

The Jobseeker's Allowance (Mandatory Work
Activity Scheme) Regulations 2011
(S.I.2011 No.688)

Report by the Social Security Advisory Committee
under Section 174(1) of the Social Security
Administration Act 1992 and statement by the
Secretary of State for Work and Pensions in
accordance with Section 174(2) of that Act

*Presented to Parliament by the Secretary of State for Work and Pensions
pursuant to Section 174(2) of the Social Security Administration Act 1992*

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The Jobseeker's Allowance (Mandatory Work Activity Scheme) Regulations 2011

Introduction

1. Mandatory Work Activity was announced in the Department for Work and Pensions White Paper '*Universal Credit: welfare that works*', published in November 2010.
2. Where Jobcentre Plus Personal Advisers believe a jobseeker will benefit from experiencing the habits and routines of working life, they will have the power to refer the recipient to the Mandatory Work Activity Scheme.
3. The intention is that the placement will last four weeks and will be aimed at helping the customer develop the labour-market discipline associated with employment such as attending on time and regularly, carrying out specific tasks and working under supervision.
4. Mandatory Work Activity will help customers who may have limited or no experience of employment, or have little or no understanding of the behaviours required to get and keep work. The Mandatory Work Activity Scheme will address this by helping customers discover for themselves the expectations of work; turning up on time and every day, following instructions, working in teams, and many other elements of employment.
5. At the Social Security Advisory Committee's meeting of 18 November 2010, officials from the Department for Work and Pensions presented the Jobseeker's Allowance (Mandatory Work Activity Scheme) Regulations 2011 to the Social Security Advisory Committee ("the Committee") for consideration. These regulations are intended to come into force from April 2011.
6. The proposed Regulations were taken on 'formal referral', in advance of the preparation of the Committee's report. This process was completed, and the Committee delivered its report to the Department on 7 February 2011.
7. Subsequent to presenting these Regulations to the Committee, the Department has made a number of technical amendments to the Regulations. This is in order to ensure that they operate in the way that was outlined to the Committee, both in the Explanatory Memorandum and our answers at the 18 November meeting.
8. A number of these changes are minor drafting changes. However there are two changes in particular that the Department considers it would be useful to outline here.

9. The Department has been clear throughout that the Mandatory Work Activity Scheme will be delivered by contracted providers. It has outlined that providers will have responsibility for requiring customers to carry out specified activity, and that failure to complete this activity will be subject to a sanction imposed by Jobcentre Plus. In the form they were presented to you, the proposed Regulations did not allow the providers to operate in this way, and therefore the Government has inserted 'Part 6' of the Regulations, in order to provide this power.

10. Additionally, our previous communications with the Committee have outlined that sanctions will be for 13 or 26 weeks, and that once a customer has been sanctioned they will not be required to complete the balance of four weeks on the placement. The sanction, however, will remain. Provision was made in the regulations for the reduction of the sanction length down to 1 week in certain circumstances, including circumstances in which a claimant was no longer required to participate in the Scheme. It was never the intention to allow a reduction of this kind, therefore these paragraphs have been removed to reflect the policy intent.

11. The Committee's report clearly articulates a number of views, opinions and concerns about the Mandatory Work Activity Scheme. These very helpful recommendations have been carefully considered, and have influenced and enhanced the development of the programme.

12. However, the Government does not accept the Committee's key recommendation that the introduction of this scheme should not continue. The Mandatory Work Activity Scheme is designed to have a positive impact on those who participate and this is the right approach to take to help those who need this type of experience and motivation to get them better equipped to find employment.

13. There are four key themes that the Committee's report raises relating to the introduction of the Mandatory Work Activity Scheme. These areas were of concern to the Committee and shared in part by those individuals and organisations who responded to the 'formal referral'. These themes covered:

- the general principles of the proposals;
- the way participants will be selected;
- how placements will be structured and monitored; and
- the sanction regime attached.

14. This response follows the broad themes of the Committee's report, in order to best address all of the Committee's concerns.

The Government's Response to the Report

General Principles

The Purpose of the Mandatory Work Activity Scheme

15. The Committee, along with some respondents, set out a concern regarding the intention of the scheme, likening it to a punishment, rather than a supportive employment programme.

16. The Government does not accept this position. The Mandatory Work Activity Scheme is targeted at those customers who have demonstrated that they require support to gain work related disciplines and re-engage with their search for work, as well as failing to voluntarily engage in the support that is offered by Jobcentre Plus. The Mandatory Work Activity Scheme is not a sanction, or a punishment, but has been developed in recognition that some customers require additional support.

17. If a customer is identified as having potentially breached the entitlement conditions of their Jobseeker's Allowance, for example by failing to actively seek work, Jobcentre Plus advisers will still have to treat them as they treat other customers who have not met the entitlement conditions. They cannot offer participation in the Mandatory Work Activity Scheme as an alternative to a sanction referral.

18. Through the introduction of these regulations, we are not looking to amend the parameters of 'actively seeking work', as was suggested in the Committee's report. A large number of the Welfare to Work programmes offered to customers are mandatory, and customers that have failed to attend receive sanctions. In all of these cases, the requirements on a customer are being increased with the explicit intention of improving their employment prospects. The Mandatory Work Activity Scheme is not intended to be any different.

19. The Committee's report also highlights the fact that, as customers will not be able to volunteer for participation in Mandatory Work Activity, the scheme is more likely to be viewed as a form of punishment. This fails to recognise the fact that the Mandatory Work Activity Scheme forms part of a wide-ranging offer of support that is available to customers through Jobcentre Plus. Given the limited resources available for such support, it is right that this is carefully targeted, with eligibility for this scheme determined by Jobcentre Plus advisers. If a customer feels that they would benefit from a period of activity that will give them a similar experience, then they may want to consider other routes, for example volunteering through *Work Together*.

The Impact of Mandatory Work Activity

20. The Committee indicated it was not persuaded that the Mandatory Work Activity Scheme would have a significant impact on the employment outcomes for people who are out of work.

21. It is important to recognise that before a customer is referred to the Mandatory Work Activity Scheme, they will have had access to the range of support from Jobcentre Plus. From April 2011, this support will allow more flexibility to Jobcentre Plus managers and advisers to judge which interventions will help individuals and have more discretion to support to customers according to their individual needs. The small number of customers who participate in the Mandatory Work Activity Scheme will be referred because they require extra support to re-engage with the system and refocus their approach to job search. After their four week placement, they will be better placed to re-assess their approach and engage more effectively with the requirements of seeking work and the other support offered by Jobcentre Plus.

22. The tasks that people participating in the Mandatory Work Activity Scheme will complete are intended to help customers develop the labour market discipline associated with employment. Customers will be referred because they have been identified as needing extra support to develop these disciplines. They will be expected to attend on time and regularly, carry out specific tasks or work under supervision. Employers will expect that those applying to work for them will have these basic disciplines, and by developing these skills the employment prospects for these customers will improve.

The Evaluation of Mandatory Work Activity

23. The Committee reports that two respondents raised concerns over the evaluation of the Mandatory Work Activity Scheme, particularly suggesting that customer feedback and also the employment outcomes of participants would be particularly interesting.

24. We agree that evaluation of a new proposal such as the Mandatory Work Activity Scheme is important. We are preparing a detailed evaluation strategy which will include qualitative research with customers to gather their feedback on the policy. The qualitative research will also collect feedback from providers, Jobcentre Plus Advisers and others involved in delivering the Mandatory Work Activity Scheme. We also intend to conduct an impact assessment on the policy by analysing data on the employment and benefit receipt outcomes of participants in the scheme compared to a suitable comparison group.

Selection and Participation of Customers

Selection Safeguards

25. The Committee raises questions about the safeguards that will exist to ensure that referrals to the Mandatory Work Activity Scheme are appropriate and consistent, and that no groups are disproportionately referred.

26. Customers will be referred to the Mandatory Work Activity Scheme when their Personal Adviser identifies that it is appropriate for them. This is part of the introduction of more flexibility to Jobcentre Plus managers and advisers from April 2011, allowing to judge which interventions will best help

individual customers. The 'Developing our Advisory Services' Project has been working to develop this vision and has focussed on what Jobcentre Plus needs to do to equip its Advisory Teams and Managers to operate in this way.

27. We aim to position Advisory Services as a profession with a clear career path, accredited learning and ongoing professional development whilst delivering to a set of agreed standards recognised as best in class. We will equip Personal Advisers with the support and tools they need to enable them to offer a much more customer-focused and personalised service. New training material, supporting tools and products have been developed to help bring this vision to life.

28. With all referrals to the Mandatory Work Activity Scheme, there are certain safeguards to ensure that the referral is appropriate. Guidance issued to Jobcentre Plus Advisers will set out what factors should be considered when making a referral to the Scheme. We have also committed to carefully monitor referrals to the Mandatory Work Activity Scheme, in order to ensure that certain (particularly minority) groups are not adversely affected by the operation of the Scheme.

29. The Committee and respondents were concerned that Jobcentre Plus Advisers would be referring customers without regard to whether the activity was reasonable to expect a customer to complete, and whether a customer could object to being referred to the activity. Guidance issued to Jobcentre Plus Advisers will require that they take into account any circumstances that may affect a customer's ability to participate in the Mandatory Work Activity Scheme when they are considering whether to make a referral. This would include any regular commitments, for example drug or alcohol treatment, as well as any long term health conditions, which would prevent them from fully participating in the scheme.

30. As an additional safeguard, it will form part of our 'best practice' guidance to Jobcentre Plus that once a Personal Adviser has identified that a customer may be suitable for the Mandatory Work Activity Scheme, they will be encouraged to discuss the appropriateness of the referral with their Adviser Manager. This meeting will discuss their reasons for referring this customer, and the Adviser Manager will take the decision whether to approve the referral.

31. The Committee's response also refers to those with multiple or complex barriers to work. They are concerned that these customers will be more likely to be referred to the Mandatory Work Activity Scheme, and would be more likely to struggle with the requirements of the scheme once they had been referred. The government would like to reiterate that those customers with multiple or complex barriers which prevent them from finding work are **not** the target group for the Mandatory Work Activity Scheme. Instead, it is aimed at those customers whose main barrier to finding work is a lack of the key disciplines of employment. For those customers with multiple or more complex barriers, they will have access to the wider flexible support offered by Jobcentre Plus.

32. Two respondents also raised the issue that if disabled people, and particularly those who have "...invisible disabilities..." such as dyslexia or autistic spectrum disorders, this may not be recognised by Jobcentre Plus Advisers. Their specific concern was that in some cases these conditions could be misunderstood, and perceived as a lack of (for example) interpersonal skills that would lead to a referral to the Mandatory Work Activity Scheme.

33. We take active steps to understand each customer. Advisers undertake New Jobseeker Interviews with all customers, with a discussion of a customer's job goals and any barriers to work. This includes the identification of disabled customers and a consideration of how this will interact with their search for work. If health conditions exist, details are recorded in the customer's Jobseekers Agreement so that barriers can be easily identified at subsequent interviews. Advisers can offer the customer a referral to a Disability Employment Adviser if both feel that the customer would benefit from further support due to their health condition or disability.

34. Several respondents were concerned that customers could be referred at any point in their claim, and potentially at any point after they open their claim. As we set out in our Explanatory Memorandum to the Committee, we expect most referrals will be for customers who have been unemployed for 13 weeks or more. We have allowed Jobcentre Plus Advisers the discretion to refer customers before this point, as they are best placed to identify suitability for a targeted programme of this type. An example of where referral before 13 weeks would be appropriate would be where a customer had been identified by their Adviser as potentially suitable for the Mandatory Work Activity Scheme, but they had closed their claim for a short period before signing on again, without demonstrating any change in their circumstances. Additionally, we will not refer those customers who are participating in the Work Programme or other contracted programmes.

35. One respondent was also concerned that a customer could be referred more than once to the scheme if the Personal Adviser did not believe their attitude had changed. This option has been included so that where an Adviser still feels that the Mandatory Work Activity Scheme would be appropriate and beneficial for a customer, they can be referred again. We would not expect this to happen in a large number of cases, but the final decision as to who and when to refer would rest with the Jobcentre Plus Adviser.

Changes in a Customer's Circumstances

36. The Committee raised concerns over how the Mandatory Work Activity Scheme will be administered in a situation where a customer is unexpectedly unavailable to attend a placement. The examples raised are the sickness of a child or sudden unavailability of childcare, a medical appointment or a probation interview. In particular, there is a concern that in such a circumstance the individual may be subject to a sanction for failing to attend their placement.

37. There are several safeguards that will protect customers in this circumstance. Firstly, as above, a Jobcentre Plus Adviser will take into account any existing arrangements when making the referral and should be happy that the customer should have no pre-existing reasons why they couldn't complete 4 weeks of activity. Secondly, if such a circumstance were to arise while the customer was already participating in the placement, and the customer were unable to continue attending, Jobcentre Plus would examine the circumstances surrounding this, and if they felt there was 'Good Cause' for the actions of the customer then a sanction would not be applied. Finally, if a sanction were applied and the customer felt this was incorrect, they will have the right to appeal to an independent tribunal, and have the opportunity to demonstrate 'Good Cause' at this stage. This operates in the same way as the current sanctions regime, and is a well tested approach that provides significant protection to the individual customer.

Time Available to Seek Work

38. The Committee suggests there is a risk that by requiring customers to carry out 30 hours of activity per week, the Mandatory Work Activity Scheme will reduce the jobsearch activity that customers are able to carry out, and that this will reduce the likelihood of them finding permanent work.

39. The intention is for the Mandatory Work Activity Scheme to replicate the demands on a customer's time that would come if they did find employment, and it is therefore important that the scheme requires customers to attend for a significant number of hours. Balanced against this is the importance of jobsearch activity, which is recognised by the Department. The Jobseeker's Allowance regime usually requires jobseekers to be available for work for 40 hours per week. Given the intentions of the scheme, 30 hours per week strikes the best balance between these demands, providing customers with time to carry out significant jobsearch activity while at the same time having sufficient time to develop the intended employment disciplines. It is also particularly important to note that contracted providers will be required to be flexible where a customer has (for example) secured a job interview.

40. Additionally, it is important that the customer's jobsearch activity will not come to a halt. Therefore they will be required to continue demonstrating that they are actively seeking employment through the continued attendance of Fortnightly Jobsearch Reviews.

41. The Committee has particular concerns about how the requirement to continue to actively seek work will operate in a rural environment where the travel distances, both to their placement on the Mandatory Work Activity Scheme and to the location for jobsearch activity are likely to be greater. It is the case that in such a rural location this reflects the realities of the local labour market, and that these expectations are likely to be replicated in the employment opportunities available to these customers. The intention of Mandatory Work Activity is to offer customers with little understanding of the expectations of the workplace experience of these, and being required to travel to work is part of that. Where it could have an adverse impact on the customer's attendance, Jobcentre Plus Advisers will be able to adopt a

flexible approach to the arrangement of Fortnightly Jobsearch Reviews for the duration of the Mandatory Work Activity Scheme. The Mandatory Work Activity provider will also be responsible for meeting reasonable travel and childcare costs.

Communication with Customers

42. The Committee highlights the importance of clear communications, both to potential participants in the scheme and to those that have been referred, making clear why a referral to the Mandatory Work Activity Scheme would be appropriate and what the expectations are once an individual has been referred.

43. As part of the design of the Mandatory Work Activity Scheme, we have taken this requirement into account. Customer communications setting out what the Scheme is and why a customer may be referred will be available through Jobcentre Plus, so customers are aware of the possibility of being referred to the Mandatory Work Activity Scheme.

44. When a customer is referred for the Mandatory Work Activity Scheme, it will be part of the guidance that the requirements of the scheme must be clearly outlined. They will also be required to communicate what the sanctions will be if a customer fails to meet these expectations. In addition, letters will be issued at the initial referral stage by the Adviser and then again when the Provider contacts the customer to provide details of the placement, so that they have a written record of the referral details.

The Nature of the Placements

The Minimum Delivery Standards

45. The Committee raises concerns over the potential for variation in the nature of the Mandatory Work Activity Scheme in different areas. While they welcome the move towards greater flexibility on the part of the Department in recognising local variation, they are concerned that there will be significant differences both in the type and in the quality of provision across the country.

46. In the period since these proposals were presented to the Committee, the Department has been working to develop the commercial requirements for those organisations delivering the Mandatory Work Activity Scheme. These were set out in the Invitation to Tender which launched the bidding process on 14 February 2011.

47. These proposals include a set of minimum standards that every placement will be required to meet, and details the provider responsibilities to both the customer and Jobcentre Plus. However, we feel it is appropriate to give providers flexibility outside of the prescribed criteria rather than rigidly define the exact nature of every placement. This approach is consistent with the Department's broader approach to commissioning employment programmes, such as the Work Programme.

Community Benefit

48. The Committee requested further detail on the Department's expectation that all placements would include an element of community benefit. The Invitation to Tender includes the following instructions to bidders. This was also passed to the Committee after their meeting of 18 November 2010:

A Community Benefit Placement must be of benefit to the community over and above the benefit of providing a placement to the individual.

