

Income Support

Jobseeker sanctions

Introduction

In April 2011 the Social Security Department implemented the Enhanced Work Zone. This extended employment service provides an individualised interaction between a Personal Adviser and an unemployed customer. Personal Advisers carry a caseload of customers who are in receipt of Income Support and develop a supportive relationship with them to assist the person to secure employment.

Since the implementation of the enhanced Work Zone over 1,000 people have been assisted into work with the help of their Personal Advisor. However, with the development of a closer working relationship with customers inappropriate behaviour by some has been identified which indicates that they are not actively engaging with services to secure employment. Furthermore, it is evident that some customers leave employment without good cause and claim Income Support as a replacement for their earnings.

Feedback from local employers has identified a small number of cases in which Work Zone clients take up employment for only a very short period before leaving, thereby creating additional expense for the employer and denying someone else the prospect of a job.

It is vital that the States Department and employers work together to improve employment opportunities for local people. The negative impact on an employer who offers to provide an employment opportunity to a local jobseeker, only to be let down a few days later, can be significant and the Department must provide a benefit structure that clearly rewards those who seek to support themselves, and reduces (or even removes) benefit from those who do not.

This paper considers the effectiveness of sanctions in other jurisdictions and additional measures which could be incorporated into Jersey Income Support Legislation to help deter customers from acting irresponsibly in their job search or from leaving employment without just cause.

Do sanctions work?

When considering altering the provision for sanctions which could make up part of Income Support legislation, analysis of their effectiveness in more mature non-contributory benefit systems, which include a jobseeking component is helpful.

The UK Department of Work and Pensions (DWP) has commissioned research into the effectiveness of sanctions. A DWP report “A review of the JSA sanctions regime: Summary research findings” states at the start of its conclusion “In general terms, the research has indicated that the sanctions regime is broadly effective”. The report goes on to say “Sanctions can be seen to influence the behaviour of some customers and therefore have a deterrent effect. The extent to which the regime has a deterrent effect can partly be measured by the number of repeat sanctions; data from the Sanctions Evaluation Research indicates that the large majority of customers (73 per cent) have only been sanctioned once, while smaller proportions have been sanctioned twice (16 percent) or more than twice (10 per cent). Furthermore, most customers (around 7 in 10) thought that the general principle of sanctions was fair. More specifically, even among those actually sanctioned, around two-fifths thought that their own sanction was fair.”

In December 2010 the Department of Social Policy and Social Work from the University of Oxford reported on their study which considered international evidence on sanctions within welfare systems where benefits are conditional on claimant behaviour. A key finding of their research was “Unemployment benefit sanctions in European systems have generally had positive effects on short-term outcomes: reducing unemployment duration and raising employment rates.”

Employment lost through misconduct or by leaving voluntarily

Under current Income Support legislation no sanctions are provided for in relation to people who voluntarily leave work, without just cause, or have been dismissed through misconduct. At present a person can leave their employment without any reason and submit a claim for Income Support without any financial penalty or qualifying period being imposed.

Enshrined in the UK’s Job Seeking Allowance (JSA) system are statutory provisions which provide for people who leave work voluntarily without just cause or who are dismissed through misconduct. These jobseekers can be sanctioned (financially) if they attempt to claim JSA when their employment has ended. Under the UK system a Department of Work and Pensions (DWP) Decision Maker (DM) has the authority to disallow a claim for JSA for a

maximum period of 26 weeks if they determine that a person has left their job voluntarily or has been dismissed through misconduct. Each case is considered on its own merits by the DM who makes their decision in accordance with the published DWP guidelines. Any person dissatisfied with a decision of the DM can utilise the statutory appeals system to have their case reconsidered.

At an operational level Officers of the DWP dealing with customers on a daily basis through Job Centre Plus offices report that, in their view, sanctions for voluntarily leaving work, without just cause, or being dismissed through misconduct are necessary and do have a positive effect in deterring inappropriate behaviour.

When people register with the Jersey Social Security Department as unemployed they are asked for the reason they have come out of work. The table below provides the number of people who declared they have been dismissed or who have resigned during the period January to May 2012.

	Dismissed	Resigned	Total
Jan	8	9	17
Feb	6	2	8
Mar	10	4	14
Apr	0	4	4
May	4	3	7
Totals	28	22	50

The information above would indicate that some customers are leaving work voluntarily and moving on to Income Support. The same pattern is present in respect of people who have been dismissed. However, it should be noted that some of the people who have left their jobs voluntarily may have had just cause for doing so, and for those dismissed it is possible that the figures above include some who have been unfairly dismissed.

