

**Labour Market  
Interventions Strategy  
Division**

**ESA Sanctions  
Official Statistics**

November 2011

# Executive summary

This is the official statistics publication of conditionality sanctions<sup>1</sup> applied to claimants in receipt of ESA (Employment and Support Allowance) who are in the Work-Related Activity Group (WRAG)<sup>2</sup>. It contains figures up to 31<sup>st</sup> August 2011.

## The headline figures are:

There were 10,360 conditionality sanctions applied to ESA claimants in the WRAG between 1<sup>st</sup> September 2009 and 31<sup>st</sup> August 2010<sup>3</sup>.

There were 10,480 conditionality sanctions applied to ESA claimants in the WRAG between 1<sup>st</sup> September 2010 and 31<sup>st</sup> August 2011.

Note that figures for 2009/10 are not comparable with future years due to ESA not starting until October 2008 and the benefit caseload building up from October 2008, in addition to policy changes during 2010/11 (see section 1.1.2 for further details).

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<sup>1</sup> A conditionality sanction may be applied to a claimant's benefit as a result of non-compliance with the requirement to attend Work-Focussed Interviews (WFIs) and/or undertake Work-Related Activity.

<sup>2</sup> If an ESA claimant is placed in the Work-Related Activity Group, they will be expected to take part in Work-Focused Interviews with their personal adviser. They will get support to help them prepare for suitable work.

<sup>3</sup> Figures for 2009/10 are not comparable with future years due to ESA not starting until October 2008 and the benefit caseload not being in steady state during most of 2009/10.

# Contents

1	Introduction .....	4
1.1	Sanctions .....	4
1.1.1	Summary .....	4
1.1.2	Background .....	4
1.1.3	Methodology .....	8
2	Headline Statistics .....	9
2.1	ESA sanctions .....	9
2.1.1	Volume and rate .....	9
2.1.2	Average sanction duration .....	10
2.1.3	Average weekly amount of ESA sanction .....	10
2.1.4	Type of ESA sanction .....	10
3	ESA sanctioning process .....	11
3.1	The key aspects of the ESA sanctioning process .....	11
	Annexe A: ESA sanctions breakdowns .....	14

# 1 Introduction

## 1.1 Sanctions

### 1.1.1 Summary

This publication contains figures on conditionality sanctions applied to ESA claimants in the WRAG, from data up to and including **August 2011** (unless otherwise stated). **Annexe A** provides a breakdown by main condition. The reporting period is determined by the latest Work Capability Assessment (WCA) data (usually three months prior to this publication) and the corresponding ESA WRAG caseload data a further 12 months prior to that (to allow a 12 month period for ESA WRAG in-flows). As a result, each quarterly publication will have a different reporting period as shown below:

Quarter of publication	Reporting period
February	Each year ending November, up to year ending November of previous year
May	Each year ending February, up to year ending February of current year
August	Each year ending May, up to year ending May of current year
November	Each year ending August, up to year ending August of current year

### 1.1.2 Background

Employment and Support Allowance replaced Incapacity Benefit, Severe Disablement Allowance and Income Support that is paid because of an illness or disability for new claimants from 27 October 2008. More information on IB/SDA can be found at the link below:

[http://www.direct.gov.uk/en/MoneyTaxAndBenefits/BenefitsTaxCreditsAndOtherSupport/Illorinjured/DG\\_10018913](http://www.direct.gov.uk/en/MoneyTaxAndBenefits/BenefitsTaxCreditsAndOtherSupport/Illorinjured/DG_10018913)

The WCA is a functional assessment of an individual's work capability and determines entitlement to ESA beyond the initial 13-week "Assessment Phase". It may include a face-to-face assessment if more information is needed about an individual's illness or disability before a decision can be made on their capability for work. An approved healthcare professional, who

has been trained in handling Employment and Support Allowance claims, will assess how the claimant's illness or disability affects their capability for work or work-related activity, and provide advice to the Department, who are responsible for administering benefit claims.