This means the role can include:

- *working directly towards the community benefit goal of the host organisation. In this case the duties of the participant would contribute directly towards the benefit to the community. An example of this would be the employee working with the public on a community project;*
- *working indirectly towards the community benefit goal of the host organisation. In this case the duties of the participant would contribute indirectly towards the benefit to the community, as the duties of the participant would be contributing towards the work of the organisation which delivers community benefit. An example of this could be the employee working 'behind the scenes' on the organisation of a community project'; and*
- *working towards the profit of the host organisation, providing that the majority of the role is dedicated towards delivery of benefit to the community.*

49. The Committee has raised an additional question regarding the last point of these guidelines. The concern is that this could potentially lead to the exploitation of a customer by the contracted provider or the placement organisation.

50. The Department has robust existing procedures for managing the performance of providers, and monitoring their delivery against what has been agreed as part of their contract. Each provider organisation has a dedicated account manager who is responsible for managing performance and contractual aspects. Additionally, the Department's Provider Assurance Team has responsibility for ensuring that provider processes support the delivery of the programme and will be able to raise concerns with the Performance Manager when they feel it is appropriate. This applies to Mandatory Work Activity.

Complaints Procedures

51. Both the Committee and respondents raised the requirement for a clear and independent complaints procedure for customers who are dissatisfied with their Mandatory Work Activity provider.

52. We recognise the importance of using direct feedback from customers and importantly, offering a clear and effective service for customers who have a negative experience of provision. A requirement of delivering the Mandatory

Work Activity Scheme is that providers must have an appropriate complaints process across the whole supply chain to attempt to resolve customers' complaints.

53. We intend to offer customers immediate access to the Independent Case Examiner service if the Provider cannot resolve the issue to the customer's satisfaction or if the customer has been waiting 8 weeks for a response. The Independent Case Examiner service offers an independent review of a customer's complaint and will liaise with all relevant parties to attempt to resolve the issues. Management information and common themes arising from complaints about Providers will be regularly fed into Department's Provider performance management processes. The Independent Case Examiner will also offer feedback to Providers to improve their customer service.

The Potential for Substitution of other Employment Opportunities

54. The Committee, along with two of the respondents, perceived a risk that in some cases the Mandatory Work Activity Scheme placement providers would use the placements as a source of low cost labour at the expense of existing workers.

55. As set out in the Invitation to Tender, providers will have a clear responsibility to ensure that placements are additional to existing or expected vacancies. We will monitor providers to ensure that they are meeting this requirement, as we have done when implementing similar programmes in the past.

Expenses Incurred by the Customer

56. Both the Committee and many respondents were concerned that customers would face additional expenses without receiving reimbursement, and that this would have an impact on the ability of customers to participate in the Mandatory Work Activity Scheme.

57. This will not be the case, as customers should not be financially worse off by virtue of participating in the Mandatory Work Activity Scheme. Providers are responsible for travel and additional support costs while the customer is on the Scheme, and it is a requirement of the contract that these expenses are met. This requirement extends to the cost of any necessary equipment or necessary adjustments to enable the participant to take up a Mandatory Work Activity placement.

58. Both the Committee and many of the respondents were concerned that the Department proposed not meeting costs incurred in respect of childcare. They felt that this would unfairly impact on the ability of customers with childcare responsibilities to participate in the scheme. The Department has amended its proposals; providers of the Mandatory Work Activity Scheme will be required to meet the childcare costs of those participating in the scheme during the time they are attending their placement and attendance at any Engagement Activity if deemed appropriate. This was reflected in the Invitation to Tender that was published on 14 February 2011.

Mandatory Work Activity and Future Employment

59. The Committee suggests that in some circumstances, having participated in the Mandatory Work Activity Scheme could lead to customers being stigmatised in their continued search for work and is concerned about how prospective employers may view participation in the scheme.

60. Customers will be encouraged to emphasise the positive experiences and disciplines that they had developed during their participation in the Mandatory Work Activity Scheme, using it as an opportunity to show a potential employer that they are comfortable with the expectations of a working environment, rather than focusing on the fact that they had been mandated to the placement.

61. In order to support this, it will be a requirement of the contract that the organisations involved in providing the placement will prepare a reference for each customer who is referred to them. This will give them evidence that they can use with potential future employers, demonstrating experience of a working environment and key workplace disciplines.

Implications on Liability for Taxation

62. The Committee suggests that there are some circumstances where participation in the Mandatory Work Activity Scheme would result in tax implications for the customer, particularly where they become subject to tax during the same tax year; for example, where they start work. They state that expenses for ordinary commuting and other workplace 'benefits' are usually taxable, and that they are unclear whether this will apply to participants in the Mandatory Work Activity Scheme.

63. Her Majesty's Revenue and Customs have confirmed that payments of this kind will not attract liability to income tax or national insurance. This will mean that consequently there will be no impact in relation to tax credit.

Sanctions

Are they proportionate?

64. The Committee had concerns regarding what they saw as the discretion of advisers to impose sanctions. They also questioned the length of the sanctions attached to the Mandatory Work Activity Scheme. The proposals outline how a customer who failed to attend a placement without good cause for doing so would be subject to a fixed sanction of 13 weeks. If this was the second such failure within 12 months of the first, they would be subject to a sanction of 26 weeks. The Committee felt that these sanctions were disproportionate, given both the 4 week duration of the scheme and that the usual length of an initial sanction for failures to meet particular requirements is 2 weeks.

65. Regarding the application of sanctions, customers on the Scheme will be required to participate by the providers. As part of that participation, they

will be required to carry out specific activities. If a customer fails to fulfil one of the activities required, without good cause, a sanction will be applied.

66. As was set out at the Committee's meeting on 18 November 2010, the sanctions regime proposed for the Mandatory Work Activity Scheme is based on that outlined in the White Paper *Universal Credit: welfare that works*. In the White Paper we set out our proposals to reform a system where some sanctions are set at too low a level and the consequences for failing to comply with requirements are not always clear. We also outlined our intention to introduce clearer and stronger sanctions that are easily understood by customers and act as a more effective deterrent to non-compliance.

67. In line with these proposals, the new sanctions model includes plans for clear fixed term sanctions for claimants who fail to meet their most important requirements. The Mandatory Work Activity Scheme will provide essential work preparation support for those customers who need to learn about the behaviours required to get and keep work. It will therefore be an important job seeking requirement and subject to higher level sanctions. As with other requirements, the sanction will not be imposed where the claimant fails to participate in the scheme but has good reason for doing so.

A Customer's Re-engagement with Mandatory Work Activity

68. The Committee raised a concern that customers can't shorten or have their sanction overturned by re-engaging with the placement. They were concerned that this would not give customers an incentive to change their behaviour and suggest that therefore it would undermine the aims of the programme.

69. The Mandatory Work Activity Scheme is intended to instil labour market discipline by supporting claimants to learn about the habits and routines of working life. It will be a key tool to help some customers make the journey back to work, and as such participation is very important. We think the most effective way to deter non-compliance, and therefore to ensure claimants benefit from the Scheme, is to make failure to comply subject to high level fixed term sanctions. If we were to allow customers to reduce the length of their sanction through re-engagement with the scheme, this would weaken the deterrent effect of the sanction.

'Good Cause' for Failing to Participate

70. The Committee and a number of respondents raised concerns about the way in which assessments of 'good cause' for failing to participate in the scheme would be managed. Unlike previous sets of Regulations, the Regulations establishing the Mandatory Work Activity do not contain a list of criteria that would automatically be considered 'good cause' for a failure to participate in provision. Instead they state that an assessment must be made of any potential good cause, and that particular account must be taken of the customer's physical or mental health or condition.

71. By prescribing a list of circumstances that would be taken into account as 'Good Cause', previous sets of Regulation have risked limiting the

circumstances where Good Cause would be applied. By including only physical or mental health or condition, these Regulations leave Jobcentre Plus maximum scope to consider all circumstances and establish whether there was 'Good Cause' for a customer's actions. Jobcentre Plus will still take into account all of the factors that were previously part of any assessment of a sanction.

Concern about the Application of Sanctions

72. The Committee's Report raised a concern regarding the current application of sanctions across all Jobseeker's Allowance claimants, particularly regarding people with mental health problems, learning disabilities, literacy difficulties and who do not have English as a first language.

73. The Department does not hold sanctions data on the particular groups mentioned here for Jobseeker's Allowance claimants; however we are aware that there are certain disadvantaged groups that are disproportionately more likely to receive certain sanctions. This in part reflects that disadvantaged groups claim Jobseeker's Allowance for longer periods of time thus increasing their likelihood of receiving a sanction.

Concerns over 'Benchmarking' of Jobseeker's Allowance Sanctions

74. The Committee raises a concern that 'benchmarks' have been set for both referrals to Decision Makers, and for the numbers of those referred which result in an adverse decision. They feel that this may place inappropriate pressures on Jobcentre Plus, leading to sanctions being incorrectly applied.

75. Jobcentre Plus is responsible for ensuring customers are compliant with the conditions of entitlement and remain eligible to receive Jobseeker's Allowance. To help ensure the associated sanctions regime is applied efficiently, effectively and consistently across Districts, Jobcentre Plus has established these benchmarks.

76. These are benchmarks not targets. There is no "right" level of referrals. Each individual case must be treated on its own merits. The intention is that, if District performance is significantly different from this benchmark, either above or below, this is a signal to management to assure themselves that processes are being followed correctly, fairly and consistently.

77. The Committee are particularly concerned that "this may lead to an increase in inappropriate referrals". These benchmarks have been in place since April 2009, and the Department uses them to ensure that there aren't inappropriate referrals; particularly the second element of the benchmark: "at least 50% of these referrals result in decisions adverse to the customer".

78. If too many referrals in a District are inappropriate they will result in decisions being made in favour of the customer, and so this element of the benchmark will go below 50%. This will mean that managers are aware of an issue, and need to assure themselves about how the processes are being managed in their District.

Child Poverty

79. The Committee feel that the statement “[Mandatory Work Activity] will help reduce child poverty” is too sweeping, and is made without an evidential basis. They are particularly concerned that this does not accurately reflect the various pressures on this scheme, particularly if a customer with childcare responsibilities were to be referred to the this scheme.

80. The Department feels justified in its statement that the Mandatory Work Activity Scheme will help reduce child poverty, as participation in the scheme will increase engagement with the broader support offered by Jobcentre Plus, and lead to increased numbers of customers moving into employment. As we have set out above, we have taken on-board the Committee’s concerns regarding childcare, have hope that this reduces their concerns in this area.

81. Certain respondents raised an additional concern around child poverty. They accepted that the Department expects that Mandatory Work Activity will reduce child poverty as it would increase employability, but were worried that we it failed to note that around half of all children living in poverty have a parent in work.

82. The Department believes that the risks of poverty, material deprivation and wider disadvantage are much higher in families where no one works. For a child in a workless household, the risk of relative poverty is 59%. For a family in which one, but not all, adults work the risk falls to 31%, and for families in which all adults work the risk is 8%.¹ Evidence shows that work is the best route out of poverty: overall, 65% of parents in poverty who enter work have moved out of poverty after work entry, 46% for part time and 80% for full-time.²

1 Household Below Average Income (HBAI) 2008/09, Department for Work and Pensions

2 Browne, J. & Paull, G. (2010) “Parents’ Work Entry, Progression and Retention, and Child Poverty” DWP Research Report 626

Response to the Committee's Recommendations

83. The Department has considered each of the recommendations made by the Committee throughout this response.

84. For clarity, we have summarised our response to each recommendation individually below.

The Committee's		
1.	<p>We recommend that detailed guidance is provided to Personal Advisers on the criteria for selection and the factors to take into account when considering the hours participants are expected to take part in the work activity and to carry out job search.</p> <p>This should include understanding of factors such as childcare, travelling time and disability. This guidance should be made public.</p>	<p>Partially accepted The Department will develop guidance including all of the elements requested here.</p> <p>This guidance is internal procedural guidance and though not published externally is available on request, for example through the Freedom Of Information Act.</p>
2.	<p>We recommend that detailed information is provided to potential participants about the criteria for selection and the sanctions regime.</p>	<p>Accepted Jobcentre Plus will clearly communicate to those claiming Jobseeker's Allowance what the Mandatory Work Activity Scheme entails. This will include the details of the sanctions regime.</p>
3.	<p>We recommend that provision is made for participants to receive support before they are referred to mandatory work activity to address other issues that may be preventing their successful return to employment: travel, childcare, disability, skills, education and so on.</p>	<p>Noted This support will be delivered through Jobcentre Plus as part of their usual business. It is only where such support is not proving effective that a customer would be referred to the Mandatory Work Activity Scheme.</p>
4.	<p>We recommend that parents should have childcare costs met for the duration of the placement.</p>	<p>Accepted We have re-examined our position on this, and have accepted the Committee's recommendation that the cost of childcare should be met.</p>

5.	<p>We recommend that guidance should be put in place so that claimants are not repeatedly referred to the scheme within a prescribed linking period of four months.</p>	<p>Rejected Given the size of the Mandatory Work Activity Scheme and the number of available places, it is very unlikely a customer would repeatedly be referred in this way.</p> <p>However, we believe that the best person to make an assessment of a customer's suitability for the scheme is the Jobcentre Plus Personal Adviser.</p>
6.	<p>We recommend that jobsearch and unpaid work combined should take no more than 30 hours to allow reasonable travelling time and time to drop children at childcare for participants.</p>	<p>Rejected It is important that customers gain a genuine understanding of the requirements that employment places on them, and this is in part reflected in the number of hours that they are required to participate for.</p> <p>However, where a customer's jobseeking requirement has been limited (for example because of childcare requirements) the hours that they are required to attend Mandatory Work Activity will also be amended, ensuring that they still have time to seek work.</p>
7.	<p>We recommend that there is robust monitoring of placements to ensure that:</p> <ul style="list-style-type: none"> • Participants are treated properly and appropriately; • The placement is of the required quality – including providing access to training and provision of good quality work activity; and • Employers are not using the participant/s to replace waged workers or solely for their own financial gain. 	<p>Accepted The robust monitoring of placements, ensuring that providers are meeting the requirements of the contract, is central to the approach of the Department to all contracted provision.</p> <p>We are currently working to finalise our placement monitoring system for the Mandatory Work Activity Scheme, and will the Committee's views will be considered as part of the development of this system.</p>

8.	We recommend that detailed guidance be given to employers about the type of work participants can be asked to undertake and what they will be expected to provide for the participant, including their legal responsibilities (such as health and safety law).	Rejected It is appropriate to give providers flexibility outside of the prescribed criteria rather than rigidly define the exact nature of every placement. This approach is consistent with the Department's broader approach to commissioning employment programmes, such as the Work Programme.
9.	We recommend that as part of the agreement to take on participants employers should be required to provide a reference for the participant after completing the placement.	Accepted We agree that a reference will be important for customers, and it will be a clear requirement of contracts that they are provided for each customer. This was included in our Invitation to Tender, published 14 February 2011.
10.	We recommend that flexibility is introduced around the number of hours participants are expected to undertake mandatory work activity and actively seek work to take account of factors including (but not exclusively) travel to the placement, travel to the Jobcentre, childcare, and lunch and rest breaks.	Rejected It is important that customers gain a genuine understanding of the requirements that employment places on them, and this is in part reflected in the number of hours that they are required to participate for. As set out in the response above, there are a number of safeguards in place to protect customers, and ensure that a referral to the Mandatory Work Activity Scheme is appropriate. Where a customer has restricted the hours that they are looking for work, this will be reflected in their referral to Mandatory Work Activity.
11.	We recommend that the Department should put in place a robust complaints process and communicate details of it to participants.	Accepted We have implemented a robust, independent and clear complaints procedure. This complaints procedure will be communicated to all participants at the beginning of their placement.