It should be remembered that the vast majority of people who register with the Department as unemployed are motivated to work, engage fully in support programmes and actively pursue employment opportunities. However, a minority of customers do not act in this way and it is necessary that an effective deterrent be present to alter inappropriate attitudes and

behaviours and a belief that they can receive publically funded benefits regardless of their actions. It is therefore suggested that a mechanism which enables the Department to address inappropriate behaviour in respect of people who resign without just cause or who are dismissed due to misconduct should be implemented.

In addressing the issue of people leaving work voluntarily or being dismissed through misconduct Income Support legislation (Income Support (Jersey) Regulations 2007) could be amended to provide for financial penalties to be imposed when it has been determined (by an appointed Determining Officer) that *just cause* for a person's actions are not present. This would provide that people, who through their own actions have put themselves out of work cannot immediately rely on the full value of Income Support. A key element in introducing sanctions for voluntarily leaving employment or being dismissed is to create a deterrent which could stop such behaviour from happening in the first place.

Whilst law drafting would be relatively simple the matter of determining "just cause" in regard to people leaving work voluntarily or being dismissed through misconduct is not. As such Determining Officers guidelines will be developed and approved by the Minister to enable a structured and consistent approach to the determining function prior to any sanctions being imposed. This will include safeguards to protect vulnerable clients and ensure that sanctions are only imposed in appropriate cases.

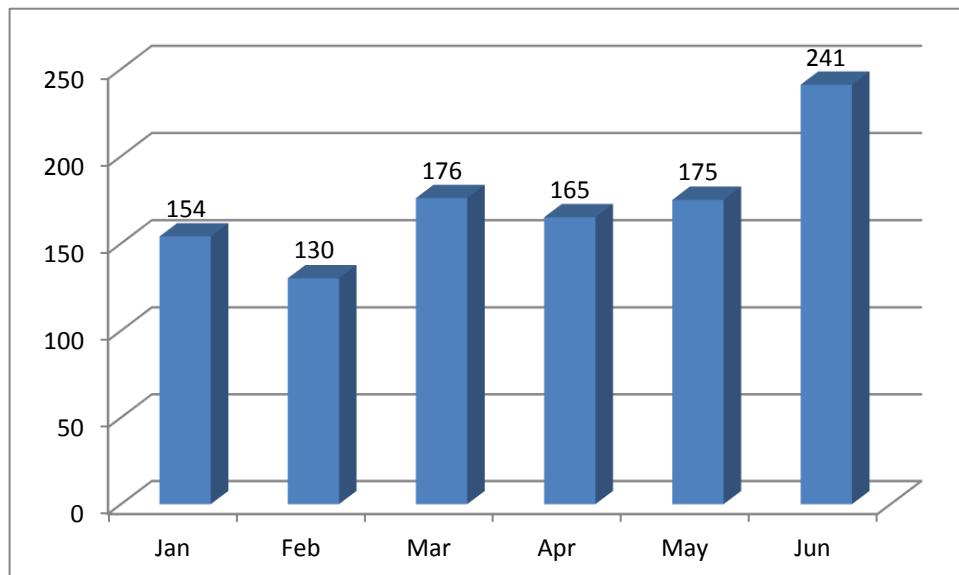
Failing to demonstrate ASW

Under current Income Support legislation it is a requirement that a person in receipt of benefit must demonstrate that they are actively seeking work (ASW) if they are classified as a jobseeker.

Under the current arrangements if an individual fails to make contact with the Department or meet the requirements of their jobseeker's agreement (JSA) they are issued with a warning letter. The warning letter informs them that if they fail to comply within the next 7 days they will be subject to statutory sanctions. Continued failure to comply will result in a deduction of 50% of the adult component of their Income Support claim. Continued failure to comply will result in the remaining 50% being deducted.