Further information on the two phases of ESA can be found at the link below:

[http://www.direct.gov.uk/en/DisabledPeople/FinancialSupport/esa/DG\\_171894](http://www.direct.gov.uk/en/DisabledPeople/FinancialSupport/esa/DG_171894)

Prior to 15<sup>th</sup> March 2010, all new ESA claimants were required to attend an initial Jobcentre Plus Work-Focussed Interview (WFI) between eight and thirteen weeks after making their claim except in cases where the WFI was deferred. If the claimant remained on ESA and was not placed in the Support Group at their WCA, they were then, under the Pathways to Work programme, required to attend a further five WFIs at four week intervals<sup>4</sup> either with Jobcentre Plus or with a Provider.

Two changes to the conditionality and Work Focused Interview (WFI) regime were then made during 2010:

- From 15th March 2010, all new ESA claimants still had to attend the initial Jobcentre Plus WFI but only claimants placed in the Work Related Activity Group (WRAG) at their initial WCA were then required to attend the subsequent series of WFIs. This meant that claimants appealing a fit for work decision were not required to attend further mandatory WFIs during the appeal period<sup>5</sup>.
- Further to this change, from 4th October 2010 only new ESA claimants who were placed in the WRAG at their initial WCA were required to attend the initial Jobcentre Plus WFI and the subsequent series of WFIs.

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<sup>4</sup> Claimants were required to attend WFIs before they had completed their WCA, resulting in some claimants attending a number of WFIs and subsequently being found Fit for Work or being placed in the Support Group.

<sup>5</sup> Also from this date WFI flexibilities were introduced, meaning that advisors both within Jobcentre Plus pathways and Provider led Pathways had the flexibility to conduct the subsequent five mandatory WFIs over a maximum of twelve months rather than at fixed points in the claim.

Failure to attend or participate in any one of these six WFIs without good cause resulted in a sanction being applied to the claimant's benefit (see section 3 for further details).

Note that these changes have not impacted on either the number of claimants eligible for a sanction or the number of WFIs that these claimants must attend. Since the introduction of ESA, only ESA WRAG claimants have been eligible for a conditionality sanction since it is applied to their work-related activity component, and the series of six WFIs has also applied.

The key dates over the transition period between the end of the Pathways to Work programme and the Jobcentre Plus Offer / Work Programme are shown below:

Pathways area	Last referral date	Programme end date	Date that ESA Claimants started accessing Jobcentre Plus Offer
JCP Pathways	17 <sup>th</sup> February 2011	31 <sup>st</sup> March 2011 <sup>6</sup>	4 <sup>th</sup> April 2011
Provider-led phase 1	17 <sup>th</sup> February 2011	31 <sup>st</sup> March 2011	4 <sup>th</sup> April 2011
Provider-led phase 2	16 <sup>th</sup> March 2011	27 <sup>th</sup> April 2011	28 <sup>th</sup> April 2011

Claimants placed in the WRAG after the last referral dates up until the 4<sup>th</sup> / 28<sup>th</sup> April were referred for an initial Jobcentre Plus WFI and then had a New Joiners WFI (NJWFI) after the dates in the table above (dates in the 4<sup>th</sup> column). In Jobcentre Plus Pathways areas only, these claimants could continue to receive support from Jobcentre Plus up until then.

All these claimants, as well as new ESA claimants placed in the WRAG from the 4<sup>th</sup> / 28<sup>th</sup> April, were referred for an NJWFI from these dates.

