

Mims Davies MP
Minister for Employment
Department for Work and Pensions
Caxton House
Tothill Street
London
SW1H 9NA

7 October 2021

Dear Minister,

**The Jobseeker's Allowance and Employment and Support Allowance
(Amendment) Regulations 2021**

The above regulations were presented to the Social Security Advisory Committee for scrutiny at its meeting on 8 September. The stated policy intent of these regulations is to allow for escalating sanctions to be applied in 'new style' Jobseeker's Allowance (NS JSA) and Employment and Support Allowance (NS ESA), in order for the regulations to support the introduction of sanctions for NS JSA and NS ESA. These regulations seek to make escalated sanctions for new style benefits consistent with other benefits. While we understand the rationale for that approach, the Committee identified areas of concern on which we have continued to engage with officials.

Following those subsequent discussions, and careful consideration of the narrowly defined proposals presented to us, the Committee has decided that it will not take the regulations on formal reference and that they may proceed as planned. However, we have continuing concerns about two aspects of the effective introduction of sanctions to new style benefits, and would welcome your observations and assurance on these points.

Dual claims

In cases where a new style benefit claimant is also in receipt of Universal Credit (UC), the application of escalating sanctions would not be entirely consistent under the proposed regulations. In such cases, a sanction would be applied to the UC element only, with the new style benefit continuing to be paid in full. Therefore, in circumstances where the value of UC element of the benefit was lower than the

sanctioned amount, the claimant would be in a more favourable position than a claimant solely in receipt of either UC or a new style benefit who would be impacted by the full force of the sanction. As it is possible that the UC element of a dual claim could be zero, this presents a significant inconsistency. Officials are currently exploring whether or not this was the then government's intent when the policy was originally introduced in 2013 (or is the current government's intent today), but either way the Committee is of the strong view that this inconsistency be reviewed and addressed at the earliest opportunity.

Equality analysis

As the effective introduction of sanctions to new style benefits is a significant departure from the current practice, we consider it important that there is a robust and comprehensive equality analysis to inform fully the Department's implementation of these proposals. While acknowledging that the equality analysis presented to us was a work in progress and informed solely by publicly available data, there were a number of areas in which it could be strengthened. In particular, it should analyse which individuals – including persons with protected characteristics, such as age and race – are relatively more likely to be impacted by these changes. Hence, we recommend that the Department should explore other internal available data to ensure that it has a strong understanding of likely impacts of these proposed changes.

We would welcome your early response to these points. We understand that, given the arrangements already being put in place to deliver this change, a deferral of the regulations by a short period to enable these issues to be addressed could involve some disruption. We would therefore welcome your commitment for officials to report back to the Committee once both these issues have been reviewed, alongside an indicative timetable for doing so.

I would, of course, be very happy to discuss further any of the issues raised in this letter if that would be helpful.

A copy of this letter goes to the Baroness Stedman-Scott, Katie Farrington, Jonathan Mills and Ian Caplan.



Dr Stephen Brien
SSAC Chair