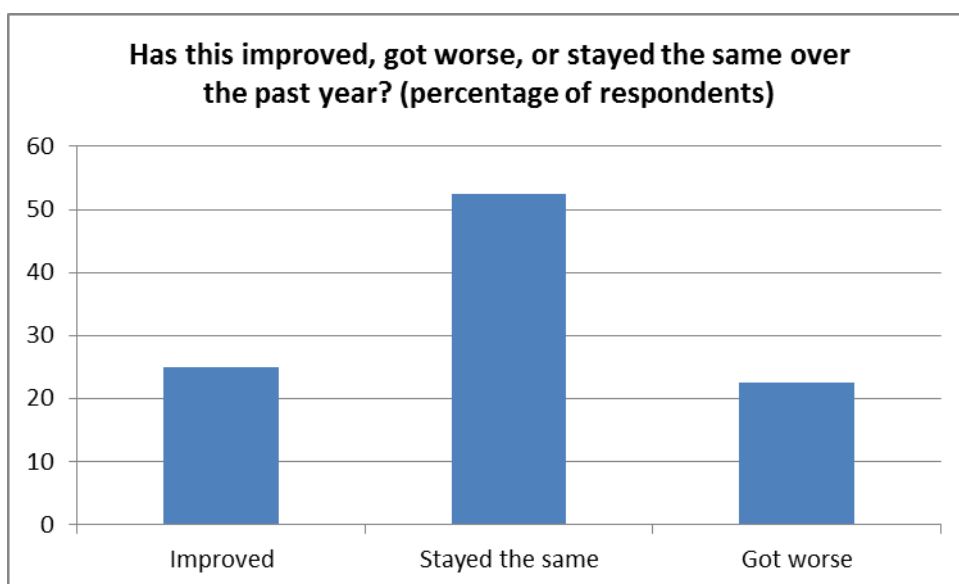
Courts and Tribunals Service; then for DLC to check this and input it to their systems; then for them to send notification that the appeal has been made to the DWP in the post; then for the DWP to pass this notification through its internal postal system to the section dealing with the appeal; and finally, that section must notify the section responsible for rebuilding the claim. As these delays and those relating to mandatory reconsideration run consecutively, the cumulative impact on claimants' finances can be substantial.

The system for handling medical certificates remains inadequate. The DWP benefit advice line makes clear that claimants should allow nine working days before following up on submissions of medical certificates or sick notes. This represents a significant level of delay in the system, which can have a substantial impact on individuals' and families' finances.

In the survey of NAWRA members, 170 people responded on the question of how long it takes to get a response to a mandatory reconsideration letter from when it is sent in Employment and Support Allowance (ESA) Work Capability Assessment cases. There was a range of responses, with the majority giving a range of between 3 and 6 weeks, with a small number saying it could be quicker than this, and only two giving a response of two weeks or less. A significant number of respondents gave ranges that went higher than 6 weeks. Of those giving an average rather than a range, the most common response was 4 weeks / a month.

A large number of respondents commented on the variability of the timescale, with comments such as 'varies, 6 weeks to several months', and 'depends, some take days others weeks' being common. A number of comments suggested that very long delays can occur, for example: 'for the most part it has improved, but when it is delayed it is really delayed', and 'I had two clients last month who waited over four months for a response'.

With regard to how this has changed over the past year, around half reported no change, with the remainder of responses split fairly evenly between things having improved and having got worse.



Elsewhere in the survey, when giving specific examples of DWP mistakes, a number of respondents referred to a failure to inform claimants of their right to mandatory reconsideration. Many responses also reported that, in their experience, mandatory reconsiderations never or almost never lead to the original decision being overturned.

### **Publishing statistics**

There have been no further statistics published since the Feeding Britain report on the level of delays and the time in which they take to process.

In response to Frank Field's question in June:

*To ask the [Secretary of State](#) for Work and Pensions, how many employment and support allowance claimants were affected by mandatory reconsideration in 2014-15; and how many such claimants waited 14 days or more to receive a decision following that consideration.*

The government responded:

*The information as requested is not available.*

However, Justin Tomlinson has stated that the DWP are looking to include information on mandatory reconsiderations in existing regular statistical publications, pending a decision by statisticians.