After their NJWFI, each claimant's journey depended on their prognosis (3/6 months or 12 month +) and on whether they were receiving income-related or contributory based ESA as follows:

- All claimants (income-related and contributory) with a 12 month + prognosis were immediately mandated to the Jobcentre Plus Offer, unless they volunteered for the Work Programme.
- Income-related claimants with a three/six month prognosis who had reached their Work Programme referral point<sup>7</sup> at their NJWFI waited for a Work Programme referral interview when the Work Programme contract package areas went live<sup>8</sup>. Income-related claimants with a 6 month prognosis who had not reached their Work Programme referral point at their NJWFI would have had a Work Programme referral interview when the Work Programme had gone live in their area or three months after being placed in the WRAG, whichever was later. Some of these claimants would have received more interviews with Jobcentre Plus than in the normal Work Programme journey<sup>9</sup> due to the gap between being placed in the WRAG and the Work Programme contract package areas going live.
- Contributory claimants with a three/six month prognosis could volunteer for the Work Programme<sup>10</sup> and if not they would have been immediately mandated to the Jobcentre Plus Offer.

A further change occurred in June 2011 when ESA claimants were required to undertake Work-Related activity. This meant that claimants could be sanctioned for failing to satisfy requirements. However, we note that the methodology does not allow the possibility to distinguish between sanctions arising from failing to attend a WFI and sanctions arising from failing to satisfy Work-Related activity requirements.

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<sup>6</sup> To keep things operationally clean, JCP Pathways actually terminated on 1<sup>st</sup> April 2011

<sup>7</sup> The WP referral point is on the date of the WCA decision for those with a 3 month prognosis, and 3 months before the prognosis for those with a 6 month prognosis (i.e. 3 months after the WCA decision).

<sup>8</sup> The WP went live in a phased manner through the month of June 2011. Although the public launch was 10<sup>th</sup> June 2011, the policy came into effect on 1<sup>st</sup> June 2011. Contract package areas came on-line as and when WP Providers were ready throughout the month of June with the final provider being ready early July.

<sup>9</sup> In the normal WP journey: for claimants with a 3 month prognosis the WP referral interview would be combined with the NJWFI for 3 month prognosis claimants since they had already reached their WP referral point; and claimants with a 6 month prognosis would have an NJWFI followed by a WP referral interview at their WP referral point – 3 months after being placed in the WRAG.

<sup>10</sup> They would then have had to follow the mandatory activity for the WP.

### 1.1.3 Methodology

The sanction figures in this publication are derived from the ESA payments system (JSAPS) data, where a conditionality sanction has been applied to a claimant's Work-Related Activity Component<sup>11</sup> (WRAC)<sup>12</sup>. Use of the JSAPS data also allows calculation of sanction durations and average amounts of ESA sanctioned.

Weekly ESA scans taken from JSAPS are compared, and reductions in amounts of weekly benefit, which are equal to known sanction amounts for the WRAC, are obtained (see section 3 for further details of types of sanctions).

This sanctions information is then merged with data about all claimants of ESA who are eligible for a conditionality sanction. To ensure that each sanction is matched to the corresponding benefit spell, sanctions are only matched where the sanction date occurs on or after the ESA start date and within 14 days of the ESA end date (if the claim has ended). This allows the proportion of claims which are sanctioned to be calculated.

It is possible that a small proportion of payment drops may be due to an increase in working hours for an ESA Income-Related claimant, which have been incorrectly counted as a sanction. Equally, it is possible that a small proportion of sanctions may have been missed due to an increase in a claimant's benefit payment for a decrease in their (or their partner's) working hours, occurring at exactly the same time as a sanction. Both of these situations are very unlikely to occur and will therefore have negligible effect on the number of sanctions recorded.

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<sup>11</sup> If an ESA claimant is placed in the Work-Related Activity Group, then they will receive a further payment (Work-Related Activity Component) in addition to their basic rate of ESA.

<sup>12</sup> There may be a small proportion (around 1% - 2%) of sanctions included where a person has a sanction applied on JSAPS, which is later overturned and for which they are reimbursed. It is not possible to identify these using the JSAPS data.



## 2 Headline Statistics

These figures are for all conditionality sanctions imposed on ESA claimants in the WRAG between 1<sup>st</sup> September 2010 and 31<sup>st</sup> August 2011.