<i>Sanctions</i>	
12.	<p>We recommend that in the interests of simplicity, clarity and fairness, the sanctions applicable should be consistent with the sanctions available for other employment support provided by Jobcentre Plus, preferably with the first sanction limited to two weeks.</p>
	<p>Partially Accepted As part of the reforms of sanctions applied to those seeking work outlined in <i>Universal Credit: welfare that works</i>, the sanctions attached to the Mandatory Work Activity Scheme will conform to one of only three sanctions routes, applied to those breaches considered by the Department to be of ‘high’ seriousness. This reform will help to make the sanctions regime more transparent for customers, and make the incentives that sanctions offer easier to understand.</p> <p>However, we do not feel that the first sanction should be limited to two weeks. The Government believes that in order for the Mandatory Work Activity Scheme to be effective it needs to be backed up by a sanctions policy that makes it very clear to customers the requirements that it places on them.</p>
13.	<p>We recommend that any sanction should be removed if the participant re-engages with the scheme.</p>
	<p>Rejected We do not feel it would be appropriate for the sanction for the Mandatory Work Activity Scheme to be lifted if the customer were to re-engage.</p> <p>In line with the other sanctions deemed as of ‘high’ seriousness, it is important that customers understand the clear expectations that this provision places on them. The seriousness of the sanction is intended to deter customers from acting in a way that will lead to a sanction being imposed.</p>
14.	<p>We recommend that the factors which need to be taken into account in deciding whether someone has ‘good cause’ should be prescribed in the regulations.</p>
	<p>Rejected These factors have not been prescribed in Regulations. Previous sets of Regulation which have done so have risked limiting the circumstances where Good Cause would be applied.</p> <p>As the Regulations require that the Secretary of State take account of such circumstances as may constitute Good Cause, it is unnecessary to reproduce what would be by necessity an incomplete list of circumstances in Regulations.</p>

15.	We recommend that hardship payments should be made automatically when it is evident at the time the sanction is being imposed that the person would qualify.	<p>Rejected Legislation requires Jobcentre Plus to make payments to those in hardship. The information to determine hardship for all Jobcentre Plus customers whose entitlement is in doubt, or who are being considered for sanction, is not currently held on Jobcentre Plus systems and so automatic payment without further fact-finding is not practicable.</p> <p>A detailed statement of household circumstances and the potential consequences of a lack of income is therefore essential for the customer to provide the necessary information to enable Jobcentre Plus to identify whether a hardship payment is payable and to make these payments accurately and consistently.</p>
16.	<p>We recommend that given the increased role of sanctions in the welfare system, further research should be commissioned to:</p> <ul style="list-style-type: none"> • test the effect of sanctions on earnings and sustained employment outcomes; and • look at whether there is any effect on the informal/grey economy; and • assess the long term impacts of sanctions. 	<p>Noted The Department does not currently have plans to carry out an evaluation of the kind you outline at this time, but will take it into consideration in terms of planning future evaluation.</p>
17.	We recommend that a thorough evaluation of the scheme should be set in place.	<p>Accepted The Department will be thoroughly evaluating the Mandatory Work Activity Scheme in order to assess the impact it has on customers. This evaluation will include the assessment of the experience customers through qualitative research and, if possible, conduct a quantitative assessment of the impacts of the policy on customer outcomes.</p>
18.	We recommend that 'benchmarking' should not be used to drive Adviser behaviour.	<p>Noted The benchmarks that are described by the Committee are not currently being used to drive Adviser behaviour.</p>

From the Chairman

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

7 February 2011

Dear Secretary of State,

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

1. Background

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

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

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

2. The Proposals

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

Allowance. Each placement will consist of up to 30 hours activity per week lasting for up to four weeks. Participants will remain under full conditionality and will be expected to be actively seeking work, be available to take work, and attend normal fortnightly interviews at a Jobcentre Plus office. The placements aim to enhance claimants' employment prospects by providing opportunities for them to develop skills and attributes important in the world of work.

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

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

3. Summary of the Department's Position

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

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

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

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

fail to complete or participate in the scheme when required by a Personal Adviser to do so. The Department also believes that the existence of mandatory work activity, plus the possibility of sanctions, will have a deterrent effect for other claimants who will see that the expectations regarding conditionality are taken seriously.

4. The Committee's View

Introduction

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

General Principle

4.2 Published evidence is at best ambivalent about the chances of 'workfare' type activity improving outcomes for people who are out of work. The Department's research indicates that "there is little evidence that workfare increases the likelihood of finding work"³ unless conditions are as close to work as possible. This evidence suggests that the mandatory work activity must be carefully tailored to an individual's specific needs and carefully timed to be of maximum effectiveness.

4.3 We are concerned that mandating an individual to this scheme could also have the opposite effect to the one intended. As we discuss below, there is evidence to suggest that by limiting the time available for job search, activities such as mandatory work activity can in fact reduce the participants' chances of finding employment.⁴

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

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

³ Richard Crisp and Del Roy Fletcher Department for Work and Pensions Research Report No 533 *A comparative review of workfare programmes in the United States, Canada and Australia* p3 <http://research.dwp.gov.uk/asd/asd5/rports2007-2008/rrep533.pdf>

⁴ Ibid

reference as evidence that the participant has the skills to undertake an actual job and are more likely to see mandatory participation as a negative sign of participants' work readiness and willingness to work.

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

Details about Placements

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

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

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

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

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

Time available to satisfy jobseeking and other requirements

4.11 We are concerned that the time available during the week for participants to take part in jobseeking activity is very limited, particularly for claimants in rural areas. Given that the work activity will be for up to 30 hours, and travel could be up to one and a half hours each way, this leaves limited time for looking for work – particularly if the job search area is one and a half hours travel in the opposite direction from their home (so three hours from their place of work activity). Such a situation is quite likely in very rural areas. This could also apply to parents who have to take their children to school or childcare before attending the place of work or work activity. For claimants without internet access at home or with limited literacy skills, this could impact further on the time they have to jobseek. Research has shown that participation in workfare type programmes can have a “chilling” effect on jobsearch activities, and there is a risk here that occupying someone for at least 30 hours on work-like activity will leave little time or energy for them to continue to seek permanent work.⁵

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

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

Expenses

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

⁵ Crisp and Fletcher, op. cit., p15

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

Sanctions

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

4.17 Evidence from the Department's Equality Impact Assessment and DWP research⁶ shows that ethnic minority claimants and those with a learning difficulty tend to be disproportionately sanctioned for not actively seeking employment. This, alongside other societal factors, could lead to these groups being disproportionately referred to this scheme and, as a consequence, at even greater risk of sanction.

4.18 We are worried that sanctions will impact excessively on people with multiple barriers to working. Evidence⁷ (including the DWP report quoted above) shows that it is precisely those people who, perhaps because they have caring responsibilities or a disability, find it most difficult to meet their obligations in taking part in unpaid work activity. They experience difficulties as 'workfare' programmes generally do not address their particular needs. In the case of mandatory work activity there is no provision for particular needs to be met beyond whatever the customer has agreed with the Personal Adviser in the Jobseeker's Agreement.

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

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

⁶ Mark Peters and Lucy Joyce *A review of the JSA sanctions regime: Summary research findings* Department for Work and Pensions Research Report No 313, p 17 <http://research.dwp.gov.uk/asd/asd5/rports2005-2006/rrep313.pdf>

⁷ Julia Griggs and Martin Evans, *Sanctions within conditional benefit systems: a review of evidence*, Joseph Rowntree Foundation, December 2010 <http://www.jrf.org.uk/publications/review-of-benefit-sanctions>

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

Legal implications

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

Review/appeal process

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

Child Poverty Impacts

4.24 The Department's Equality Impact Assessment states that mandatory work activity "*will* help reduce child poverty"⁸ [our italics]. This seems a rather sweeping statement and is made without an evidential basis. We are worried that there is no recognition that there could be a risk of greater child poverty if a participant on the scheme were to be sanctioned, or is expected to meet their own childcare costs in order to participate.

5. Summary of Responses to the Consultation

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

Purpose of the scheme

5.2 There are concerns that this scheme is a punishment rather than a way to help people improve their skills and help them get back into work. One respondent suggests that the type of people who derive most value from work experience programmes are those who are already motivated in their job search as these placements can help to improve confidence as well as provide a work reference. One respondent questions whether this scheme is really necessary, suggesting that if a claimant is not doing enough to actively seek work, the current sanction regime should be utilised.

⁸ Mandatory work activity Equality Impact Assessment, p.32 para 42.

Referral to the scheme

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

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

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

Length of placement

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

Communications

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

Childcare costs

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

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

Sanctions

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

Outcomes

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

5.11 One respondent questions whether this type of work experience is valued by employers, citing DWP research which found that welfare to work programmes seldom provide claimants with the skills and experience to gain employment.⁹

Conditionality

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

Complaints and appeals process

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

Evaluation

5.14 Two respondents comment on the lack of meaningful evaluation of the scheme. One suggests that customer feedback should be an integral part of

⁹ Crisp and Fletcher, op.cit.

the evaluation, and another suggests that the employment outcomes of participants should be monitored.

Labour market impacts

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

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

6. The Committee's Conclusions

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

6.2 The evidence on the efficacy of 'workfare' schemes is, at best, mixed. The Department's research notes that the characteristics of a successful welfare to work scheme are that placements need to be "...as close to work as possible: allowing the development of good work habits; providing future employers with evidence of self-motivation and providing participants with a wage".¹⁰ The mandatory work activity scheme satisfies only some of these criteria: it is expected that the customer will 'work' close to full-time hours and will need to develop the habit of getting to work on time, being supervised, working as a team member and so on. However there is no financial reward for participation, and given the lack of detail as to the type of work activity which will be provided, it is difficult to identify whether it will in fact be of any benefit.

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

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

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

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

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

6.6 We have commented before on sanctions, noting that people with mental health problems, learning disabilities, literacy difficulties and who do not have English as a first language are particularly prone to sanctions.¹¹ Recent research from the Joseph Rowntree Foundation¹² has looked at the international evidence about sanctions and found that disadvantaged claimants facing multiple barriers to work are at higher risk of being sanctioned. This reinforces the need to properly recognise re-engagement when it occurs.

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

11 SSAC Occasional Paper No. ,*Sanctions in the Benefit System: Evidence Review of JSA, IS and IB Sanctions*, February 2006

<http://www.ssac.org.uk/occasional.asp>

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

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

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

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

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

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

7. Recommendations

7.1 Key Recommendation:

We recommend that mandatory work activity does not proceed.

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

- Selection of Participants
- Placements
- Sanctions

Yours sincerely

Richard Tilt

The Committee

Sir Richard Tilt (Chair)
Kwame Akuffo
Les Allamby
John M Andrews OBE
Simon Bartley
Brigid Campbell
Dr Angus Erksine
Alison Garnham
Carolyn George
Professor Elaine Kempson
Maureen A Reith
Pat Smail
Nicola Smith
Professor Janet Walker
Professor Robert Walker

APPENDIX 1

THE DEPARTMENT'S EM AND DRAFT REGULATIONS

**As presented to the Social Security Advisory Committee's Meeting
18 November 2010**

Explanatory memorandum for the Social Security Advisory Committee from
the Department for Work and Pensions

The Jobseeker's Allowance (Mandatory Work Activity) Regulations 2011

**Regulations allowing the mandating of individuals to a period
community based activity.**

1 Introduction

The Government has made a clear commitment to ensuring that "the receipt of benefits for those able to work is conditional on their willingness to work"¹.

To support this commitment, the Department is seeking to introduce Mandatory Work Activity from April 2011 as part of wider reforms that offer greater flexibility to Jobcentre Plus to judge which interventions will help individual customers on Jobseeker's Allowance.

The large majority of those claiming Jobseeker's Allowance make every effort to find work. We do recognise however that some customers do just enough to meet the conditions of their claim while at the same time continually failing to demonstrate the focus and discipline that is a key requirement of finding, securing and retaining employment.

Mandatory Work Activity is being introduced to enable advisers to address this problem, supporting this particular group of customers at the earliest possible stage. Mandatory Work Activity gives advisers a tool that will encourage the development of crucial disciplines associated with full time employment, while at the same time making a contribution to their community.

It is intended as a targeted measure for a small number of customers, encouraging them to engage with, rather than underestimate or avoid, the conditionality requirements attached to Jobseeker's Allowance. This does not mean that the current conditionality requirements are failing for these people; over time, customers demonstrating this behaviour will eventually build up a pattern of failures to meet the requirements and receive a sanction.

¹ 'The Coalition: Our Programme for Government' (May 2010) www.cabinetoffice.gov.uk/media/409088/pfg_coalition.pdf

Using Mandatory Work Activity, Jobcentre Plus advisers can intervene, taking active steps to improve labour market engagement and prevent unemployment lengthening or serious non-compliance occurs triggering a sanction.

Ultimately, by engaging customers more fully, Mandatory Work Activity will move these customers closer to sustainable employment. Mandatory Work Activity demands that customers who may have little recent experience of full time employment, or behave as though they have little regard for what behaviour is required to get and keep work, discover for themselves the expectations of work; turning up on time and every day, following instructions, working in teams, and many other elements of full time activity.

These mandatory placements would be delivered by external contractors on behalf of the Department. We would not be prescriptive about what they should include. We do expect that providers will provide a supervised environment, where customers will be given productive and meaningful tasks to complete. Providers will also be required, both at the bidding stage and through the monitoring of their delivery, to be able to demonstrate the benefits to the community that they are delivering.

Mandatory Work Activity will be for up to thirty hours a week and last for four weeks and placements will accommodate any restrictions included in the customer's Jobseeker's Agreement. Customers participating would continue to receive their Jobseeker's Allowance.

Evidence has demonstrated² that similar schemes in other countries that have removed a requirement to continue jobsearch activity locks customers in, reducing their likelihood of entering sustained employment. In order to avoid this, customers will also be required to actively seek work and be available for employment, and to demonstrate this when attending Fortnightly Jobsearch Reviews, in order to ensure that they remain engaged with the labour market.

Mandatory Work Activity is a mandatory programme; sanctions will apply if a customer fails to take up or complete a placement without good cause.

2 Background

2.1 Wider changes to Jobcentre Plus support

Mandatory Work Activity is just one of the changes to the support that Jobcentre Plus delivers to customers across all working age benefits

² 'A Comparative Review of Workfare Programmes in the United States, Canada and Australia', R. Crisp and D.R. Fletcher (Department for Work and Pensions, Research Report No. 533)

(Jobseeker's Allowance, Employment and Support Allowance and Income Support) that are to be introduced from April 2011. The aim of these changes is to allow more flexibility to Jobcentre Plus managers and advisers to judge which interventions will help individual customers most cost effectively.

We are creating a framework in which Jobcentre Plus staff can predominantly focus on delivering outcomes for customers rather than completing activity and processes, and have more discretion to select from a menu of support to help customers according to their individual needs.

The flexibility in delivery will be supported by a new Jobcentre Plus performance framework which will hold Jobcentre Plus to account for headline outcomes, specifically the rate at which people flow off working age benefits into employment.

2.2 Policy Context

Jobcentre Plus advisers have clearly identified, both through internal staff consultation exercises and anecdotally, that they can recognise the small number of Jobseeker's Allowance customers who may be doing only the very bare minimum to comply the requirement that they actively seek work. Advisers have made clear that a programme that allowed them to actively intervene at an early stage with these specific customers could have a positive impact.

The role of advisers is to build relationships with customers and recognise appropriate support that would best meet their individual circumstances. This small minority requires active engagement, through a mandatory programme, in order to reorient their mindset and change their approach to their search for work.

2.3 Policy Intention

Mandatory Work Activity will require customers to carry out tasks that are similar to a working environment for them to develop an understanding of the discipline and focus that is required in employment.

By making participation a condition of continued receipt of Jobseeker's Allowance, there is good reason to believe that these customers will gain experience of the discipline and expectations that working activity involves and shift their understanding of what is required of them if they are to continue to receive support.

The fundamental intent of Mandatory Work Activity is to give people a clearer understanding that benefits without a sustained and demonstrable individual commitment to find work cannot be a way of life. The development of this focus and discipline through participation in Mandatory Work Activity will make it more likely that these

customers move off benefits and into sustained employment in the future.

The existence of Mandatory Work Activity will also serve to highlight to all customers claiming Jobseeker's Allowance that the expectation to meet the conditionality is a serious one, thereby supporting the existing regime.

2.4 Intended Outcome

Mandatory Work Activity forms part of the flexible menu of support available to Jobcentre Plus advisers, allowing them to judge which interventions will help individual customers. The intention of these changes as a whole is to move customers closer to full time sustained employment.

2.5 Differences with existing provision

Mandatory Work Activity differs significantly from current provision, as well as from previous schemes which had mandatory work requirements such as Work for Your Benefit (which was not implemented) or Community Task Force.

Under the draft Regulations, Jobcentre Plus advisers will have the option of mandating customers to a period of work or work-related activity at any point in their claim. This gives them a different tool to use at their discretion with specific customers who fail to show that they are fully and actively committed to look for employment. It allows those staff best able to assess an individual customer's needs to make the decision about whether they require this sort of intervention.

Previous schemes such as Work for Your Benefit have been intended as primarily an automatic point for all customers who have been unemployed for an extended period of time. Mandatory Work Activity, is entirely targeted at individuals that have been identified by Jobcentre Plus advisers as requiring this support.

2.6 The introduction of Mandatory Work Activity

Mandatory Work Activity will be introduced across Great Britain from April 2011. This is subject to the success of the procurement process.

3 The Proposed Regulations

3.1 Outline of Regulations

The draft Jobseeker's Allowance (Mandatory Work Activity) Regulations 2011 (at Annex 1) establish the Mandatory Work Activity Scheme. They are made under section 17A of the Jobseekers Act 1995 ("the Jobseekers Act"), which was inserted by section 1 of the Welfare Reform Act 2009. The Scheme will provide work or work-related activity for up to 30 hours per week over a period of

four consecutive weeks with a view to assisting Jobseeker's Allowance claimants improve their prospects of obtaining employment.

The explanatory note, on the final two page of the draft Regulations, contains a summary of their provisions.

4 How the changes will impact customers

4.1 Introduction

Mandatory Work Activity will be for four weeks. The placements aim to enhance customers' employment prospects by providing opportunities for them to develop skills and attributes important in the world of work, e.g. attending on time and regularly, carrying out specific tasks, working as part of a team and under supervision.

Advisers will be able to send a customer to Mandatory Work Activity at any point in their claim, though we expect most referrals will be for customers who do not find work quickly and have been unemployed for 13 weeks or more.

People participating in the Work Programme or other contracted provision will not be referred to Mandatory Work Activity. We would not normally expect that customers who were actively engaged in other support, such as a Work Club or Work Experience, would be referred, but the final decision as to who and when to refer would rest with the Jobcentre Plus adviser.

4.2 Selection criteria

Taking into account individual customers' circumstances, Jobcentre Plus advisers will determine the appropriateness for Mandatory Work Activity. Customers who could benefit may for example have no recent work experience and need the opportunity to work as part of a team in order to develop greater confidence and interpersonal skills or they may have a history of timekeeping difficulties or failure to take up opportunities of alternative support.