Stephen Timms MP submitted a parliamentary question on 15 October 2015:

*To ask the Secretary of State for Work and Pensions, how many people applied for mandatory reconsideration following a Work Capability Assessment (WCA) in the last 12 months; and for how many such people the WCA points score was changed.*

Justin Tomlinson, Minister for Disability replied:

*DWP statisticians are looking to include information on Mandatory Reconsiderations in existing regular statistical publications. However, before DWP is able to do this, statisticians need to make sure that the data is accurate and fit for purpose and develop a robust methodology. When a decision has been made, we will pre-announce this in accordance with the UKSA release protocols.*

### **Welfare Reform and Work Bill**

Clause 13 of the Welfare Reform and Work Bill, currently progressing through Parliament, will reduce the amount of benefit received by new ESA WRAG claimants post April 2017. For these new claimants, whilst the ESA WRAG will still exist, they will no longer receive the WRAG component payment of £29.05 as well as the standard weekly benefit of £73.10.

The clause is being fiercely contested by disability organisations, and amendments to the clause have been tabled by various MPs (including Conservative Jeremy Lefroy, Labour's Owen Smith and SNP's Dr Elidih Whiteford).

The government have announced that, alongside the changes to ESA WRAG, they will be investing £60m in 2017/18 in employment support, increasing to £100m a year by 2020/21. However, no details on what this support will look like have been published.

### **ESA Sanctions**

Mind recently received a response to their Freedom of Information request asking for a breakdown of the level of sanctions faced by people in ESA WRAG with health conditions.

These statistics (found at <https://www.gov.uk/government/publications/esa-sanction-decisions-by-disease-jan-2011-to-mar-2015>) show that the level of sanction referral is much higher than has previously been stated by the government. In the last 12 months, the statistics show that over 100,000 sanction referrals were made for people in ESA WRAG – 20 per cent of the cohort.

Further guidance has been given to Work Programme Providers to highlight how to make more accurate referrals. Mind will keep submitting Freedom of Information requests around this issue to see if there is any change to the number of sanction referrals.

The experience of CPAG welfare rights advisers is that there has been little substantive change regarding ESA sanctions over the past year, with communication between Work Programme providers and the DWP remaining problematic.

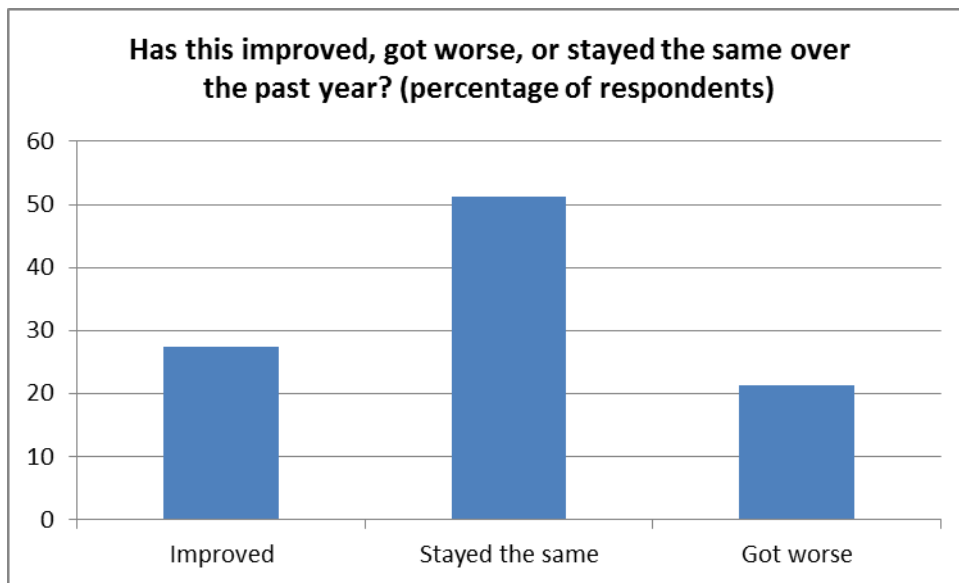
A specific problem with Work Programme providers relates to delays in sending WP07 forms stating that ESA claimants have become compliant, which provides the date from which the sanction end date is calculated. Typically, Work Programme providers wait until the subsequent appointment with their client, rather than submitting the WP07 form from the date that the claimant agrees to participate, as they should. This has the effect of causing the sanction to endure for an additional period, often around a week, which can exacerbate hardship. CPAG advisers report that ignorance of this distinction among Work Programme providers and DWP officials is so widespread as to be apparently universal.