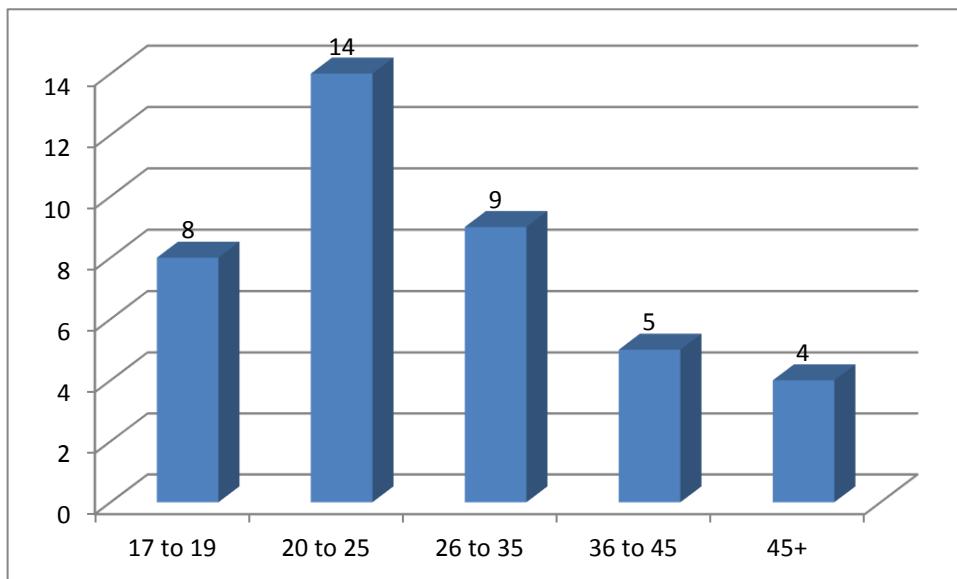
The chart below shows the number of incidences of customers failing to attend jobseeking interviews at the Department.

Number of warning letters issued 2012



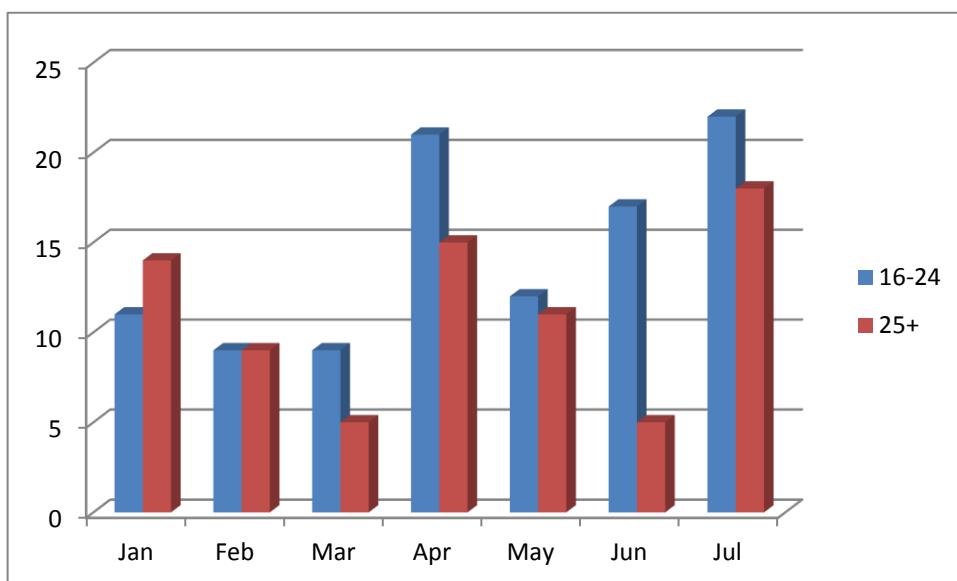
For those customers who do not engage and/or comply following the receipt of a warning letter sanctions are imposed. The chart below shows the number and ages of people who had financial sanctions imposed on them during July 2012.

Number and age of those sanctioned (50% or 100%)



Of all sanctioned 75% were males and 25% females. The data indicates that 50% of the sanction unemployed are 25 years old or younger. However, only 30% of the overall unemployed population are in this age group.

Number failed jobseekers by age band since January 2012



Under the current regime a person who commences the failed jobseeker process needs only to reengage with the Department and comply for the same period of time as he or she has been non-compliant for the benefit to be reinstated. This allows for repeated non-compliance over time and formal warnings only have a short life span.

Although there is generally good compliance with the warning letters, there are a small number of repeat offenders who move in and out of income support over many months. By way of example, below are 3 cases which demonstrate some customer's behaviours.

- Mr A has been registered with the Department as unemployed since June 2011. He has received 10 warning letters during this time as he has failed to comply with what is required of him in his search for work which has resulted in him being classified as a failed jobseeker on 4 occasions.
- Mr B has been registered with the Department as unemployed since November 2011. He has received 6 warning letters which has resulted in him being classified as a failed jobseeker on 4 occasions.
- Miss C registered as unemployed in January 2011. Since this time it has been necessary to send her 8 warning letters and classify her as a failed jobseeker on 3 occasions.

It is suggested that in future formal warning letters should stay in force for a period of 12 months from the last non compliant activity. This would enable sanctions to be imposed quickly if a customer fails for a second time to meet the requirements of jobseeking activity.

Sanctions

For a sanction to have the effect of deterring a customer from behaving inappropriately it must represent something which they do not want to lose. However, the social impact of far reaching and excessive penalties (such as the cessation of all components of a benefit claim) has to be considered and balanced with robust job-seeking regimes that are effective.