Detailed criteria around the circumstances in which referral to a Mandatory Work Activity will not be included in the Regulations, as the intention is to allow Jobcentre Plus advisers discretion in deciding when a referral is most appropriate.

Guidance that sets out the benefits and aims of Mandatory Work Activity will be produced that will include examples of factors that Jobcentre Plus advisers should consider in order to identify appropriate customers. As a result, advisers will be able to make an informed judgement as to which customers would most benefit from what Mandatory Work Activity has to offer.

Mandatory Work Activity is not a sanction. If a customer is identified as having breached the conditions of their Jobseeker's Allowance in such a way as to have merited sanction (for example, by failing to comply with a jobseeker's direction), Jobcentre Plus advisers will still have to refer them to a Decision Maker in the usual way and cannot offer Mandatory Work Activity as an alternative. This will be made clear to Jobcentre Plus advisers and Decision Makers as part of the guidance developed. If basic Jobseeker's Allowance conditions of entitlement (e.g. concerning availability for work and actively seeking work) are not met, the Jobseeker's Allowance claim will still have to be closed; Mandatory Work Activity cannot be offered as an alternative.

4.3 Voluntary participation

It will not be possible for a customer to request to take part in Mandatory Work Activity. The intention is that the customers who would benefit from the experience will be identified by their Jobcentre Plus adviser, and referred to Mandatory Work Activity.

If a customer feels that they would benefit from a short period of work related activity, they should discuss with their Jobcentre Plus adviser other elements of Jobcentre Plus support that may be more suited to them, for example Work Experience which will be available from January 2011.

4.4 Content of Mandatory Work Activity

4.4.1 Number of Placements

Only a small minority of customers are expected to be referred to Mandatory Work Activity; it is intended as an option that can be considered by Jobcentre Plus advisers as a form of support that will benefit specific customers.

We envisage that Mandatory Work Activity will initially deliver around 10,000 placements per year.

4.4.2 Nature of Placement

Mandatory Work Activity will be delivered by organisations under contract on behalf of the Department for Work and Pensions in projects that make a contribution to local communities. Contractors will be required to demonstrate this from tendering to delivery.

Placements should be flexible and should be tailored to the individual circumstances of the customer where possible. The nature of the placement to be undertaken will need to accommodate any restrictions a customer's Jobcentre Plus adviser has included in the customer's Jobseeker's Agreement.

This will include any restrictions in the number of hours a customer can work, for example because of childcare responsibilities. Jobcentre

Plus will notify delivery organisations of such restriction using existing processes.

Customers carrying out Mandatory Work Activity will continue to receive their Jobseeker's Allowance but they will not receive any other payment except in respect of necessary expenses, for example for travel or additional support requirements that they incur as a result of their placement. Expenses incurred as the result of childcare costs will not be met, however where parents have caring responsibilities these should be reflected in their Jobseeker's Agreement, and therefore taken into account by the Jobcentre Plus adviser.

Necessary expenses (for example travel or additional support requirements) will be funded by the Mandatory Work Activity provider. Provisions are included in the Regulations disregarding these payments for the purposes of calculating benefit entitlement.

The Mandatory Work Activity will offer participants activities and tasks similar to those they might experience in a normal working environment. Although the Department for Work and Pensions will not specify what the placements should consist of, we expect contractors will work with local employers and organisations to deliver placements that are suitable for customers, address barriers to work, enhance employability and work-related skills and increase peoples' chances of securing employment.

Although placements are primarily to enhance customer's employment prospects, they are also expected to produce additional benefit to the local or wider community. Without being prescriptive, examples might include;

- improving an organisation's capacity to deliver services to their clients, where the wider aim of the organisation is to deliver help to the community (such as a charity or voluntary organisation);
- establishing new programmes of community benefit;
- influencing indirect benefits such as improved community relations, greater community safety and improved community environment.

Placements must be additional to existing or expected job vacancies. This is to ensure that employers do not take advantage of Mandatory Work Activity customers as a source of labour at the expense of employing workers in the open labour market.

4.4.3 **Job search**

While customers are undertaking Mandatory Work Activity, they will continue to be subject to the normal conditionality for receipt of Jobseeker' Allowance. They will be expected to take steps to actively seek employment and to be available to take up employment if they find it.

They will continue to participate in Fortnightly Jobsearch Reviews during their Mandatory Work Activity, and the timing of these appointments will be flexible in order to not interfere with Mandatory Work Activity commitments. If a customer fails to attend these appointments, their Jobseeker's Allowance claim will be closed, even if they continue to attend and participate fully in their Mandatory Work Activity.

Mandatory Work Activity will last for a maximum of thirty hours per week in order to leave customers time to continue actively seeking work. There will also be provision within the design of the placements for individuals to attend an interview, or take other steps to secure work should that be necessary. Providers will not be required to organise directed jobsearch, instead customers will continue to be required to meet the conditionality of their Jobseeker's Agreement, including actively seeking work.

4.5 Consequences of not participating in Mandatory Work Activity

For those customers required to take part in Mandatory Work Activity, fixed length sanctions will apply to a customer's benefit when they fail to complete or participate in the scheme. These sanctions will last for thirteen weeks (or in some cases) twenty six weeks (see Reg. 8).

4.5.1 Sanctionable Actions

A customer will be subject to receive a sanction when, without good cause, they (for example):

- (a) fail to participate in or complete Mandatory Work Activity
- (b) refuse a place on Mandatory Work Activity when notified of the requirement to attend by Jobcentre Plus, demonstrated by a failure to attend the first day;
- (c) fail to attend or participate in any meeting or activity, having been notified of the requirement to attend by the scheme provider without the previous agreement of the provider
- (d) lose a place on a Mandatory Work Activity through misconduct.

If the provider has concerns with the actions of a specific customer, they will be raised with the Jobcentre Plus adviser.

4.5.2 Sanction periods

If a customer is deemed to have acted in a way that could give rise to a benefit sanction as defined in 4.5.1, a referral to a Decision Maker would be made for a decision as to whether or not a sanction should be applied to the customer's Jobseeker's Allowance.

Sanctions will increase in length for second or subsequent breaches.

The sanctions will be of the following duration:

- (a) thirteen weeks removal of Jobseeker's Allowance for a first act or omission;
- (b) twenty-six weeks removal for a second transgression leading to a failure determination which is made within 12 months of the first Mandatory Work Activity sanction starting to run.

The draft Regulations mirror current arrangements for joint claims by allowing for a reduced rate Jobseeker's Allowance to be paid for the duration of a Mandatory Work Activity sanction to the non-sanctioned member of the couple.

The intention is that once further Primary Legislation has been introduced, a third or subsequent offence within a 12 month period would result in the loss of benefit for one hundred and fifty six weeks. This further legislation, if passed by Parliament, is intended to come into force in April 2012.

The increase of sanctions in this way will only apply when a breach is within 12 months of a previous Mandatory Work Activity-specific sanction.

Customers will have the right to appeal against a sanction: see paragraph 3(da) of Schedule 3 to the Social Security Act 1998.

A customer will still be required to look for work and be available for work and to sign on during the period of a sanction. If they fail to do so the Jobseeker's Allowance award will be terminated. The sanction would still apply if they reclaim Jobseeker's Allowance before the period of sanction has expired.

4.5.3 **Good cause**

The same principles for good cause for acts or omissions will apply to Mandatory Work Activity as for other provision currently being introduced in the Work Programme.

Previously, Regulations have contained a list of circumstances that are defined as constituting good cause, with the additional proviso that the list was not exhaustive. Reg. 7(3) of the draft Jobseeker's Allowance (Mandatory Work Activity) Regulations provides that the circumstances constituting good cause for acts or omission will be judged by the Secretary of State with reference to a person's circumstances. The only factor which the Regulations will specify must be taken into account is a person's mental health.

The intention of simplifying Regulations in this way is to allow Decision Makers more flexibility to establish whether there was good cause for a particular act with reference to an individual's personal circumstance.

To ensure consistency amongst decision makers we would complement these simplified regulations with guidance for Jobcentre Plus that sets out what issues Decision Makers should take into account when making 'good cause' decisions. This would not compromise the decision maker's capacity to make a decision based on the specific circumstances of the case.

4.5.4 Time frame to show good cause

Reg. 7(1) of proposed Regulations will give a customer five consecutive days on which their Jobcentre Plus office is open to demonstrate they had good cause, from the date on which notice is sent to them regarding the failure to participate.

4.5.5 Evidence on doubts

Organisations that deliver Mandatory Work Activity on behalf of the Secretary of State will gather evidence on events that might mean a person has failed to participate in the programme. Decisions on the application or review of a sanction will be made by a Jobcentre Plus Decision Maker.

4.6 Hardship

Under Part 4 of the draft Regulations, customers who receive a sanction for acts or omissions relating to Mandatory Work Activity will have access to the existing hardship arrangements, in accordance with the provisions of Part 9 of the Jobseeker's Allowance Regulations 1996 or Part 9A in the case of a joint-claim couple.

4.7 Payment of other benefits

Regs. 12 to 16 of the proposed Regulations ensure that customers will not be treated as having notional income or notional capital by reason of their participation in the Scheme, and that customers' Jobseeker's Allowance, Housing Benefit and Council Tax Benefit entitlement and Housing Renewal Grants are not affected by payment of expenses made to them or on their behalf for activities made solely due to their participating in a Mandatory Work Activity.

4.7.1 Reduced rate payment in joint claim cases

As permitted by section 17A(7) of the new powers, Mandatory Work Activity Regulations mirror current arrangements for joint claims by allowing for a reduced rate Jobseeker's Allowance to be paid for the duration of a Mandatory Work Activity sanction.

The amount will match the calculation in section 20A(6) of the Jobseeker's Act 1995 and be paid to the non-sanctioned member of the couple.

4.8 Re-engagement with the scheme

As a means of encouraging compliance with Mandatory Work Activity, benefits will be withdrawn for the full period of sanctions, regardless of whether the customer takes any action to re-engage with what is expected of them. It is clear that for this group of customers it is necessary to reinforce that this will be a valuable use of their time, and that they must take full responsibility if they are unable to meet this requirement and gain the maximum benefit from this provision.

If Jobcentre Plus advisers still feel that Mandatory Work Activity is appropriate for a customer, they will have the option of re-referring that customer to further Mandatory Work Activity once the sanction is exhausted provided they are not required to participate in other mandatory provision e.g. the Work Programme. If they did not complete this second placement then they would be subject to a 26 week sanction (if the failure determination takes place within 12 months of the start of the first sanction).

4.9 Requirement to complete Mandatory Work Activity

Once a customer has been sanctioned for actions relating to Mandatory Work Activity, they will not be required to complete the balance of four weeks on the placement.

The scheme has been designed in this way to reinforce to customers that they should take the opportunity to participate in Mandatory Work Activity seriously, and cannot disengage and re-engage as it suits them.

5 How the Department will implement the changes

5.1 Commercial Options

Commercial options for procuring the Mandatory Work Activity are being developed, taking into account current provider capacity in relation to delivering other Department for Work and Pensions employment programmes and market interest for new organisations.

6 Jobcentre Plus

6.1 Guidance

Implementing these changes will require existing and new process guidance for advisers, Decision Makers and other staff. The Project will complete an assessment of the current guidance impacted and new instructions required.

Key to successful delivery will be advisers' skills in assessing individuals' needs and identifying those customers who would benefit from Mandatory Work Activity. Guidance will include the benefits of the placements and factors advisers will need to take into consideration when identifying appropriate customers.

Amendments to the Decision Makers' guidance will be made to include reference to the Mandatory Work Activity and associated sanctions.

6.2 IT Changes

The project will complete an impact assessment of the major IT systems such as the Labour Market System (LMS) and the Jobseeker's Allowance Payment System (JSAPS) and will commission any changes required to support referrals and Management Information requirements.

6.3 Communicating the change to staff

The communications approach will be via normal communication channels based on good practice and will include liaison between Jobcentre Plus, the Department for Work and Pensions and the commercial team to ensure consistency of communications for staff and providers. Where possible, communications to staff will be integrated with those of other welfare reform initiatives.

6.4 Learning and Development

This change will impact on a number of job roles within the Department for Work and Pensions and Jobcentre Plus, from advisers through to Contract Managers dealing with providers, requiring differing levels of awareness and/or skills training. A full learning needs analysis is being conducted and suitable supporting learning route-ways will be delivered to meet the needs identified.

7 Evaluation

7.1 Evaluation Outline

The Department for Work and Pensions is currently working on an evaluation strategy to cover the range of new interventions options open to Jobcentre Plus advisers including Mandatory Work Activity. Detailed evaluation plans for Mandatory Work Activity are yet to be finalised. The key evaluation questions for the evaluation of Mandatory Work Activity are:

- (a) How is Mandatory Work Activity being implemented, what is advisers' feedback on the effect of the policy?
- (b) What is the provider feedback on the delivery of Mandatory Work Activity?
- (c) Has customer engagement improved as result of the policy?
- (d) Has the policy had an impact on compliance with the Jobseeker's regime?
- (e) What are the impacts on the long-term soft and hard outcomes for Mandatory Work Activity participants?

The final evaluation strategy is being developed as part of the pre-Work Programme evaluation strategy as Mandatory Work Activity is one of

many tools available to Jobcentre Plus advisers to engage customers, and support their return to sustained employment.

The evaluation strategy will include a range of methods, including qualitative and quantitative approaches, alongside internal monitoring.

8 Communication products

8.1 Jobcentre Plus Communications

Under the umbrella title of Get Britain Working, the Jobcentre Plus communications approach ensures that staff are supported in their role at all levels. A weekly Senior Leader update provides the latest information and this will be supplemented by implementation products that communicate specific project messages and actions required. These include staff awareness presentations and guidance.

9 Consequential Changes

9.1 Consequential Changes

Regulations 16 and 17 of the draft Regulations make consequential amendments to other Regulations to ensure that, where a sanction is imposed on a customer who fails without good cause to participate in Mandatory Work Activity, he or she is treated consistently with a customer who incurs a sanction under section 19 of the Jobseekers Act.

Regulation 18 deals with consequential changes in relation to decisions and appeals. The effect is to ensure that provision is made for sanctions imposed under these Regulations as well as those incurred under section 19 or 20A of that Act.

Annexe 1 Draft Regulations

STATUTORY INSTRUMENTS

2011 No. 000

SOCIAL SECURITY

The Jobseeker's Allowance (Mandatory Work Activity) Regulations 2011

<i>Made</i> - - - -	2011
<i>Laid before Parliament</i>	2011
<i>Coming into force</i> - -	25th April 2011

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The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by—

—sections 12(1), (4)(a) and (b), 17A, 20B(4), (5) and (6), 35(1) and 36(2) and (4) of the Jobseekers Act 1995(a),

—sections 123(1)(d) and (e), 136(3) and (5)(a) and (b), 137(1) and 175(3) and (4) of the Social Security Contributions and Benefits Act 1992(b), and

—sections 30 and 146(1) and (2) of the Housing Grants, Construction and Regeneration Act 1996(c).

These Regulations are made with the consent of the Treasury in respect of provisions relating to section 30 (means testing in case of application by owner-occupier or tenant) of the Housing Grants, Construction and Regeneration Act 1996(d).

[In respect of provisions in these Regulations relating to housing benefit and council tax benefit, organisations appearing to the Secretary of State to be representative of the authorities concerned have agreed that consultations need not be undertaken(e).]

[The Secretary of State referred the proposals for these Regulations to the Social Security Advisory Committee(f).]

(a) 1995 c. 18. Section 17A was inserted by section 1 of the Welfare Reform Act 2009 (c. 24); section 20B was inserted by section 59 and Schedule 7 to the Welfare Reform and Pensions Act 1999 (c. 30); sections 35(1) and 36(4) were amended by section 2 of, and paragraphs 62 and 63 of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2). Section 35(1) is an interpretation provision and is cited because of the meaning it gives to the words “prescribed” and “regulations”.

(b) 1992 c. 4. Section 123(1) was amended by section 103 of, and Schedule 9 to, the Local Government Finance Act 1992 (c. 14), by section 60 of, and Schedule 6 to, the Tax Credits Act 2002 (c. 21); section 137(1) is an interpretation provision and is cited because of the meaning given to the word “prescribed”; section 175(1) and (4) was amended by section 2 of, and paragraph 29(1) and (2) of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(c) 1996 c. 53 (“the 1996 Act”). Section 30 was amended by S.I. 2002/1860 and by section 81 of, and Schedule 8 to, the Civil Partnership Act 2004 (c. 33); the functions of the Secretary of State and the Treasury, so far as exercisable in relation to Wales were transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Schedule 1; section 146 was amended by the Local Democracy, Economic Development and Construction Act 2009 (c. 20) on a day to be appointed and the functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Schedule 1.

(d) See section 30(9) of the 1996 Act.

(e) See section 176(2) of the Security Administration Act 1992 (c. 5) (“the 1992 Act”).

(f) See section 172(1) of the 1992 Act.

PART 1

GENERAL

Citation and commencement

1.—(1) These Regulations may be cited as the Jobseeker's Allowance (Mandatory Work Activity) Regulations 2011.