### **Personal Independence Payments: mandatory reconsideration**

In the survey of National Association of Welfare Rights Advisers (NAWRA) members, 162 people responded on the question of how long it takes to get a response to a mandatory reconsideration letter from when it is sent in Personal Independence Payment (PIP) cases. As with ESA mandatory reconsideration letters, respondents gave a varied picture of how long mandatory reconsideration responses take in PIP cases. Most gave a range, though the extent of the ranges given were greater than in the case of ESA mandatory reconsideration, both from individual respondents and between different respondents.

Typically, respondents said it took a little longer than responses to ESA mandatory reconsideration letters, with the majority saying that it took around 4-8 weeks to receive a response. A significant number of respondents reported that the process took several months, and many commented on the variability. Others reported that it required significant effort and persistence on their part to see any results, for example: ‘sometimes, numerous calls are made before we see any movement on the decision’, and ‘had I not continually chased this it still wouldn’t be sorted’.

Regarding how things have changed over the past year, as with ESA mandatory reconsiderations, around half reported no change, while slightly more of the remainder reported improvement compared with those who said things had got worse.



### Errors around ESA

When giving specific examples of wrong advice given by the DWP to clients, more than half of the 129 offering a response as part of the survey of National Association of Welfare Rights Advisers (NAWRA) members cited an issue relating to ESA. Common issues cited included not being advised that clients could reclaim ESA under a new condition; not advising of the possibility of appealing an ESA decision; and being told that they cannot claim JSA after being turned down for ESA.

## 4. Local welfare assistance schemes

### *Feeding Britain recommendations*

Feeding Britain's recommendations 75-77 concerned local welfare assistance, specifically around maintaining funding, and conducting impact assessments of any changes to the scheme, plus introducing monitoring of take-up of local welfare assistance, through DCLG.

### *Evidence / other recommendations from Emergency Use Only*

Emergency Use Only found that local welfare assistance schemes suffered from low awareness (between around a third and a half of those surveyed in three food banks in different parts of England), with significantly lower numbers receiving support, while there were suggestions of variation between areas in both awareness and support received.

### *Government responses*

The government initially removed the dedicated funding for local welfare assistance schemes in 2015/16, but later provided an additional £74 million funding to upper-tier local authorities, designed to ease 'pressures on local welfare and health and social care', but no ring-fence around the money. They have not made any response to recommendations around monitoring and evaluation.

### **Update**

Since local welfare assistance schemes were introduced in 2013 in order to localise the discretionary parts of the Social Fund (Crisis Loans and Community Care Grants), they have become a major part of the landscape of provision for those who fall upon temporary hardship. In spite of the variable awareness of local welfare assistance identified in Emergency Use Only, it is clearly a significant part of the crisis assistance available to people experiencing hardship. Research conducted by The Children's Society in March 2015 ('Getting the house in order: Keeping homeless older teenagers safe') looking at the support provided for homeless young people (aged 16-20) found that, of 226 local authorities, 81 (36 per cent) spontaneously referred to local welfare assistance schemes as one of the only ways they could support young people who needed to get basic furniture to set up a home of their own. This group includes care leavers, children aged 16 and 17, and young adults.

For the first two years of localisation (2013/14 and 2014/15), programme funding of £144m was made available to upper tier local authorities across England to fund local schemes. For 2015/16, this dedicated funding was initially removed from the provisional Local Government Finance Settlement, but, following an extensive campaign by a number of organisations, £130m was identified from local authorities' general grant as being intended for LWAS, and an additional £74m funding was made available to local authorities to 'to assist them in dealing with pressures on local welfare and health and social care'.

Local welfare assistance is thus on a precarious financial footing. When the funding for local welfare assistance schemes was under threat, an assessment was made on the feasibility of local authorities continuing to fund these local schemes without a dedicated central government funding stream. The findings from the Local Government Association survey showed that almost three quarters of local



authorities (73 per cent) would either end completely or scale back their scheme should the funding no longer be provided.

In addition to the financial vulnerability of the schemes, there is also a lack of clear duties on statutory local and national bodies, which has meant that it has been possible for provision to be cut back, which can in turn lead to vulnerable people falling through holes in the safety net. CPAG's local welfare assistance portal, which has been operational since April 2014 and allows individuals and advisers to find information on their local welfare assistance scheme (LWAS), has allowed them to identify that eight local authorities have closed their LWAS entirely, and others have significantly scaled back provisions. This is likely to have a direct knock-on effect on food bank use, since this removes (or scales back) a major source of crisis support for individuals. Many local authorities also include a food bank referral as part of their LWAS scheme. In addition, many local authorities attach residency requirements to their LWAS policies. This disadvantages groups more likely to move over local authority boundaries, including women fleeing domestic violence, gypsies and travellers, people leaving care, institutions or prison, and homeless people – groups who are often particularly vulnerable.