Evidence from other jurisdictions shows that there are negative consequences associated with harsh benefit sanctions. It is therefore suggested that the financial penalty associated with failed jobseeking activities should be limited to the value of the adult component, in all but the most serious cases.

A large number (101 for the period January to July 2012) of failed jobseekers are young people who continue to live with their parents and are not responsible for their own accommodation costs. Their income support entitlement is normally limited to the adult component of £92 a week. The proposed sanction would remove this component for a number of weeks.

A much smaller number of failed jobseekers (77) live on their own, or with a partner and/or children. In this case the accommodation costs of the household and any benefits

associated with the children (and partner) are protected unless the jobseeker commits four separate breaches of jobseeking.

In every case, the circumstances of the jobseeker will be taken into account, to ensure that the sanction is applied fairly, that the jobseeker understands the sanction and the consequences of further failures of jobseeking.

Consideration must also be given regarding whether certain aspects of non-compliance should attract more stringent sanctions than others. The overarching objectives of government funded employment services are:

- To engage with unemployed customers and work with them to remove the individual barriers they may have and aid them in gaining employment, and
- For the person to secure and retain employment thereby enhancing their skills, competences and future employability

Proposals

The table below details the current position and the proposed changes to ASW Sanctions and for those who leave work voluntarily.

It should be noted that in any particular case, where **good or just cause** is present for not actively seeking work or losing employment by leaving voluntarily **no sanction** would be imposed.

	Employment lost through misconduct or by leaving voluntarily	Actively Seeking Work
Current position	<ul style="list-style-type: none">• No Sanctions in place	<ul style="list-style-type: none">• Failed jobseeker receives 7 day warning• If complies within the 7 days no further action• If does not comply within 7 days 50% reduction in adult component• If continues to fail to comply further 50% reduction in Adult component• Must comply for the period of 2 weeks to receive adult component again.• Continued non compliance (i.e. contact from the customer) for 12 weeks results in the complete Income Support Claim closing.• To claim Income Support again (i.e. new claim) customer must comply for 2 weeks as ASW <p>(Note - the current process allows for repeat non compliance after 2 weeks of compliant behaviour and the customer commences the start of the sanction process afresh)</p>

Proposed	<ul style="list-style-type: none"> If customer leaves work without just cause or is dismissed through misconduct they are sanctioned for a period of 13 weeks of loss of adult IS component. 	<ul style="list-style-type: none"> Customer fails to comply with ASW activity Warning letter issued which is in force for at least 12 months If complies within 7 days no further action but warning remains in force If the customer fails to comply again while the warning is in force, then 2 weeks of the adult component (at 100%) are sanctioned. Customer must comply for the period of 2 weeks for the adult component to be reinstated. If customer fails to comply with ASW activity again within 12 months, the adult component (at 100%) is sanctioned for a period of 4 weeks Customer must comply for the period of 4 weeks for the adult component to be reinstated. If customer fails to comply for a 3rd time during the following 12 months the Income Support claim for the household ceases. If the customer disengages completely for a period of 7 weeks their IS claim will close. (i.e. warning period plus 2 weeks plus 4 weeks)
Reinstating Income Support when claim has been completely closed as a result	<ul style="list-style-type: none"> Customer must comply with all ASW requirements for a period of 6 weeks before income support is reinstated regardless of when they reengage with the Department 	<ul style="list-style-type: none"> Customer must comply with all ASW requirements for a period of 6 weeks before income support is reinstated

of non compliance		
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Recommendations

Evidence demonstrates that sanctions can have a positive effect on employment rates and are generally seen to be fair (even by those sanctioned). It is proposed that Income Support legislation be amended in order that a robust but fair sanction framework can be introduced which addresses inappropriate behaviour of a small minority of unemployed customers and that safeguards benefit entitlement where good or just cause is shown for non compliance of jobseeking regimes. It is recommended that:

- The warning of the possibility of sanctions being imposed (as contained in the warning letter) be valid for a period of 12 months from the last non compliant activity
- Sanctions be incorporated into legislation in respect of people who voluntarily leave work, without just cause, or have been dismissed through misconduct
- That the sanctions framework above be adopted
- That provision be made for providing benefit entitlement where good or just cause is shown for non-compliance of jobseeking regimes and that guidelines for this be approved by the Minister
- That once revised sanctions have been agreed they be effectively communicated to all jobseekers to create a deterrent.

Implementation of changes to sanctions

Subject to the approval of the ministerial task force, and the States Assembly, it is proposed to introduce the revised sanction regime by the end of 2012.

D. Rose

August 2012