(2) They come into force on 25th April 2011.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Jobseekers Act 1995;

“claimant” means a person who claims a jobseeker's allowance, except that in relation to a joint-claim couple claiming a joint-claim jobseeker's allowance, it means either or both of the members of the couple;

“the Council Tax Benefit Regulations” means the Council Tax Benefit Regulations 2006(a);

“the Housing Benefit Regulations” means the Housing Benefit Regulations 2006(b);

“the Housing Renewal Grants Regulations” means the Housing Renewal Grants Regulations 1996(c);

“the Jobseeker's Allowance Regulations” means the Jobseeker's Allowance Regulations 1996(d);

“the Mandatory Work Activity Scheme” means a scheme within section 17A (schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.) of the Act known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to provide work or work-related activity for up to 30 hours per week over a period of four consecutive weeks with a view to assisting claimants improve their prospects of obtaining employment;

“the Scheme” means the Mandatory Work Activity Scheme.

(2) For the purpose of these Regulations, a written notice sent by post is taken to have been received on the second working day after posting

PART 2

SELECTION FOR AND PARTICIPATION IN THE MANDATORY WORK ACTIVITY SCHEME

Selection for participation in the Scheme

3. The Secretary of State may select a claimant (“C”) who is aged at least 18 for participation in the Scheme.

Requirement to participate and notification

4.—(1) Subject to regulation 5, a claimant (“C”) selected under regulation 3 is required to participate in the Scheme where the Secretary of State gives C a notice in writing complying with paragraph (2).

(a) S.I. 2006/215.

(b) S.I. 2006/213.

(c) S.I. 1996/2890.

(d) S.I. 1996/207.

- (2) The notice must specify—
- (a) that C is required to participate in the Scheme;
 - (b) the day on which C’s participation will start;
 - (c) that C’s participation will be for four weeks;
 - (d) details of what C is required to do by way of participation in the Scheme;
 - (e) that the requirement to participate in the Scheme will continue until C is given notice by the Secretary of State that C’s participation is no longer required, or C’s award of jobseeker’s allowance terminates, whichever is earlier;
 - (f) information about the consequences of failing to participate in the Scheme.
- (3) Any changes made to the requirements mentioned in paragraph (2)(d) after the date on which C’s participation starts must be notified to the person in writing.

Circumstances in which requirement to participate in the Scheme does not apply or ceases to apply

- 5.**—(1) Only a claimant who is required to meet the jobseeking conditions(a) may be required to participate in the Scheme.
- (2) A requirement to participate in the Scheme ceases to apply to a person (“P”) if—
- (a) the Secretary of State gives P notice in writing that P is no longer required to participate in the Scheme, or
 - (b) P’s award of jobseeker’s allowance terminates,
- whichever is earlier.
- (3) The requirement ceases to apply on the day specified in the notice.

PART 3
SANCTIONS

Failure to participate in the Scheme

6. A person (“P”) is to be regarded as having failed to participate in the Scheme in accordance with these Regulations where P fails to comply with any requirement notified under regulation 4.

Good cause

- 7.**—(1) A person (“P”) who fails to participate in the Scheme must show good cause for that failure within five working days of the date on which the Secretary of State notifies P of the failure.
- (2) The Secretary of State must determine whether P has failed to take part in the Scheme and, if so, whether P has shown good cause for that failure in accordance with paragraph (1).
- (3) In deciding whether P has shown good cause for the failure, the Secretary of State must take account of that P’s circumstances, including in particular the person’s mental health.
- (4) In this regulation, “working day” means any day except for a Saturday, Sunday, Christmas Day, Good Friday or bank holiday under the Banking and Financial Dealings Act 1971(b) in England, Wales or Scotland.

(a) See section 17A(10) of the Act for the meaning of the “jobseeking conditions”.

(b) 1971 c. 80.

Consequences of failure to participate in the Scheme

8.—(1) Where the Secretary of State determines that a person (“P”) has failed to participate in the Scheme, and P has not shown good cause for the failure in accordance with regulation 7, the appropriate consequence for the purpose of section 17A of the Act is as follows.

(2) In the case of a jobseeker’s allowance other than a joint-claim allowance, the appropriate consequence is that P’s allowance is not payable for the period specified in paragraph (4) or (5) (“the specified period”).

(3) In the case of a joint-claim jobseeker’s allowance, the appropriate consequence is that P is to be treated as subject to sanctions for the purposes of section 20A of the Act (denial or reduction of a joint-claim jobseeker’s allowance) for the specified period.

(4) The period is 13 weeks in a case which does not fall within paragraph (5).

(5) The period is 26 weeks where—

(a) on a previous occasion the Secretary of State determined that P’s jobseeker’s allowance was not payable or was payable at a lower rate because P failed without good cause to participate in the Scheme (“the first determination”); and

(b) a subsequent determination is made not more than 12 months after the first date on which P’s jobseeker’s allowance was not payable or was payable at a lower rate following the first determination.

(6) The specified period begins—

(a) where, in accordance with regulation 26A(1) of the Social Security (Claims and Payments) Regulations 1987^(a), P’s jobseeker’s allowance is paid otherwise than fortnightly in arrears, on the day following the end of the last benefit week in respect of which that allowance was paid; and

(b) in any other case, on the first day of the benefit week following the date on which P’s jobseeker’s allowance is determined not to be payable or to be payable at a lower rate.

(7) Paragraphs (4) and (5) are subject to paragraph (8) which applies where the Secretary of State notifies P in writing that P is no longer required to participate in the Scheme with effect from a day referred in the notice which falls within the specified period.

(8) Where this paragraph applies, the specified period terminates at the end of—

(a) one week beginning with the day referred to in the notice, or

(b) the period beginning with the day on which the specified period begins and ending with the last day of the benefit week in which the requirement ceases to apply,

whichever is longer.

(9) In this regulation “benefit week” has the same meaning as in regulation 1(3)(b) of the Jobseeker’s Allowance Regulations.

PART 4 HARDSHIP

Hardship

9.—(1) This paragraph applies to a person (“P”) if, during the period in which P’s jobseeker’s allowance is not payable by virtue of regulation 8(2), P is a person in hardship within the meaning of regulation 140(1) or (2) (meaning of “person in hardship”)(c) of the Jobseeker’s Allowance Regulations.

^(a) S.I. 1987/1968. Regulation 26A was inserted by S.I. 1996/1460.

^(b) A relevant amending instrument is S.I. 2009/604.

^(c) Regulation 140 was amended by S.I. 1996/1516, 1997/2863, 1999/2860, 2000/239, 2000/1987, 2001/1029, 2003/445, 2005/2877, 2008/1554, 2008/3051 and 2009/480.

(2) Regulations 140 and 141 to 146 of the Jobseeker's Allowance Regulations have effect in relation to a person to whom paragraph (1) applies subject to the following modification.

(3) Regulation 141(6) (circumstances in which an income-based jobseeker's allowance is payable to a person in hardship)(a) applies as if "regulations made under section 17A ("work for your benefit" schemes etc.) or" were inserted after "even though".

Hardship for joint-claim couples

10.—(1) This paragraph applies to a joint-claim couple if, during the period in which the sanctions referred to in regulation 8(3) applies, they are a couple in hardship within the meaning of regulation 146A(1) or (2) (meaning of "couple in hardship")(b) of the Jobseeker's Allowance Regulations.

(2) Regulations 146A and 146C to 146H of the Jobseeker's Allowance Regulations have effect in relation to a couple to whom paragraph (1) applies.

PART 5

CONSEQUENTIAL AMENDMENTS

Definitions

11.—(1) Paragraph (2) applies to the following provisions (which relate to interpretation)—

- (a) regulation 2(1) of the Council Tax Benefit Regulations;
- (b) regulation 2(1) of the Housing Benefit Regulations;
- (c) regulation 2(1) of the Housing Renewal Grants Regulations;
- (d) regulation 1(3) of the Jobseeker's Allowance Regulations.

(2) In each of the provisions to which this paragraph applies insert the following definition in the appropriate place—

“the Mandatory Work Activity Scheme” means a scheme within section 17A (schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.) of the Act known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to provide work or work-related activity for up to 30 hours per week over a period of four consecutive weeks with a view to assisting claimants improve their prospects of obtaining employment;”.

Notional income

12.—(1) This regulation applies to the following provisions (which relate to notional income)—

- (a) regulation 32(7) of the Council Tax Benefit Regulations(c);
- (b) regulation 42(7) of the Housing Benefit Regulations(d);
- (c) regulation 31(9A) of the Housing Renewal Grants Regulations(e);
- (d) regulation 105(10A) of the Jobseeker's Allowance Regulations(f).

(2) In each of the provisions to which this regulation insert the following sub-paragraph after sub-paragraph (c)—

“(ca) in respect of a person's participation in the Mandatory Work Activity Scheme;”.

(a) Regulation 141 was amended by S.Is 1996/1517, 1996/2538 and 1999/2860.

(b) Regulation 146A was inserted by S.I. 2000/1978 and was amended by S.I. 2001/1029, 2005/2877, 2005/2687, 2008/1554 and 2009/480.

(c) Regulation 32(7) was amended by S.Is 2006/588, 2008/698, 2008/2767 and 2009/480.

(d) Regulation 42(7) was amended by S.Is 2006/588, 2008/698, 2008/2767 and 2009/480.

(e) Paragraph (9A) was inserted by S.I. 1998/808, was substituted by S.I. 1999/1523 and was amended by S.Is 2000/973, 2000/531, 2000/2798 and 2002/530.

(f) Paragraph (10A) was inserted by S.I. 1998/2117 and was amended by S.Is 1999/2640, 2003/455, 2006/588, 2008/698 and 2009/480.

Notional capital

13.—(1) This regulation applies to the following provisions (which relate to notional capital)—

- (a) regulation 39(4) of the Council Tax Benefit Regulations(**a**);
- (b) regulation 49(4) of the Housing Benefit Regulations(**b**);
- (c) regulation 38(3A) of the Housing Renewal Grants Regulations(**c**);
- (d) regulation 113(3A) of the Jobseeker’s Allowance Regulations(**d**).

(2) In each of the provisions to which this regulation applies insert the following sub-paragraph after sub-paragraph (b)—

“(ba) in respect of a person’s participation in the Mandatory Work Activity Scheme;”.

Income to be disregarded

14.—(1) This regulation applies to the following Schedules (which relate to sums to be disregarded in the calculation of income other than earnings)—

- (a) Schedule 4 to the Council Tax Benefit Regulations;
- (b) Schedule 5 to the Housing Benefit Regulations;
- (c) Schedule 3 to the Housing Renewal Grants Regulations;
- (d) Schedule 7 to the Jobseeker’s Allowance Regulations.

(2) In each Schedule to which this regulation applies insert the following paragraph at the beginning—

“**A1.** Any payment made to the claimant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme.”.

Capital to be disregarded

15.—(1) This regulation applies to the following Schedules (which relate to capital to be disregarded)—

- (a) Schedule 5 to the Council Tax Benefit Regulations;
- (b) Schedule 6 to the Housing Benefit Regulations;
- (c) Schedule 4 to the Housing Renewal Grants Regulations;
- (d) Schedule 8 to the Jobseeker’s Allowance Regulations.

(2) In each Schedule to which this regulation applies insert the following paragraph at the beginning—

“**A1.** Any payment made to the claimant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme but only for 52 weeks beginning with the date of receipt of the payment.”.

Further amendments of the Jobseeker’s Allowance Regulations

16. The Jobseeker’s Allowance Regulations are amended as follows—

- (a) in the definition of “relevant notification” in regulation 25(1A) (entitlement ceasing on a failure to comply)(**a**), insert the words “or under the Mandatory Work Activity Scheme” after “scheme”;

(a) Regulation 39(4) was amended by S.Is 2006/588, 2008/698, 2008/2767 and 2009/480.

(b) Regulation 49(4) was amended by S.Is 2006/588, 2008/698, 2008/2767 and 2009/480.

(c) Paragraph (3A) was inserted by S.I. 1999/1523 and was amended by S.Is 2000/531, 2000/973, 2002/530 and 2002/2798.

(d) Paragraph (3A) was inserted by S.I. 1998/2117 and was amended by S.Is 1999/2640, 2001/1029, 2004/2308, 2005/3391, 2006/588, 2008/698 and 2009/480.

- (b) in regulation 47(4)(b)(ii) (jobseeking period)(b) insert the words “regulations made under section 17A or by virtue of” before “section 19”;
- (c) in regulation 55(1)(a) (short periods of sickness)(c) before “; and” insert—
“or who failed without good cause to comply with regulations made under section 17A”;
- (d) in regulation 55A(1)(a) (periods of sickness and persons receiving treatment outside Great Britain)(d) before “; and” insert—
“or who failed without good cause to comply with regulations made under section 17A”
- (e) in regulation 140(1)(f)(i) (meaning of “person in hardship”)(e), before “section 19” insert “regulations made under section 17A or because”.
- (f) in regulation 152(1)(c) (relevant week)(f), before “section 19” insert “regulations made under section 17A or in accordance with”.

Consequential amendments relating to sanctions

17.—(1) Paragraph (2) applies to the following provisions—

- (a) regulation 2(4)(a) and (b) (interpretation) of the Council Tax Benefit Regulations;
- (b) regulation 2(4)(a) and (b) (interpretation) of the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(g);
- (c) regulation 3(j) (circumstances in which discretionary housing payments may be made) of the Discretionary Financial Assistance Regulations 2001(h);
- (d) regulation 2(3)(a) and (b) (interpretation) of the Housing Benefit Regulations;
- (e) regulation 2(3)(a) and (b) (interpretation) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(i);

(2) In each of the provisions to which this paragraph applies insert the words “or regulations made under section 17A” after “section 19 or 20A”.

(3) In regulation 5(3)(b) (meaning of “person in hardship”) of the Social Security (Loss of Benefit) Regulations 2001(j), after “8” insert “, 17A”.

(4) In regulation 8A(5) (credits for unemployment) of the Social Security (Credits) Regulations 1975(k), after sub-paragraph (b) insert—

“(ba) a week in respect of which, because of regulations made under section 17A of that Act, a jobseeker’s allowance was not payable to the person concerned even though he satisfied the conditions for entitlement to that allowance; or”.

Consequential amendments relating to decisions and appeals

18. The Social Security and Child Support (Decisions and Appeals) Regulations 1999(l) are amended as follows—

-
- (a) Relevant amending instruments are S.I. 1999/530, 2000/1978, 2000/2194 and 2010/509.
 - (b) Regulation 47(4) was amended by S.I. 1996/1514, 2001/518, 2001/1711 and 2002/490.
 - (c) Regulation 55(1) was amended by S.I. 1996/1517, 1999/2860, 2000/1978 and 2008/1534.
 - (d) Regulation 55A was inserted by S.I. 2004/1869 and was amended by S.I. 2008/1554.
 - (e) Relevant amending instruments are S.I. 1999/2860 and 2000/1978.
 - (f) A relevant amending instrument is S.I. 2000/1978.
 - (g) S.I. 2006/216.
 - (h) S.I. 2001/1167.
 - (i) S.I. 2006/214.
 - (j) S.I. 2001/4022. Relevant amending instruments are S.I. 2010/424 and 1160.
 - (k) S.I. 1975/556. Regulation 8A was inserted by S.I. 1996/2367 and paragraph (5) was amended by S.I. 2001/518.
 - (l) S.I. 1999/991.

- (a) in regulation 3(6) (revision of decisions)(a), after “Jobseekers Act” insert the words “, or with regulations made under section 17A of that Act”;
- (b) in regulation 6(2) (supersession of decisions)(b), after sub-paragraph (f) insert the following sub-paragraph—
 - “(fa)is a decision that a jobseeker’s allowance is payable to a claimant where that allowance ceases to be payable or is reduced by virtue of regulations made under section 17A of the Jobseekers Act;”;
- (c) after regulation 7(8) (date from which a decision superseded under section 10 takes effect)(c) insert the following paragraph—
 - “(8ZA) A decision to which regulation 6(2)(fa) applies shall take effect as from the beginning of the period specified in regulation 8(6) of the Jobseeker’s Allowance (Mandatory Work Activity) Regulations 2011.”.

Signed by authority of the Secretary of State for Work and Pensions

Name
Minister of State
Department for Work and Pensions

Date

We consent

Date Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations establish the Mandatory Work Activity Scheme, under section 17A of the Jobseekers Act 1995 (“the Jobseekers Act”), which is designed to provide work or work-related activity for up to 30 hours per week over a period of four consecutive weeks with a view to assisting jobseeker’s allowance claimants improve their prospects of obtaining employment.

Part 1 contains general provisions, including provisions concerning interpretation.

Part 2 concerns the circumstances in which jobseeker’s allowance claimants are required to participate in the Scheme. Regulation 3 provides that any claimant who is aged at least 18 can be selected.

Regulation 4 requires a person so selected to participate in the Scheme upon being notified by the Secretary of State, and to do so for a period of four weeks from the date specified in the notice. It also prescribes the contents of the notice.

Regulation 5 concerns the circumstances in which a claimant is not required (or no longer required) to participate in the Scheme. They are where a participant’s award of jobseeker’s allowance terminates or where the Secretary of State gives the participant notice in writing that his or her participation is no longer required. It also provides that a claimant who is not required to meet the jobseeking conditions is not required to participate in the Scheme.

Part 3 deals with failure to participate in the Scheme and good cause for failure to participate.

(a) Regulation 3 was revoked, in so far as it related to child benefit or guardian’s allowance, by S.I. 2003/916. Regulation 3(6) was amended by S.I. 2000/1982.

(b) Regulation 6 was revoked, in so far as it related to child benefit or guardian’s allowance, by S.I. 2003/916. Relevant amending I instruments are S.I. 1999/2677.