### **Access and uptake**

Uptake of LWAS remains low compared to equivalent parts of the Social Fund, suggesting that there are significant issues around the advertising and accessibility of the schemes. The variation in spend that exists between boroughs suggests variations in awareness. Responsibility for LWAS was passed to local authorities on the basis that the national scheme was subject to inflated demand. This meant that councils were nervous about the demands that may be placed on their local schemes, and so were conservative in the extent to which they advertised them. One councillor surveyed by CPAG said that their main priority in designing a local scheme was to ensure that their contact centre was not overwhelmed by applicants applying for 'free money', and so purposefully limited advertising of the new scheme. Since no information is collected centrally on number of applications, it is hard to determine whether the issue of underspend is due to low number of applications, or low success rates of applications. Uncertainty over future funding arrangements has also encouraged councils to take a cautious approach in setting eligibility rules, and in promoting LWAS.

Feedback CPAG has received from advice agencies has also highlighted some issues around access to schemes. One had given up applying for LWAS as it was never successful; another favoured a grant-giving charity for the crisis loans provision as the application was easier and the awards were timely.

There is variation in the application process for schemes between boroughs. Advice workers have to use different application forms for different boroughs, and some find that the process is considerably more user friendly in one area than another. For LWAS, some areas only accept applications through one means – for example, either online or over the telephone – which can make them harder to access, particularly for people who do not have access to the internet or who have poor written English.

Advice agencies and local authorities have also told CPAG about issues with people being inappropriately being referred to LWAS by DWP staff when they should be accessing short term

benefit advances (STBA) or hardship payments from the DWP. Some local authorities will make awards in these cases to meet the needs of a vulnerable person in crisis rather than risk them slipping through the net entirely. This is putting additional pressure on LWAS, as well as distorting figures on demand for STBAs and hardship payments.

### **Future for LWAS**

As discussed above, LWAS are subject to ongoing financial uncertainty, while there is no framework by which they must operate, nor monitoring duties, at a time when local authorities have experienced large shortfalls in funding. For Discretionary Housing Payments, on the other hand, there has been both a ring fence and reporting duties, with the result that councils have mostly spent the majority of funding they have been awarded. The information gathering has also given clear visibility of which reforms recipients have been affected by, which allows for decisions on future funding to be better informed. It would therefore be greatly beneficial if similar reporting duties – and the introduction of a ring fence – were considered for LWAS, alongside a framework for delivery to reduce the current postcode lottery in provision, without undermining the benefits of localisation.

Safeguarding LWAS central funding and improving both access criteria and client awareness of the scheme remains a high priority for many food banks. 94 per cent of 100 food bank project managers responding to a Trussell Trust survey in October 2015 agreed both that it was important that the DWP ensures central funding for LWAS continues, and that work is done to improve awareness of the schemes.

## 5. Communication between claimants and DWP

### *Feeding Britain recommendations*

A number of recommendations (72-74) within the Feeding Britain report focused on communication between claimants and the DWP and Jobcentres. These include the reintroduction of telephones into Jobcentres and the removal of premium rate phone lines, as well as an email address for submitting documents (48).

### *Evidence / other recommendations from Emergency Use Only*

Poor communication with the DWP and Jobcentres was a significant issue raised in the Emergency Use Only research. Various recommendations were made for improved communication, including dedicated email addresses, and the reintroduction of phone lines in Jobcentres.