These figures are not comparable over time. ESA started in October 2008 and the benefit caseload is increasing over time meaning that the WRAG client base eligible for sanctions is also increasing (this is also the denominator for the sanction rates). There were also major policy changes during 2010/11, these are outlined in further detail in section 1.1.2.

### 2.1 ESA sanctions

#### 2.1.1 Volume and rate

There were 10,480 conditionality sanctions imposed on ESA claimants in the WRAG between 1<sup>st</sup> September 2010 and 31<sup>st</sup> August 2011. Some ESA WRAG claims were sanctioned more than once, such that 8,440 ESA claims incurred a conditionality sanction between 1<sup>st</sup> September 2010 and 31<sup>st</sup> August 2011.

The number of ESA WRAG claims which were eligible for a conditionality sanction during this period was 306,870<sup>13</sup>. The number of eligible ESA WRAG claims is made up of 133,440 ESA claimants on the ESA caseload and in the WRAG at 31<sup>st</sup> August 2010, and the 173,420 ESA claims where the claimant moved into the WRAG between 1<sup>st</sup> September 2010 and 31<sup>st</sup> August 2011. Counting one sanction per eligible ESA WRAG claim between 1<sup>st</sup> September 2010 and 31<sup>st</sup> August 2011, this gives a sanction rate (the proportion of eligible ESA WRAG claims that had a sanction imposed) of 2.8%<sup>14</sup>.

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<sup>13</sup> Note that a large proportion of claimants will not be eligible for sanction. These will typically be firstly individuals who are part of the ESA WRAG caseload who completed the mandatory requirement of Pathways to Work and secondly claimants placed in the WRAG at their WCA but that are appealing a fit for work decision who are not required to attend the mandatory WFIs during the appeal period.

<sup>14</sup> This is calculated by 8,560 divided by 306,870.

Counting each claimant once, the number of individuals in the eligible ESA WRAG client base is 305,120. Counting one sanction per eligible ESA WRAG claimant between 1<sup>st</sup> September 2010 and 31<sup>st</sup> August 2011, this gives a sanction rate (the proportion of eligible ESA WRAG claimants that had a sanction imposed) of 2.8%<sup>15</sup>.

### **2.1.2 Average sanction duration**

Of the 10,480 ESA conditionality sanctions applied between 1<sup>st</sup> September 2010 and 31<sup>st</sup> August 2011 which have now ended, the average sanction duration was 6 weeks.

### **2.1.3 Average weekly amount of ESA sanction**

Of the 10,480 ESA conditionality sanctions applied between 1<sup>st</sup> September 2010 and 31<sup>st</sup> August 2011, the average weekly amount of the ESA Work Related Activity Component (WRAC) sanctioned was £21.03 in comparison to the total WRAC of £26.75.

### **2.1.4 Type of ESA sanction**

Of the 10,480 conditionality sanctions imposed on ESA claimants in the WRAG between 1<sup>st</sup> September 2010 and 31<sup>st</sup> August 2011:

- 4,330 (41%) had a 50% reduction in their Work-Related Activity component applied
- 6,150 (59%) had a 100% reduction in their Work-Related Activity component applied

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<sup>15</sup> This is calculated as 8,440 (the number of eligible ESA WRAG claimants that had a sanction imposed) divided by 305,120.

## 3 ESA sanctioning process

### 3.1 The key aspects of the ESA sanctioning process

Sanctions are a reduction in benefit, applied to benefit claimants who do not abide by certain conditions of their benefit claim. For example, ESA claimants are subject to conditionality sanctions if they fail to attend (FTA) or fail to participate (FTP) without good cause, in any one of the six Work-Focused Interviews (WFIs), which they were required to attend as part of the now closed Pathways to Work programme. Like many other decisions made by the Department, sanction decisions carry appeal rights.