(c) Regulation 7 was revoked, in so far as it related to child benefit or guardian’s allowance, by S.I. 2003/916. Regulation 7(8) was substituted by S.I. 1999/2677 and was amended by S.I. 2000/1982 and 2008/2677.

Regulation 6 provides that a person is to be regarded as having failed to participate in the Scheme where he or she fails to comply with any of the requirements notified to him or her under regulation 4.

Regulation 7 provides that a person who fails to participate in the Scheme must show good cause for that failure within 5 working days. It is then for the Secretary of State to determine whether that person has shown good cause, taking into account his or her circumstances.

Regulation 8 provides that claimants who fail without good cause to participate in the Scheme may have their jobseeker's allowance stopped or reduced for 13 or 26 weeks. It also makes provision for bringing the sanction period to an end in the case of claimants who are no longer required to participate in the Scheme.

Part 4 allows for an income-based jobseeker's allowance to be payable even though a sanction applies to the claimant because he or she has failed without good cause to participate in the Scheme. It does so by applying the hardship provisions in Parts 9 and 9A of the Jobseeker's Allowance Regulations 1996 (with modifications).

Part 5 makes various consequential amendments to other Regulations in relation to a person's participation in the Scheme.

Regulation 11 inserts a definition of the Mandatory Work Activity Scheme in the Jobseeker's Allowance Regulations 1996, the Housing Renewal Grants Regulations 1996, the Council Tax Benefit Regulations 2006 and the Housing Benefit Regulations 2006. Regulations 12 and 13 ensure that persons will not be treated as having notional income or notional capital by virtue of their participation in the Scheme, and regulations 14 and 15 provide that travel and other expenses paid to participants are disregarded as income and capital for the purposes of certain income-related benefits.

Regulations 16 and 17 make consequential amendments to other Regulations to ensure that, where a sanction is imposed on a customer who fails without good cause to participate in Mandatory Work Activity, he or she is treated consistently with a claimant who incurs a sanction under section 19 or 20A of the Jobseekers Act.

Regulation 18 deals with consequential changes in relation to decisions and appeals. The effect is to ensure that provision is made for sanctions imposed under these Regulations as well as those incurred under section 19 or 20A of that Act.

A full impact assessment has not been produced for this instrument as it has no impact on the voluntary or private sectors.

Annexe 2 Equality Impact Assessment (November 2010)

Equality impact assessment for Mandatory Work Activity

Purpose and aim of Mandatory Work Activity

Introduction

1. The Department for Work and Pensions (DWP) has conducted the following impact assessment for the proposed Mandatory Work Activity to ensure the Department meets the requirements of the Equality Act 2010.
2. The equality impact assessment will ensure:
 - a. The Department's strategies, policies and services are free from discrimination
 - b. Due regard is given to equality in decision making and subsequent processes
 - c. Opportunities for promoting equality are identified
3. The equality impact assessment considers the impact of Mandatory Work Activity in terms of age, disability, gender, gender reassignment, race, religion or belief and geographical area.

Background

4. The support that Jobcentre Plus delivers to customers across all working age benefits (Jobseekers Allowance JSA, Employment and Support Allowance ESA and Income Support IS) is changing and will be introduced from April 2011. It will allow more flexibility to Jobcentre Plus managers and advisers to judge which interventions will help individual customers most cost effectively.
5. We are creating a framework in which Jobcentre Plus staff can predominantly focus on delivering outcomes for our customers rather than completing activity and processes, and have more discretion to draw down from a menu of support to help customers according to their individual needs. Included in this menu of support is Mandatory Work Activity.
6. Mandatory Work Activity will be available from April 2011 and will aim to enhance employment prospects of a small group of customers by providing opportunities to develop soft skills and attributes important in the world of work.
7. The introduction of Mandatory Work Activity also enables us to strengthen and support the existing conditionality regime, allowing Jobcentre Plus advisers the discretion to identify those customers who may not be doing enough to look for work and require them to carry out a period of work-related activity.

8. A placement will be mandatory and be for at least 30 hours a week and last for up to 4 weeks. It will be aimed at helping the customer develop the labour market discipline associated with full time employment (attending on time and regularly, carrying out specific tasks, working under supervision) and will be of benefit to the local community.
9. Only a small group of customers will be referred to Mandatory Work Activity; It is intended to be a targeted measure for a very small number of customers, encouraging them to step up their activities and to demonstrate that they can not remain on benefits if they are not doing all they can to look for work.
10. Adviser discretion will form a key aspect of the deliver of Mandatory Work Activity however customers who may be required to participate are those that:
 - a) would benefit from a period of full time activity (for example they have minimal work experience) that will develop the labour market disciplines;
 - b) have consistently failed to fully engage with the expectations of the conditionality regime; and
 - c) may only be doing the very minimum of what is required of them to find work.
11. Advisers will be able to send a customer to Mandatory Work Activity at any point in their claim, provided that the individual is not currently undertaking contracted provision, for example the Work Programme. We would not normally expect that customers who were actively engaged in other support, such as a Work Club or Work Experience, would be referred, but this is discretionary.
12. We do however expect that only a very small proportion of individuals are referred within the first 13 weeks of their claim, and this expectation will be translated into Jobcentre Plus guidance.
13. The Mandatory Work Activity will be delivered by organisations through contracts with the Department for Work and Pensions (DWP) in areas of work that are of genuine benefit to local communities.
14. The nature of activities to be undertaken will need to accommodate any recognised restrictions a customer has, such as due to disability or CRB records. Jobcentre Plus will notify delivery organisations of such restriction, although this will not necessitate sharing a customer's Jobseeker's Agreement.
15. While customers are undertaking a Mandatory Work Activity, they will continue to be subject to the usual conditions of receiving Jobseeker's Allowance. They will be expected to take steps to actively seek employment, and to be available to take up employment if they find it.

16. They will continue to have to demonstrate this when attending Fortnightly Jobsearch Reviews during their Mandatory Work Activity. They will also remain subject to the usual sanctions for a breach of either of these conditions, even if they continue to attend and participate fully in their Mandatory Work Activity.
17. Participation on Mandatory Work Activity will be mandatory and those customers who fail to participate will be sanctioned for 3 months. A second failure to participate will receive a 6 month sanction. Further sanctions will also apply if a customer leaves a placement early or loses their placement through misconduct.

Policy Intent

18. The ministerial intent for this policy is that Mandatory Work Activity will help move customers closer to full time sustained employment and ensure that every benefit recipient is meeting the requirements expected of them while there are receiving Jobseeker's Allowance.
19. Furthermore, we aim to instil a more active and engaged attitude towards the search for employment and improve customers' chances of finding work. By making it a condition of continued receipt of Jobseeker's Allowance that customers participate in Mandatory Work Activity, Ministers believe that these customers will shift their understanding of what is required of them if they are to continue to receive support.
20. An individual participating in Mandatory Work Activity will benefit from gaining a better understanding of the discipline and focus that is required in full time work and influence their search for work along with their level of engagement with the Jobcentre Plus offer.
21. There is a small risk that Personal Advisers will refer customers to Mandatory Work Activity in an uneven fashion, where customers who would most benefit from the support would not be referred to the activity. The Department will resolve this risk through clear guidance to advisers on referrals, as well as through close monitoring the characteristics of customers referred to Mandatory Work Activity.

Delivery

22. Mandatory Work Activity will be delivered by organisations through contracts with the Department for Work and Pensions.
23. Placements offered to customers must be additional to existing or expected vacancies. This is to ensure that employers do not take advantage of Mandatory Work Activity as a source of labour at the expense of employing workers in the open labour market.

24. Although placements are primarily to enhance participants' employment prospects, they are also expected to produce additional benefit to the local or wider community.

Legislation

25. Legislation to deliver Mandatory Work Activity is covered by section 17A of the Jobseekers Act 1995.

Consultation and involvement

26. There has been limited consultation on the development of Mandatory Work Activity. We have drawn on information from a number of sources to help influence policy development. This includes feedback from:

previous consultation exercises for programmes that contained similar elements to that proposed for Mandatory Work Activity; and a Jobcentre Plus wide exercise to enable delivery colleagues to suggest ideas for change which included the broad design for this policy.

Impact of Mandatory Work Activity

27. To explore the equality impacts of Mandatory Work Activity the characteristics of the following customers have been compared:

Customers referred for a disqualification decision for not actively seeking employment who receive a favourable decision¹
Customers making a new claim for JSA²

28. Customers referred for a disqualification decision for not actively seeking employment who receive a favourable decision have been used as a proxy for customers who could be mandated to Mandatory Work Activity. This is the best group to use because Personal Advisers will use Mandatory Work Activity in circumstances where customers are struggling with jobsearch or are only meeting the minimum requirements. Mandatory Work Activity will not be used as an alternative to a sanction.

29. The characteristics of customers making a new claim for JSA are used as a comparison group to help understand whether any particular group will be disproportionately impacted by Mandatory Work Activity.

30. Care needs to be taken when comparing characteristics of customers referred for a disqualification decision to the characteristics of customers

¹ Source: DWP Tabulation Tool. Customers referred for disqualification for not actively seeking employment who received a favourable decision since 2000.

² Source: National Benefits Database & LMS Client evaluation database. Characteristics of new JSA claimant from April 2000 to March 2010.

making a new JSA claim. The chance of being sanctioned or disentitled depends on the length of claim. Customers at longer durations are subject to more interventions and increased conditionality which increases their chances of being sanctioned (or disentitled). Customers from ethnic minorities have longer claim durations so they are subject to more sanctions.

Age

31. A larger proportion of young people are referred for a disentitlement decision for not actively seeking employment and receive a favourable decision compared with the proportion of young people making a new claim for JSA. However young people are more likely to have been referred for disentitlement because this group has historically had earlier access to full-time employment programmes meaning that they received more intensive support earlier than older age groups. Relatively more young people could benefit from Mandatory Work Activity than older customers.

32. Youth unemployment is largely caused by lack of relevant skills and work experience that prevent young people from finding sustained employment so the department expects that young people struggling with jobsearch will benefit from a Mandatory Work Activity. However advisers will use their flexibility to target customers who will benefit most from a Mandatory Work Activity, regardless of age.

Table 1: Customers referred for a disentitlement decision for not actively seeking employment who receive a favourable decision and new JSA claims by age

	Under 18	18-24	25-49	50+
Referred for not actively seeking (favourable decision) ³	1%	26%	59%	14%
New JSA claims ⁴	2%	37%	48%	13%

Disability

33. The table below shows that a higher proportion of disabled customers are referred for a disentitlement decision for not actively seeking employment who receive a favourable decision compared with the proportion of disabled customers making a new claim for JSA. Disabled customers are not exempt from Mandatory Work Activity because those struggling with jobsearch will benefit from this support.

34. Personal advisers will consider whether a Mandatory Work Activity is appropriate depending on the needs of the customer. As part of the contract process with providers the Department will gain assurances that provision supplied meets existing Health and Safety standards and

³ Source: DWP Tabulation Tool. Customers referred for disentitlement for not actively seeking employment who received a favourable decision since 2000.

⁴ Source: National Benefits Database & LMS Client evaluation database. Characteristics of new JSA claimant from April 2000 to March 2010.

the Department expects suppliers to meet their duties under the Equality Act 2010.

35. The statistics for New JSA claims in the table below are calculated by linking individual level data from the National Benefits database and the LMS Client Evaluation database and is based on 25m new JSA claims of which 5.5m have declared a disability during a Jobcentre Plus interview.

Table 2: Customers referred for a disentanglement decision for not actively seeking employment who receive a favourable decision and new JSA claims by disability

	Not disabled	Disabled
Referred for not actively seeking (favourable decision) ⁵	73%	27%
New JSA claims ⁶	78%	22%

Race

36. A significantly higher proportion of customers from an ethnic minority background are referred for a disentanglement decision for not actively seeking employment who receive a favourable decision compared with new JSA claimants. However customers with an ethnic minority background have longer claim durations than average.
37. Customers from an ethnic minority background could be disproportionately referred to Mandatory Work Activity. Personal Advisers will refer customers to Mandatory Work Activity who are most likely to benefit from it. If proportionally more ethnic minorities are referred this could help to promote equality of outcomes.

Table 3: Customers referred for a disentanglement decision for not actively seeking employment who receive a favourable decision and new JSA claims by ethnicity

	White	Ethnic minority
Referred for not actively seeking (favourable decision) ⁷	74%	26%
New JSA claims ⁸	87%	13%

Gender

38. A higher proportion of males claim JSA compared with females and a relatively larger proportion of males get referred for a disentanglement decision for not actively seeking who receive a favourable decision.

⁵ Source: DWP Tabulation Tool. Customers referred for disentanglement for not actively seeking employment who received a favourable decision since 2000.

⁶ Source: National Benefits Database & LMS Client evaluation database. Characteristics of new JSA claimant from April 2000 to March 2010.

⁷ Source: DWP Tabulation Tool. Customers referred for disentanglement for not actively seeking employment who received a favourable decision since 2000.

⁸ Source: National Benefits Database & LMS Client evaluation database. Characteristics of new JSA claimant from April 2000 to March 2010.

Customers will be mandated to a Mandatory Work Activity if they are struggling with jobsearch or only doing the minimum required to meet JSA eligibility regardless of their gender.

Table 4: Customers referred for a disentitlement decision for not actively seeking employment who receive a favourable decision and new JSA claims by gender

	Female	Male
Referred for not actively seeking (favourable decision) ⁹	24%	76%
New JSA claims ¹⁰	29%	71%

Location

39. The table below suggests that a disproportionate number of customers in London will be referred to Mandatory Work Activity. This is partly because customers in London have longer than average claim durations. Mandatory Work Activity will not be targeted at any region in particular but will be aimed at helping customers that are struggling with jobsearch.

Table 5: Customers referred for a disentitlement decision for not actively seeking employment who receive a favourable decision and new JSA claims by region

	New JSA claims ¹¹	Referred for not actively seeking (favourable decision) ¹²
East of England	7%	8%
East Midlands	7%	10%
London	13%	27%
North East	6%	3%
North West	13%	13%
Scotland	11%	7%
South East	10%	6%
South West	7%	5%
Wales	6%	4%
West Midlands	10%	9%
Yorkshire and The Humber	10%	7%

Gender Re-assignment and Sexual Orientation

40. All participants on Mandatory Work Activity will be treated fairly and equally regardless of their gender or sexual orientation. The Department does not currently collect data on customers who have undergone gender re-assignment or on their sexual orientation. The

⁹ Source: DWP Tabulation Tool. Customers referred for disentitlement for not actively seeking employment who received a favourable decision since 2000.

¹⁰ Source: National Benefits Database. Characteristics of new JSA claimant from April 2000 to March 2010.

¹¹ Source: National Benefits Database. Characteristics of new JSA claimant from April 2000 to March 2010.

¹² Source: DWP Tabulation Tool. Customers referred for disentitlement for not actively seeking employment who received a favourable decision since 2000.

more personalised and flexible support on offer, however, will enable us to take each individual's personal circumstances into consideration.

Religion or Belief

41. All participants on Mandatory Work Activity will be treated fairly and equally regardless of their religion or beliefs. They will not be asked to undertake any activity which goes against their beliefs and allowances will be made to reflect religious holidays and practices.

Monitoring

42. The Government has set out clear expectations that departments should be moving away from a position where they monitor and report on unnecessary processes and activities and focus on delivering outcomes.
43. This approach will be followed in the process to develop management information requirements for Mandatory Work Activity. However the Department will ensure it captures vital information including the number of customers referred, the numbers completed, the characteristics of those referred and information on those who don't attend or complete.
44. We will also ensure that management information requirements compliment our evaluation requirements.

Evaluation

45. DWP are currently working on an evaluation strategy to cover the range of new interventions options open to Jobcentre Plus advisers including Mandatory Work Activity. Detailed evaluation plans for Mandatory Work Activity are yet to be agreed.
46. The key evaluation questions for the evaluation of MWA are:
 - (a) How is MWA being implemented, what is advisers' feedback on the effect of the policy?
 - (b) What is the provider feedback on the delivery of MWA?
 - (c) Has customer engagement improved as result of the policy?
 - (d) Has the policy had an impact on compliance with the regime both for those referred to MWA and the JSA claimants as a whole?
 - (e) What are the impacts on the long-term soft and hard outcomes for MWA participants?
 - (f) The final evaluation strategy is being developed as part of the pre-Work Programme evaluation strategy as MWA is one of many tools available to Jobcentre Plus advisers to engage customers, and support customers return to sustained employment.

47. The evaluation strategy will include a range of methods, including qualitative and quantitative approaches, alongside internal monitoring.
48. Through the evaluation of Mandatory Work Activity we will also consider the impact that the programme has on different customer groups in relation to diversity and equality.

Conclusion

49. Despite the tougher economic climate, we still expect all Jobseeker's Allowance customer to take active steps to find work and do what is required of them while receiving benefits.
50. The introduction of Mandatory Work Activity will enable advisers to offer further support to small groups of customers who aren't making a concerted effort to find a job and who are at risk of being sanctioned.
51. Mandatory Work Activity will offer these people the opportunity to engage in the system and help them gain valuable skills and experience which are vital for working life, at the earliest opportunity.
52. In conclusion, Mandatory Work Activity is not being targeted at specific groups and is potentially available to any customer. We therefore do not expect that certain groups will be disproportionately disadvantaged by the introduction of this programme.