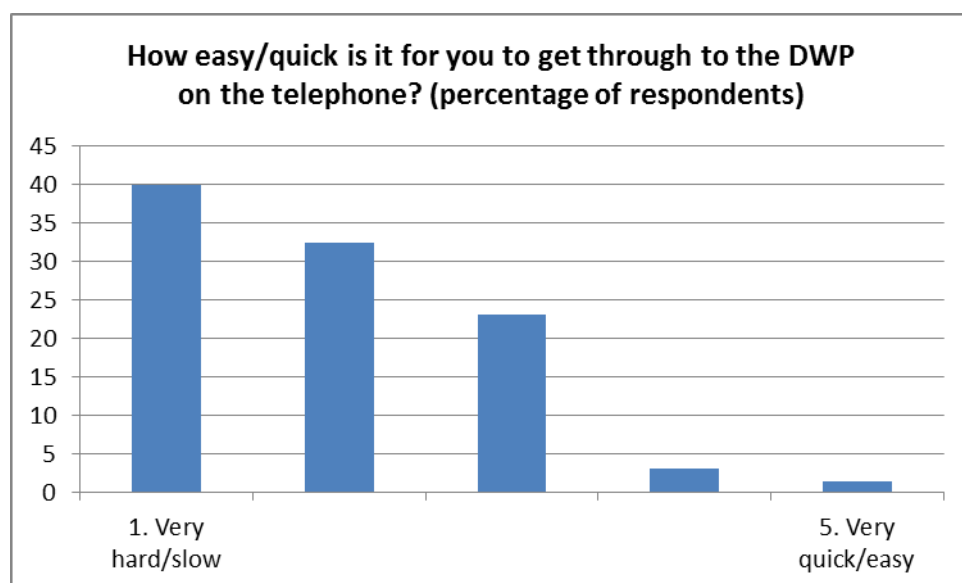
### *Government responses*

The government has not responded to most of these recommendations, though it did reject the recommendation for an email address to be made available to claimants, on the basis of security. It did, however, say that it is considering alternative means of enabling claimants to submit personal information, for example through secure web portals.

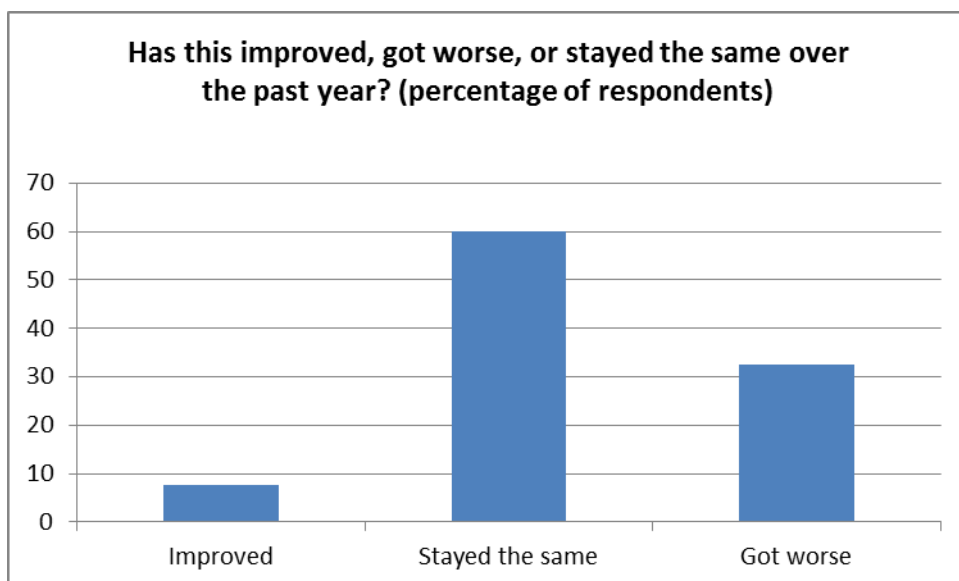
### **Update**

#### **Contact with DWP**

The survey of National Association of Welfare Rights Advisers (NAWRA) members found that, of 225 respondents, 40 per cent found it 'very hard/slow' to get through to the DWP on the telephone, with only 1.3 per cent finding it 'very quick/easy'.



Among the same respondents, 60 per cent reported that this had stayed the same over the past year, 32.4 per cent that it had got worse, and 7.6 per cent that it had improved.



194 of the 225 respondents were able to point to specific problems they faced in getting through to the DWP on the telephone. The vast majority of these related to length of time spent waiting on hold, with one respondent noting that this is ‘using up scarce adviser resource whilst hanging on for an answer’. A number of respondents mentioned being cut off arbitrarily after spending a long time on hold.