There are three types of sanction that can be applied to an ESA award:

- a) ESA Conditionality Sanctions
- b) One / Two Strike Sanctions (Loss of Benefit Provisions)
- c) Sanctions where the partner has failed to attend a WFI

ESA Conditionality sanctions affect the Work-Related Activity Component (WRAC) only, reducing it by either 50% or 100%. They only affect the claimant's benefit during the Main Phase as the Work-Related Activity Component is not payable during the Assessment Phase. A 50% reduction in the Work-Related Activity Component is applied when the claimant fails to attend or to participate in a WFI without good cause. This will increase to 100% after 4 weeks if the claimant still does not comply with WFI conditionality without good cause.

In addition to the ESA conditionality sanctions, One / Two Strike sanctions (Loss of Benefit Provisions) can be applied. These reduce the single person's personal allowance by either 20% or 40%. These are designed to be a deterrent against abuses of the benefit system by applying a benefit sanction to those convicted, or who have accepted a caution or an administrative

penalty for a benefit fraud offence. The 'Two Strikes' provision makes it possible to impose a benefits sanction by restricting payment of benefit for 13 weeks if a claimant has been convicted of a second benefit fraud offence when the offence was committed within five years of a first conviction. A 'One Strike' provision makes it possible to impose a benefits sanction by restricting payment of benefit for four weeks when a claimant, their partner or a family member has been convicted, or has accepted a caution or an administrative penalty for a first benefit fraud offence, when the whole period of the fraud was committed on or after 1st April 2010. The Fraud Investigation Service (FIS) will issue a determination notice to all relevant benefit processing teams to confirm that a loss of benefit sanction is appropriate and the period of the sanction, including sanctions against standard Housing Benefit (HB) / Council Tax Benefit (CTB). The role of applying a sanction is the sole responsibility of benefit processors.

The only scenario where a further sanction can be applied over and above the 100% of the WRAC is where the partner fails to participate in a WFI and 20% of the personal allowance component of ESA for a person 25 years of over can be applied.

In terms of how sanctions differ between the two rates of ESA:

- ESA (Contributory) – sanction applies to the claimant only.
- ESA (Income Related) – sanction can apply to the claimant, partner or family member.

If the claimant is unhappy with the reason given by the Department for a benefit sanction being applied, they can appeal for this to be overturned. To do so, the appeal must be in writing by the claimant or someone authorised by the claimant to act on their behalf. A statement or letter can be accepted if the claimant or their representative provides sufficient information to enable the appeal to proceed.

An appeal must be made within one calendar month of the date of issue of the outcome decision.

ESA sanctions are recorded on Labour Market System (LMS) for all 6 WFIs in JobCentre Plus Pathways areas and the initial Jobcentre Plus WFI in Provider-Led Pathways areas. Sanctions for the remaining 5 WFI's in Provider-Led Pathways areas, along with the sanctions already recorded on LMS noted above, are recorded on the Decision Making and Appeals System (DMAS) by the Benefits Delivery Expert Labour Market (BDE LM). A paper form is then sent to the Benefits Delivery Officer (BDO) to update the ESA payment system (JSAPS) manually.

# Annexe A: ESA sanctions breakdowns

Table 1 – Number and proportion of conditionality sanctions imposed on ESA claimants in the WRAG between 1<sup>st</sup> September 2010 and 31<sup>st</sup> August 2011, by main disabling condition

<b>Main Disabling Condition</b>	<b>Number of sanctions (total)</b>	<b>Proportion of claims sanctioned<sup>16</sup></b>
Mental and Behavioural Disorders	4,660	3.0%
Diseases of the Nervous System	380	2.2%
Diseases of the Circulatory System or Respiratory System	580	2.3%
Diseases of the Musculoskeletal system and Connective Tissue	1,670	2.8%
Injury, Poisoning and certain other consequences of external causes	890	3.0%
Other	2,300	2.7%
<b>Total</b>	<b>10,480</b>	<b>2.8%</b>

Note: Totals may not sum due to rounding. Figures are rounded to the nearest 10 and percentages to one decimal place.

<sup>16</sup> One sanction per eligible ESA WRAG claim expressed as a proportion of all eligible ESA WRAG claims.