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APPENDIX 1A

THE DEPARTMENT'S EM AND DRAFT REGULATIONS

As amended after the Social Security Advisory Committee's meeting on 18 November 2010, and issued for public consultation by the Committee

Explanatory memorandum for the Social Security Advisory Committee from the Department for Work and Pensions

The Jobseeker's Allowance (Mandatory Work Activity) Regulations 2011

Regulations allowing the mandating of individuals to a period community based activity.

1 Introduction

The Government has made a clear commitment to ensuring that "the receipt of benefits for those able to work is conditional on their willingness to work"¹.

To support this commitment, the Department is seeking to introduce Mandatory Work Activity from April 2011 as part of wider reforms that offer greater flexibility to Jobcentre Plus to judge which interventions will help individual customers on Jobseeker's Allowance.

The large majority of those claiming Jobseeker's Allowance make every effort to find work. We do recognise however that some customers do just enough to meet the conditions of their claim while at the same time continually failing to demonstrate the focus and discipline that is a key requirement of finding, securing and retaining employment.

Mandatory Work Activity is being introduced to enable advisers to address this problem, supporting this particular group of customers at the earliest possible stage. Mandatory Work Activity gives advisers a tool that will encourage the development of crucial disciplines associated with full time employment, while at the same time making a contribution to their community.

It is intended as a targeted measure for a small number of customers, encouraging them to engage with, rather than underestimate or avoid, the conditionality requirements attached to Jobseeker's Allowance. This does not mean that the current conditionality requirements are failing for these people; over time, customers demonstrating this behaviour will eventually build up a pattern of failures to meet the requirements and receive a sanction.

¹ 'The Coalition: Our Programme for Government' (May 2010) www.cabinetoffice.gov.uk/media/409088/pfg_coalition.pdf

Using Mandatory Work Activity, Jobcentre Plus advisers can intervene, taking active steps to improve labour market engagement and prevent unemployment lengthening or serious non-compliance occurs triggering a sanction.

Ultimately, by engaging customers more fully, Mandatory Work Activity will move these customers closer to sustained employment. Mandatory Work Activity demands that customers who may have little recent experience of full time employment, or behave as though they have little regard for what behaviour is required to get and keep work, discover for themselves the expectations of work; turning up on time and every day, following instructions, working in teams, and many other elements of full time activity.

These mandatory placements will be delivered by external contractors on behalf of the Department. We would not be prescriptive about what they should include. We do expect that providers will provide a supervised environment, where customers will be given productive and meaningful tasks to complete. Providers will also be required, both at the bidding stage and through the monitoring of their delivery, to be able to demonstrate the benefits to the community that they are delivering.

Mandatory Work Activity will be for up to thirty hours a week and last for four weeks and placements will accommodate any restrictions included in the customer's Jobseeker's Agreement. Customers participating would continue to receive their Jobseeker's Allowance.

International evidence on the effectiveness of mandatory work experience is mixed, however there is evidence from the New Deals to suggest a positive impact on employment chances from a period of full-time activity². There is also some evidence that full-time activity can reduce employment chances by limiting the time available for job search.³ In order to avoid this, customers will also be required to continue actively seeking and be available for employment, and to demonstrate this when attending Fortnightly Jobsearch Reviews. This ensures that they remain engaged with the labour market.

Mandatory Work Activity is a mandatory programme; sanctions will apply if a customer fails to take up or complete a placement without good cause.

² 'Mandating Intensive Activity Period for jobseekers aged 50+: final report of the quantitative evaluation', R. Dorsett and D. Smeaton (Department for Work and Pensions, Research Report No. 500)

³ 'A Comparative Review of Workfare Programmes in the United States, Canada and Australia', R. Crisp and D.R. Fletcher (Department for Work and Pensions, Research Report No. 533)

2 Background

2.1 Wider changes to Jobcentre Plus support

Mandatory Work Activity is just one of the changes to the support that Jobcentre Plus delivers to customers across all working age benefits (Jobseeker's Allowance, Employment and Support Allowance and Income Support) that are to be introduced from April 2011. The aim of these changes is to allow more flexibility to Jobcentre Plus managers and advisers to judge which interventions will help individual customers most cost effectively.

We are creating a framework in which Jobcentre Plus staff can predominantly focus on delivering outcomes for customers rather than completing activity and processes, and have more discretion to select from a menu of support to help customers according to their individual needs.

The flexibility in delivery will be supported by a new Jobcentre Plus performance framework which will hold Jobcentre Plus to account for headline outcomes, specifically the rate at which people flow off working age benefits into employment.

2.2 Policy Context

Jobcentre Plus advisers have clearly identified, both through internal staff consultation exercises and anecdotally, that they can recognise the small number of Jobseeker's Allowance customers who may be doing only the very bare minimum to comply the requirement that they actively seek work. Advisers have made clear that a programme that allowed them to actively intervene at an early stage with these specific customers could have a positive impact.

The role of advisers is to build relationships with customers and recognise appropriate support that would best meet their individual circumstances. This small minority requires active engagement, through a mandatory programme, in order to reorient their mindset and change their approach to their search for work.

2.3 Policy Intention

Mandatory Work Activity will require customers to carry out tasks that are similar to a working environment for them to develop an understanding of the discipline and focus that is required in employment.

By making participation a condition of continued receipt of Jobseeker's Allowance, there is good reason to believe that these customers will gain experience of the discipline and expectations that working activity involves and shift their understanding of what is required of them if they are to continue to receive support.

The fundamental intent of Mandatory Work Activity is to give people a clearer understanding that claiming benefits without a sustained and demonstrable individual commitment to find work cannot be a way of life. The development of this focus and discipline through participation in Mandatory Work Activity will make it more likely that these customers move off benefits and into sustained employment in the future.

The existence of Mandatory Work Activity will also serve to highlight to all customers claiming Jobseeker's Allowance that the expectation to meet the conditionality is a serious one, thereby supporting the existing regime.

2.4 Intended Outcome

Mandatory Work Activity forms part of the flexible menu of support available to Jobcentre Plus advisers, allowing them to judge which interventions will help individual customers. The intention of these changes as a whole is to move customers closer to full time sustained employment.

2.5 Differences with existing provision

Mandatory Work Activity differs significantly from current provision, as well as from previous schemes which had mandatory work requirements such as Work for Your Benefit (which was not implemented) or Community Task Force.

Under the draft Regulations, Jobcentre Plus advisers will have the option of mandating customers to a period of work or work-related activity at any point in their claim. This gives them a different tool to use at their discretion with specific customers who fail to show that they are fully and actively committed to look for employment. It allows those staff best able to assess an individual customer's needs to make the decision about whether they require this sort of intervention.

Previous schemes such as Work for Your Benefit have been intended as primarily an automatic point for all customers who have been unemployed for an extended period of time. Mandatory Work Activity is entirely targeted at individuals that have been identified by Jobcentre Plus advisers as requiring this support.

2.6 The introduction of Mandatory Work Activity

Mandatory Work Activity will be introduced across Great Britain from April 2011. This is subject to the success of the procurement process.

3 The Proposed Regulations

3.1 Outline of Regulations

The draft Jobseeker's Allowance (Mandatory Work Activity) Regulations 2011 (at Annex 1) establish the Mandatory Work Activity Scheme. They are made under section 17A of the Jobseekers Act 1995 ("the Jobseekers Act"), which was inserted by section 1 of the Welfare Reform Act 2009. The Scheme will provide work or work-related activity for up to 30 hours per week over a period of four consecutive weeks with a view to assisting Jobseeker's Allowance claimants improve their prospects of obtaining employment.

The explanatory note, on the final two page of the draft Regulations, contains a summary of their provisions.

4 How the changes will impact customers

4.1 Introduction

Mandatory Work Activity will be for four weeks. The placements aim to enhance customers' employment prospects by providing opportunities for them to develop skills and attributes important in the world of work, e.g. attending on time and regularly, carrying out specific tasks, working as part of a team and under supervision.

Advisers will be able to send a customer to Mandatory Work Activity at any point in their claim, though we expect most referrals will be for customers who do not find work quickly and have been unemployed for 13 weeks or more.

People participating in the Work Programme or other contracted provision will not be referred to Mandatory Work Activity. We would not normally expect that customers who were actively engaged in other support, such as a Work Club or Work Experience, would be referred, but the final decision as to who and when to refer would rest with the Jobcentre Plus adviser.

4.2 Selection criteria

Taking into account individual customers' circumstances, Jobcentre Plus advisers will determine the appropriateness for Mandatory Work Activity. Customers who could benefit may for example have no recent work experience and need the opportunity to work as part of a team in order to develop greater confidence and interpersonal skills or they may have a history of timekeeping difficulties or failure to take up opportunities of alternative support.

Detailed criteria around the circumstances in which referral to a Mandatory Work Activity will not be included in the Regulations, as the intention is to allow Jobcentre Plus advisers discretion in deciding when a referral is most appropriate.

Guidance that sets out the benefits and aims of Mandatory Work Activity will be produced that will include examples of factors that Jobcentre Plus advisers should consider in order to identify appropriate customers. As a result, advisers will be able to make an informed judgement as to which customers would most benefit from what Mandatory Work Activity has to offer.

Mandatory Work Activity is not a sanction. If a customer is identified as having breached the conditions of their Jobseeker's Allowance in such a way as to have merited sanction (for example, by failing to comply with a jobseeker's direction), Jobcentre Plus advisers will still have to refer them to a Decision Maker in the usual way and cannot offer Mandatory Work Activity as an alternative. This will be made clear to Jobcentre Plus advisers and Decision Makers as part of the guidance developed. If basic Jobseeker's Allowance conditions of entitlement (e.g. concerning availability for work and actively seeking work) are not met, the Jobseeker's Allowance claim will still have to be closed; Mandatory Work Activity cannot be offered as an alternative.

4.3 Voluntary participation

It will not be possible for a customer to request to take part in Mandatory Work Activity. The intention is that the customers who would benefit from the experience will be identified by their Jobcentre Plus adviser, and referred to Mandatory Work Activity.

If a customer feels that they would benefit from a short period of work related activity, they should discuss with their Jobcentre Plus adviser other elements of Jobcentre Plus support that may be more suited to them, for example Work Experience which will be available from January 2011.

4.4 Content of Mandatory Work Activity

4.4.1 Number of Placements

Only a small minority of customers are expected to be referred to Mandatory Work Activity; it is intended as an option that can be considered by Jobcentre Plus advisers as a form of support that will benefit specific customers.

We envisage that Mandatory Work Activity will initially deliver around 10,000 placements per year.

4.4.2 Nature of Placement

Mandatory Work Activity will be delivered by organisations under contract on behalf of the Department for Work and Pensions in projects that make a contribution to local communities. Contractors will be required to demonstrate this from tendering to delivery.

Placements should be flexible and should be tailored to the individual circumstances of the customer where possible. The nature of the placement to be undertaken will need to accommodate any restrictions a customer's Jobcentre Plus adviser has included in the customer's Jobseeker's Agreement.

This will include any restrictions in the number of hours a customer can work, for example because of childcare responsibilities. Jobcentre Plus will notify delivery organisations of such restriction using existing processes.

For those customers who have restricted agreements, the totality of their commitment to Mandatory Work Activity, including time spent on jobsearch, will not exceed the total number of hours that they are restricted to in their agreement. This will be reflected in guidance to Jobcentre Plus advisers.

Customers carrying out Mandatory Work Activity will continue to receive their Jobseeker's Allowance but they will not receive any other payment except in respect of necessary expenses, for example for travel or additional support requirements that they incur as a result of their placement. Expenses incurred as the result of childcare costs will not be met, however where parents have caring responsibilities these should be reflected in their Jobseeker's Agreement, and therefore taken into account by the Jobcentre Plus adviser.

Necessary expenses (for example travel or additional support requirements) will be funded by the Mandatory Work Activity provider. Provisions are included in the Regulations disregarding these payments for the purposes of calculating benefit entitlement.

The Mandatory Work Activity will offer participants activities and tasks similar to those they might experience in a normal working environment. Although the Department for Work and Pensions will not specify what the placements should consist of, we expect contractors will work with local employers and organisations to deliver placements that are suitable for customers, address barriers to work, enhance employability and work-related skills and increase peoples' chances of securing employment.

Although placements are primarily to enhance customer's employment prospects, they are also expected to produce additional benefit to the local or wider community. Without being prescriptive, examples might include;

- improving an organisation's capacity to deliver services to their clients, where the wider aim of the organisation is to deliver help to the community (such as a charity or voluntary organisation);
- establishing new programmes of community benefit;

- influencing indirect benefits such as improved community relations, greater community safety and improved community environment.

Placements must be additional to existing or expected job vacancies. This is to ensure that employers do not take advantage of Mandatory Work Activity customers as a source of labour at the expense of employing workers in the open labour market.

4.4.3 **Job search**

While customers are undertaking Mandatory Work Activity, they will continue to be subject to the normal conditionality for receipt of Jobseeker' Allowance. They will be expected to take steps to actively seek employment and to be available to take up employment if they find it.

They will continue to participate in Fortnightly Jobsearch Reviews during their Mandatory Work Activity, and the timing of these appointments will be flexible in order to not interfere with Mandatory Work Activity commitments. If a customer fails to attend these appointments, their Jobseeker's Allowance claim will be closed, even if they continue to attend and participate fully in their Mandatory Work Activity.

Mandatory Work Activity will last for a maximum of thirty hours per week in order to leave customers time to continue actively seeking work. There will also be provision within the design of the placements for individuals to attend an interview, or take other steps to secure work should that be necessary. Providers will not be required to organise directed jobsearch, instead customers will continue to be required to meet the conditionality of their Jobseeker's Agreement, including actively seeking work.

4.5 **Consequences of not participating in Mandatory Work Activity**

For those customers required to take part in Mandatory Work Activity, fixed length sanctions will apply to a customer's benefit when they fail to complete or participate in the scheme. These sanctions will last for thirteen weeks (or in some cases) twenty six weeks (see Reg. 8).

4.5.1 **Sanctionable Actions**

A customer will be subject to receive a sanction when, without good cause, they (for example):

- (e) fail to participate in or complete Mandatory Work Activity
- (f) refuse a place on Mandatory Work Activity when notified of the requirement to attend by Jobcentre Plus, demonstrated by a failure to attend the first day;
- (g) fail to attend or participate in any meeting or activity, having been notified of the requirement to attend by the scheme provider without the previous agreement of the provider

- (h) lose a place on a Mandatory Work Activity through misconduct.

If the provider has concerns with the actions of a specific customer, they will be raised with the Jobcentre Plus adviser.

4.5.2 **Sanction periods**

If a customer is deemed to have acted in a way that could give rise to a benefit sanction as defined in 4.5.1, a referral to a Decision Maker would be made for a decision as to whether or not a sanction should be applied to the customer's Jobseeker's Allowance.

Sanctions will increase in length for second or subsequent breaches.

The sanctions will be of the following duration:

- (c) thirteen weeks removal of Jobseeker's Allowance for a first act or omission;
- (d) twenty-six weeks removal for a second transgression leading to a failure determination which is made within 12 months of the first Mandatory Work Activity sanction starting to run.

The draft Regulations mirror current arrangements for joint claims by allowing for a reduced rate Jobseeker's Allowance to be paid for the duration of a Mandatory Work Activity sanction to the non-sanctioned member of the couple.

The intention is that once further Primary Legislation has been introduced, a third or subsequent offence within a 12 month period would result in the loss of benefit for one hundred and fifty six weeks. This further legislation, if passed by Parliament, is intended to come into force in April 2012.

The increase of sanctions in this way will only apply when a breach is within 12 months of a previous Mandatory Work Activity-specific sanction.

Customers will have the right to appeal against a sanction: see paragraph 3(da) of Schedule 3 to the Social Security Act 1998.

A customer will still be required to look for work and be available for work and to sign on during the period of a sanction. If they fail to do so the Jobseeker's Allowance award will be terminated. The sanction would still apply if they reclaim Jobseeker's Allowance before the period of sanction has expired.

4.5.3 **Good cause**

The same principles for good cause for acts or omissions will apply to Mandatory Work Activity as for other provision currently being introduced in the Work Programme.

Previously, Regulations have contained a list of circumstances that are defined as constituting good cause, with the additional proviso that the list was not exhaustive. Reg. 7(3) of the draft Jobseeker's Allowance (Mandatory Work Activity) Regulations provides that the circumstances constituting good cause for acts or omission will be judged by the Secretary of State with reference to a person's circumstances. The only factor which the Regulations will specify must be taken into account is a person's mental health.

The intention of simplifying Regulations in this way is to allow Decision Makers more flexibility to establish whether there was good cause for a particular act with reference to an individual's personal circumstance.

To ensure consistency amongst decision makers we would complement these simplified regulations with guidance for Jobcentre Plus that sets out what issues Decision Makers should take into account when making 'good cause' decisions. This would not compromise the decision maker's capacity to make a decision based on the specific circumstances of the case.

4.5.4 Time frame to show good cause

Reg. 7(1) of proposed Regulations will give a customer five consecutive days on which their Jobcentre Plus office is open to demonstrate they had good cause, from the date on which notice is sent to them regarding the failure to participate.