Other problems noted include ‘frustrating phone systems’, including problems transferring to the right department. For example:

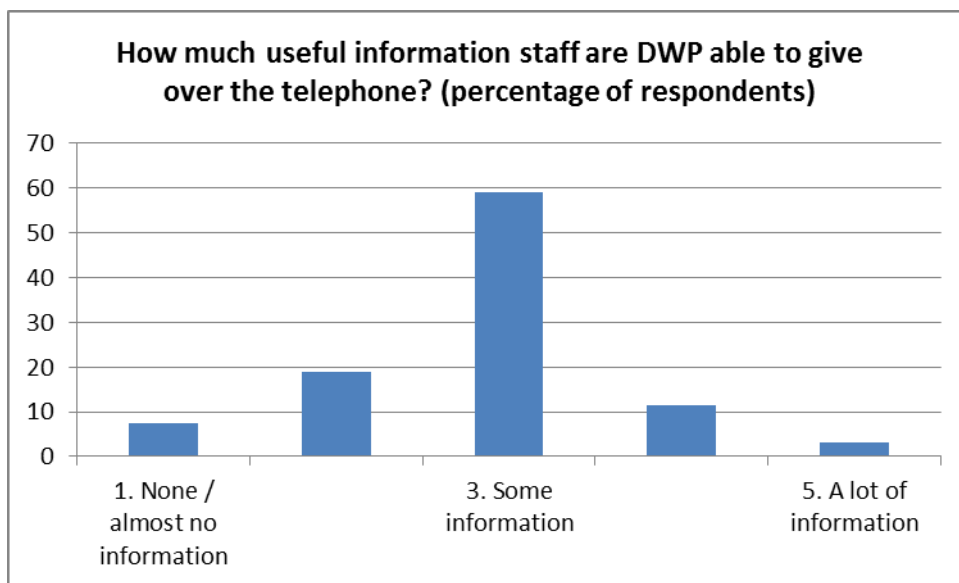
‘It takes a considerable time to go through the menus. We used to have dedicated advisers’ lines. When we speak to the DWP, they have to go through their checklist even though we may have heard it several times already that week. When we speak to someone, we have to dial in again if we have another client query. If I call when I am with clients and we need a call back, they will not arrange a time when I am in the office or my client has returned home; they just say it has to be within, for example, five hours. There is no ownership of cases anymore; I have to explain the same information several times a week on some cases. I also make a point of phoning again the next day to make sure that information has been put on the system because often it is not.’

There were several references to the call centres not offering the opportunity to speak to the necessary people, for example: ‘contact centres cannot give answers, but are reluctant to arrange call backs’, and ‘to speak to the processing team, there is a five day call back. When they finally find back, you have to be available. If not, they only ring once and leave a message for you to ring the helpline again. So you have to ring again with another five days’ wait, and so it goes on’.

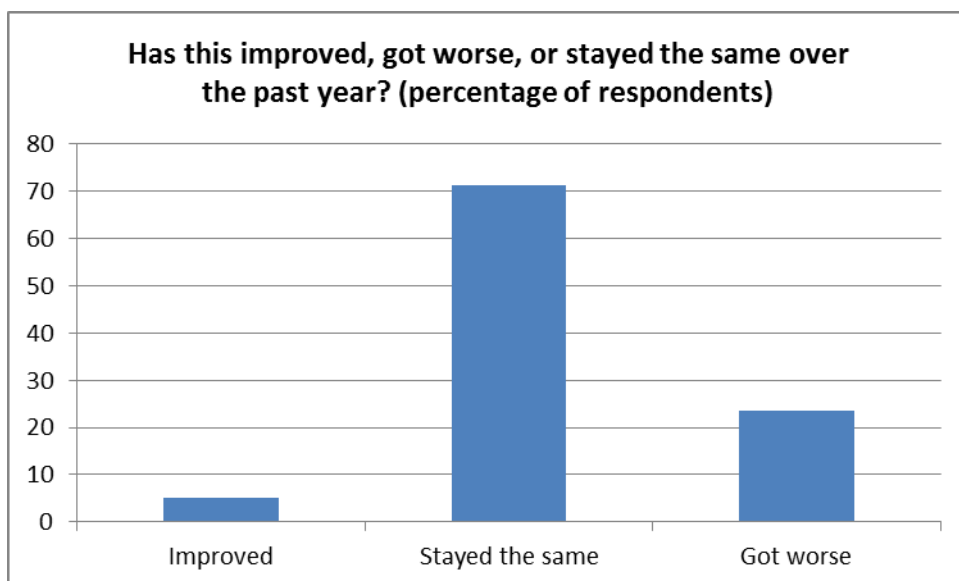
One respondent did mention having access to dedicated lines for welfare rights advisers, which appeared to help considerably, while also mentioning the difficulty with receiving calls back from DWP employees – a problem noted by a few others:

‘We have privileged numbers for advisers only, which are a great help. However, for any department where there is no advisers’ help line, it is very difficult; we have the same problems as our clients, for example being kept waiting for long periods of time, then getting through to someone who is not equipped to deal with the query, and, worse, may not even realise this. It is then hard to be put through to someone with more understanding or experience. If I ask for a call back, I have to ask that the person calling me is told to leave their contact details if my phone goes to answerphone; otherwise, the DWP / Jobcentre Plus will consider their job is done, because they tried to call back but no one picked up.’

The majority of respondents reported receiving ‘some information’ from DWP staff over the telephone once they got through. Only 7.4 per cent reported receiving ‘none or almost no information’.



The majority of respondents reported that this situation had stayed the same over the past year, though nearly a quarter said that things had got worse, with only 5 per cent saying things had improved.



176 respondents (of 216 answering the previous question) were able to point to specific problems they had encountered with information from DWP staff. The bulk of these fell into three main, interlinked categories. First, there is often a lack of authority on the part of the helpline operators, meaning that calls have to be referred to another office, which usually necessitates a call back – which, as noted above, can be problematic. For example:

‘Despite clients giving permission for officers to act on their behalf when arranging a call back, the delivery centre staff often cite not being able to discuss with a third party without signed authorisation. This is an increasing problem. It is not feasible to have a client wait with you for 3 hours while you await a call back, and particularly not appropriate when visiting a client’s house. [There is a] refusal to agree a secure email address that a mandate can be faxed to to speed up the process.’

‘We cannot get through to the decision makers as once we could, before 2008. Therefore, the staff we speak to can only read what is on the system and email the department to contact the client within three hours.’

Second, there were frequent references to a lack of expertise on the part of DWP staff at different levels, including inaccurate advice being given. This can also manifest in a lengthy and confused process of seeking out advice. 37 responses referred, unprompted, specifically to a lack of knowledge of implicit consent, while several others alluded to this problem in other ways.

Third, and linked to this, were references to and examples of inaccurate information, for example:

‘Information is often wrong and misleading; errors in law are often stated with huge confidence by DWP staff. Referral to the relevant office is frequently made to members of staff unable to answer the question referred to them, leading to multiple further referrals.’

The picture painted by the responses taken in the round was of a DWP system that is frustrating for advisers to get through to, with multiple stages usually required due to a lack of authority and

expertise on the part of DWP staff, which in many cases lead to inaccurate information being received. Other responses lamented the lack of knowledge of specific cases that DWP staff displayed:

‘Staff on the telephones don’t always have access to the necessary information (e.g. I asked when a sanction was due to end and when the claimant could expect a payment; they couldn’t tell me until the day before the payment was due to go out).’

Many respondents noted an apparent refusal or inability on the part of DWP staff to deviate from a standard script.

‘The call centre staff can give limited information. To have more details on the specifics of the case you have to wait five days for a call back from the processing team. You cannot speak to the person who actually made the decision.’

‘They only seem to want to give the information on the script, and speak to me as if I don’t know anything.’

Many respondents were keen not to blame individual DWP advisers, but to make clear that the problems were more systemic. For example:

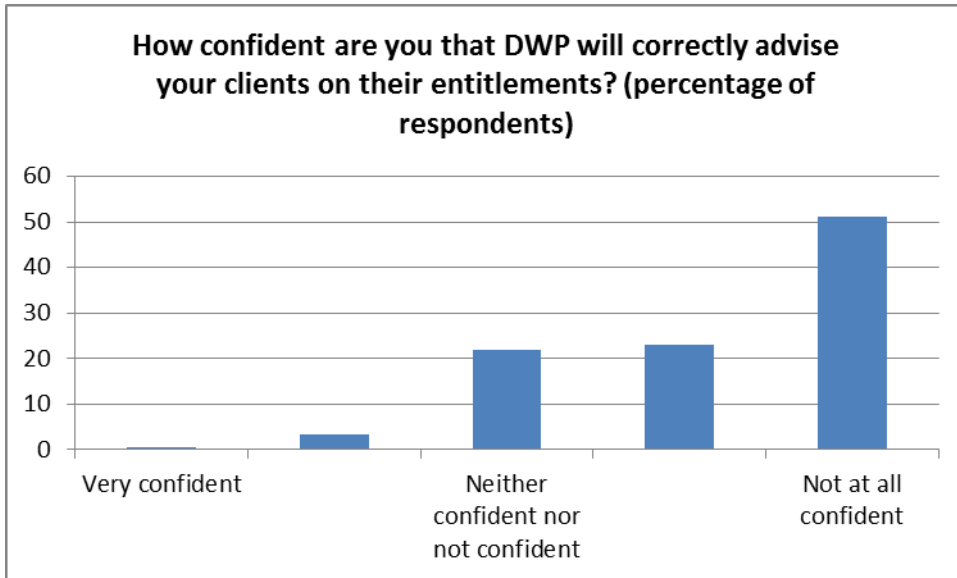
‘DWP staff are rarely deliberately uninformed or rude, but the net effect of them not necessarily being trained is that they are uninformed.’

A number of survey respondents specifically alluded to the lack of email addresses for correspondence, while making clear how valuable these could be in many situations. For example:

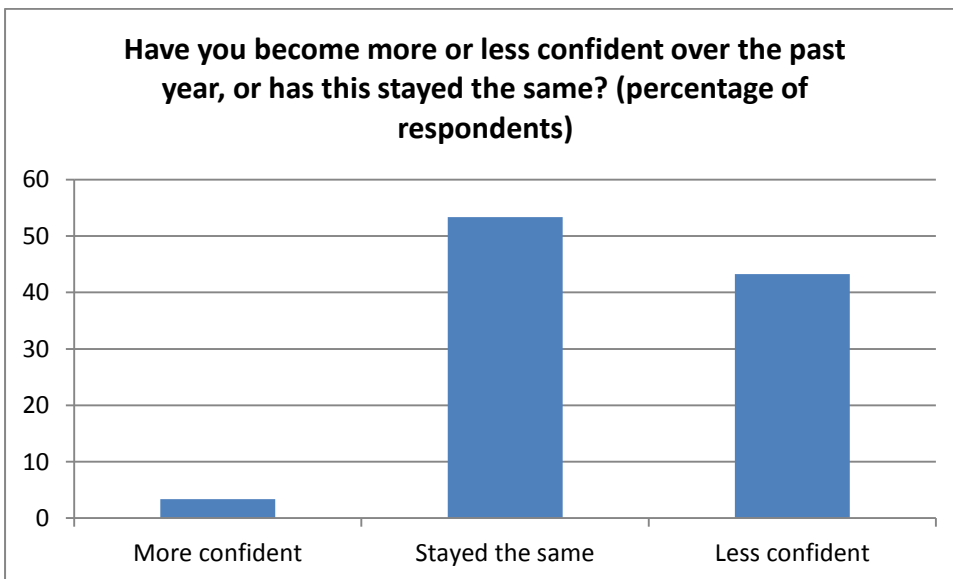
‘We need to know the levels awarded for disability benefits to income maximise. It is difficult to obtain this without the client being present; 70mile round trips often make this unfeasible, and therefore cause problems for us in checking premiums, etc. It would be helpful to have email addresses to scan mandates to the DWP, who could then provide more detailed information.’

### **Advice from DWP**

Perhaps unsurprisingly given the above, welfare rights advisers did not display a high level of faith regarding the quality of advice offered by the DWP. Of the 178 who responded to this question, over half said they were ‘not at all confident’ that the DWP would correctly advise their clients on their entitlements, while 21.9 per cent were ‘neither confident nor not confident’, and only one respondent described themselves as ‘very confident’.



This level of confidence was diminishing for more than two fifths of respondents: out of 178 who answered the question, 43.3 per cent said they had become less confident over the past year, more than half (53.4 per cent) said that things had stayed the same, and only 3.4 per cent said that they had become more confident.



129 respondents were able to give specific examples of wrong advice to clients from DWP. By far the largest area of these was examples around Employment and Support Allowance (ESA): issues relating to ESA accounted for more than half of the examples given by respondents. Within this, common issues cited included not being advised that clients could reclaim ESA under a new condition; not advising of the possibility of appealing an ESA decision; and being told that they cannot claim JSA after being turned down for ESA. Other common issues included incorrect advice around the entitlement of EEA nationals, and sanctioned claimants either being advised that they couldn't claim hardship payments or that they couldn't appeal against a decision to sanction.



For further information, please contact Moussa Haddad at [mhaddad@cpag.org.uk](mailto:mhaddad@cpag.org.uk).