4.5.5 Evidence on doubts

Organisations that deliver Mandatory Work Activity on behalf of the Secretary of State will gather evidence on events that might mean a person has failed to participate in the programme. Decisions on the application or review of a sanction will be made by a Jobcentre Plus Decision Maker.

4.6 Hardship

Under Part 4 of the draft Regulations, customers who receive a sanction for acts or omissions relating to Mandatory Work Activity will have access to the existing hardship arrangements, in accordance with the provisions of Part 9 of the Jobseeker's Allowance Regulations 1996 or Part 9A in the case of a joint-claim couple.

4.7 Payment of other benefits

Regs. 12 to 16 of the proposed Regulations ensure that customers will not be treated as having notional income or notional capital by reason of their participation in the Scheme, and that customers'

Jobseeker's Allowance, Housing Benefit and Council Tax Benefit entitlement and Housing Renewal Grants are not affected by payment of expenses made to them or on their behalf for activities made solely due to their participating in a Mandatory Work Activity.

4.7.1 Reduced rate payment in joint claim cases

As permitted by section 17A(7) of the new powers, Mandatory Work Activity Regulations mirror current arrangements for joint claims by allowing for a reduced rate Jobseeker's Allowance to be paid for the duration of a Mandatory Work Activity sanction.

The amount will match the calculation in section 20A(6) of the Jobseeker's Act 1995 and be paid to the non-sanctioned member of the couple.

4.8 Re-engagement with the scheme

As a means of encouraging compliance with Mandatory Work Activity, benefits will be withdrawn for the full period of sanctions, regardless of whether the customer takes any action to re-engage with what is expected of them. It is clear that for this group of customers it is necessary to reinforce that this will be a valuable use of their time, and that they must take full responsibility if they are unable to meet this requirement and gain the maximum benefit from this provision.

If Jobcentre Plus advisers still feel that Mandatory Work Activity is appropriate for a customer, they will have the option of re-referring that customer to further Mandatory Work Activity once the sanction is exhausted provided they are not required to participate in other mandatory provision e.g. the Work Programme. If they did not complete this second placement then they would be subject to a 26 week sanction (if the failure determination takes place within 12 months of the start of the first sanction).

4.9 Requirement to complete Mandatory Work Activity

Once a customer has been sanctioned for actions relating to Mandatory Work Activity, they will not be required to complete the balance of four weeks on the placement.

The scheme has been designed in this way to reinforce to customers that they should take the opportunity to participate in Mandatory Work Activity seriously, and cannot disengage and re-engage as it suits them.

5 How the Department will implement the changes

5.1 Commercial Options

Commercial options for procuring the Mandatory Work Activity are being developed, taking into account current provider capacity in

relation to delivering other Department for Work and Pensions employment programmes and market interest for new organisations.

6 Jobcentre Plus

6.1 Guidance

Implementing these changes will require existing and new process guidance for advisers, Decision Makers and other staff. The Project will complete an assessment of the current guidance impacted and new instructions required.

Key to successful delivery will be advisers' skills in assessing individuals' needs and identifying those customers who would benefit from Mandatory Work Activity. Guidance will include the benefits of the placements and factors advisers will need to take into consideration when identifying appropriate customers.

Amendments to the Decision Makers' guidance will be made to include reference to the Mandatory Work Activity and associated sanctions.

6.2 IT Changes

The project will complete an impact assessment of the major IT systems such as the Labour Market System (LMS) and the Jobseeker's Allowance Payment System (JSAPS) and will commission any changes required to support referrals and Management Information requirements.

6.3 Communicating the change to staff

The communications approach will be via normal communication channels based on good practice and will include liaison between Jobcentre Plus, the Department for Work and Pensions and the commercial team to ensure consistency of communications for staff and providers. Where possible, communications to staff will be integrated with those of other welfare reform initiatives.

6.4 Learning and Development

This change will impact on a number of job roles within the Department for Work and Pensions and Jobcentre Plus, from advisers through to Contract Managers dealing with providers, requiring differing levels of awareness and/or skills training. A full learning needs analysis is being conducted and suitable supporting learning route-ways will be delivered to meet the needs identified.

7 Evaluation

7.1 Evaluation Outline

The Department for Work and Pensions is currently working on an evaluation strategy to cover the range of new interventions options

open to Jobcentre Plus advisers including Mandatory Work Activity. Detailed evaluation plans for Mandatory Work Activity are yet to be finalised. The key evaluation questions for the evaluation of Mandatory Work Activity are:

- (f) How is Mandatory Work Activity being implemented, what is advisers' feedback on the effect of the policy?
- (g) What is the provider feedback on the delivery of Mandatory Work Activity?
- (h) Has customer engagement improved as result of the policy?
- (i) Has the policy had an impact on compliance with the Jobseeker's regime?
- (j) What are the impacts on the long-term soft and hard outcomes for Mandatory Work Activity participants?

The final evaluation strategy is being developed as part of the pre-Work Programme evaluation strategy as Mandatory Work Activity is one of many tools available to Jobcentre Plus advisers to engage customers, and support their return to sustained employment.

The evaluation strategy will include a range of methods, including qualitative and quantitative approaches, alongside internal monitoring.

8 Communication products

8.1 Jobcentre Plus Communications

Under the umbrella title of Get Britain Working, the Jobcentre Plus communications approach ensures that staff are supported in their role at all levels. A weekly Senior Leader update provides the latest information and this will be supplemented by implementation products that communicate specific project messages and actions required. These include staff awareness presentations and guidance.

9 Consequential Changes

9.1 Consequential Changes

Regulations 16 and 17 of the draft Regulations make consequential amendments to other Regulations to ensure that, where a sanction is imposed on a customer who fails without good cause to participate in Mandatory Work Activity, he or she is treated consistently with a customer who incurs a sanction under section 19 of the Jobseekers Act.

Regulation 18 deals with consequential changes in relation to decisions and appeals. The effect is to ensure that provision is made for sanctions imposed under these Regulations as well as those incurred under section 19 or 20A of that Act.

Annexe 1 Draft Regulations

STATUTORY INSTRUMENTS

2011 No. 000

SOCIAL SECURITY

The Jobseeker's Allowance (Mandatory Work Activity) Regulations 2011

Made - - - - 2011
Laid before Parliament 2011
Coming into force - - 25th April 2011

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18. Consequential amendments relating to decisions and appeals

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by—

—sections 12(1), (4)(a) and (b), 17A, 20B(4), (5) and (6), 35(1) and 36(2) and (4) of the Jobseekers Act 1995(a),

—sections 123(1)(d) and (e), 136(3) and (5)(a) and (b), 137(1) and 175(3) and (4) of the Social Security Contributions and Benefits Act 1992(b), and

—sections 30 and 146(1) and (2) of the Housing Grants, Construction and Regeneration Act 1996(c).

These Regulations are made with the consent of the Treasury in respect of provisions relating to section 30 (means testing in case of application by owner-occupier or tenant) of the Housing Grants, Construction and Regeneration Act 1996(d).

[In respect of provisions in these Regulations relating to housing benefit and council tax benefit, organisations appearing to the Secretary of State to be representative of the authorities concerned have agreed that consultations need not be undertaken(e).]

[The Secretary of State referred the proposals for these Regulations to the Social Security Advisory Committee(f).]

(a) 1995 c. 18. Section 17A was inserted by section 1 of the Welfare Reform Act 2009 (c. 24); section 20B was inserted by section 59 and Schedule 7 to the Welfare Reform and Pensions Act 1999 (c. 30); sections 35(1) and 36(4) were amended by section 2 of, and paragraphs 62 and 63 of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2). Section 35(1) is an interpretation provision and is cited because of the meaning it gives to the words “prescribed” and “regulations”.

(b) 1992 c. 4. Section 123(1) was amended by section 103 of, and Schedule 9 to, the Local Government Finance Act 1992 (c. 14), by section 60 of, and Schedule 6 to, the Tax Credits Act 2002 (c. 21); section 137(1) is an interpretation provision and is cited because of the meaning given to the word “prescribed”; section 175(1) and (4) was amended by section 2 of, and paragraph 29(1) and (2) of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(c) 1996 c. 53 (“the 1996 Act”). Section 30 was amended by S.I. 2002/1860 and by section 81 of, and Schedule 8 to, the Civil Partnership Act 2004 (c. 33); the functions of the Secretary of State and the Treasury, so far as exercisable in relation to Wales were transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Schedule 1; section 146 was amended by the Local Democracy, Economic Development and Construction Act 2009 (c. 20) on a day to be appointed and the functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Schedule 1.

(d) See section 30(9) of the 1996 Act.

(e) See section 176(2) of the Security Administration Act 1992 (c. 5) (“the 1992 Act”).

(f) See section 172(1) of the 1992 Act.

PART 1

GENERAL

Citation and commencement

19.—(1) These Regulations may be cited as the Jobseeker’s Allowance (Mandatory Work Activity) Regulations 2011.

(2) They come into force on 25th April 2011.

Interpretation

20.—(1) In these Regulations—

“the Act” means the Jobseekers Act 1995;

“claimant” means a person who claims a jobseeker’s allowance, except that in relation to a joint-claim couple claiming a joint-claim jobseeker’s allowance, it means either or both of the members of the couple;

“the Council Tax Benefit Regulations” means the Council Tax Benefit Regulations 2006(a);

“the Housing Benefit Regulations” means the Housing Benefit Regulations 2006(b);

“the Housing Renewal Grants Regulations” means the Housing Renewal Grants Regulations 1996(c);

“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996(d);

“the Mandatory Work Activity Scheme” means a scheme within section 17A (schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.) of the Act known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to provide work or work-related activity for up to 30 hours per week over a period of four consecutive weeks with a view to assisting claimants improve their prospects of obtaining employment;

“the Scheme” means the Mandatory Work Activity Scheme.

(2) For the purpose of these Regulations, a written notice sent by post is taken to have been received on the second working day after posting

PART 2

SELECTION FOR AND PARTICIPATION IN THE MANDATORY WORK ACTIVITY SCHEME

Selection for participation in the Scheme

21. The Secretary of State may select a claimant (“C”) who is aged at least 18 for participation in the Scheme.

Requirement to participate and notification

22.—(1) Subject to regulation 5, a claimant (“C”) selected under regulation 3 is required to participate in the Scheme where the Secretary of State gives C a notice in writing complying with paragraph (2).

(a) S.I. 2006/215.

(b) S.I. 2006/213.

(c) S.I. 1996/2890.

(d) S.I. 1996/207.

- (2) The notice must specify—
- (a) that C is required to participate in the Scheme;
 - (b) the day on which C's participation will start;
 - (c) that C's participation will be for four weeks;
 - (d) details of what C is required to do by way of participation in the Scheme;
 - (e) that the requirement to participate in the Scheme will continue until C is given notice by the Secretary of State that C's participation is no longer required, or C's award of jobseeker's allowance terminates, whichever is earlier;
 - (f) information about the consequences of failing to participate in the Scheme.
- (3) Any changes made to the requirements mentioned in paragraph (2)(d) after the date on which C's participation starts must be notified to the person in writing.

Circumstances in which requirement to participate in the Scheme does not apply or ceases to apply

23.—(1) Only a claimant who is required to meet the jobseeking conditions^(a) may be required to participate in the Scheme.

- (2) A requirement to participate in the Scheme ceases to apply to a person ("P") if—
- (a) the Secretary of State gives P notice in writing that P is no longer required to participate in the Scheme, or
 - (b) P's award of jobseeker's allowance terminates,

whichever is earlier.

- (3) The requirement ceases to apply on the day specified in the notice.

PART 3 SANCTIONS

Failure to participate in the Scheme

24. A person ("P") is to be regarded as having failed to participate in the Scheme in accordance with these Regulations where P fails to comply with any requirement notified under regulation 4.

Good cause

25.—(1) A person ("P") who fails to participate in the Scheme must show good cause for that failure within five working days of the date on which the Secretary of State notifies P of the failure.

(2) The Secretary of State must determine whether P has failed to take part in the Scheme and, if so, whether P has shown good cause for that failure in accordance with paragraph (1).

(3) In deciding whether P has shown good cause for the failure, the Secretary of State must take account of that P's circumstances, including in particular the person's mental health.

(4) In this regulation, "working day" means any day except for a Saturday, Sunday, Christmas Day, Good Friday or bank holiday under the Banking and Financial Dealings Act 1971^(b) in England, Wales or Scotland.

^(a) See section 17A(10) of the Act for the meaning of the "jobseeking conditions".

^(b) 1971 c. 80.

Consequences of failure to participate in the Scheme

26.—(1) Where the Secretary of State determines that a person (“P”) has failed to participate in the Scheme, and P has not shown good cause for the failure in accordance with regulation 7, the appropriate consequence for the purpose of section 17A of the Act is as follows.

(2) In the case of a jobseeker’s allowance other than a joint-claim allowance, the appropriate consequence is that P’s allowance is not payable for the period specified in paragraph (4) or (5) (“the specified period”).

(3) In the case of a joint-claim jobseeker’s allowance, the appropriate consequence is that P is to be treated as subject to sanctions for the purposes of section 20A of the Act (denial or reduction of a joint-claim jobseeker’s allowance) for the specified period.

(4) The period is 13 weeks in a case which does not fall within paragraph (5).

(5) The period is 26 weeks where—

- (a) on a previous occasion the Secretary of State determined that P’s jobseeker’s allowance was not payable or was payable at a lower rate because P failed without good cause to participate in the Scheme (“the first determination”); and
- (b) a subsequent determination is made not more than 12 months after the first date on which P’s jobseeker’s allowance was not payable or was payable at a lower rate following the first determination.

(6) The specified period begins—

- (a) where, in accordance with regulation 26A(1) of the Social Security (Claims and Payments) Regulations 1987(a), P’s jobseeker’s allowance is paid otherwise than fortnightly in arrears, on the day following the end of the last benefit week in respect of which that allowance was paid; and
- (b) in any other case, on the first day of the benefit week following the date on which P’s jobseeker’s allowance is determined not to be payable or to be payable at a lower rate.

(7) Paragraphs (4) and (5) are subject to paragraph (8) which applies where the Secretary of State notifies P in writing that P is no longer required to participate in the Scheme with effect from a day referred in the notice which falls within the specified period.

(8) Where this paragraph applies, the specified period terminates at the end of—

- (a) one week beginning with the day referred to in the notice, or
- (b) the period beginning with the day on which the specified period begins and ending with the last day of the benefit week in which the requirement ceases to apply,

whichever is longer.

(9) In this regulation “benefit week” has the same meaning as in regulation 1(3)(b) of the Jobseeker’s Allowance Regulations.

PART 4

HARDSHIP

Hardship

27.—(1) This paragraph applies to a person (“P”) if, during the period in which P’s jobseeker’s allowance is not payable by virtue of regulation 8(2), P is a person in hardship within the meaning of regulation 140(1) or (2) (meaning of “person in hardship”)(c) of the Jobseeker’s Allowance Regulations.

(a) S.I. 1987/1968. Regulation 26A was inserted by S.I. 1996/1460.

(b) A relevant amending instrument is S.I. 2009/604.

(c) Regulation 140 was amended by S.I. 1996/1516, 1997/2863, 1999/2860, 2000/239, 2000/1987, 2001/1029, 2003/445, 2005/2877, 2008/1554, 2008/3051 and 2009/480.

(2) Regulations 140 and 141 to 146 of the Jobseeker's Allowance Regulations have effect in relation to a person to whom paragraph (1) applies subject to the following modification.

(3) Regulation 141(6) (circumstances in which an income-based jobseeker's allowance is payable to a person in hardship)(a) applies as if "regulations made under section 17A ("work for your benefit" schemes etc.) or" were inserted after "even though".

Hardship for joint-claim couples

28.—(1) This paragraph applies to a joint-claim couple if, during the period in which the sanctions referred to in regulation 8(3) applies, they are a couple in hardship within the meaning of regulation 146A(1) or (2) (meaning of "couple in hardship")(b) of the Jobseeker's Allowance Regulations.

(2) Regulations 146A and 146C to 146H of the Jobseeker's Allowance Regulations have effect in relation to a couple to whom paragraph (1) applies.

PART 5

CONSEQUENTIAL AMENDMENTS

Definitions

29.—(1) Paragraph (2) applies to the following provisions (which relate to interpretation)—

- (a) regulation 2(1) of the Council Tax Benefit Regulations;
- (b) regulation 2(1) of the Housing Benefit Regulations;
- (c) regulation 2(1) of the Housing Renewal Grants Regulations;
- (d) regulation 1(3) of the Jobseeker's Allowance Regulations.

(2) In each of the provisions to which this paragraph applies insert the following definition in the appropriate place—

““the Mandatory Work Activity Scheme” means a scheme within section 17A (schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.) of the Act known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to provide work or work-related activity for up to 30 hours per week over a period of four consecutive weeks with a view to assisting claimants improve their prospects of obtaining employment;”.

Notional income

30.—(1) This regulation applies to the following provisions (which relate to notional income)—

- (a) regulation 32(7) of the Council Tax Benefit Regulations(c);
- (b) regulation 42(7) of the Housing Benefit Regulations(d);
- (c) regulation 31(9A) of the Housing Renewal Grants Regulations(e);
- (d) regulation 105(10A) of the Jobseeker's Allowance Regulations(f).

(2) In each of the provisions to which this regulation insert the following sub-paragraph after sub-paragraph (c)—

“(ca) in respect of a person's participation in the Mandatory Work Activity Scheme;”.

(a) Regulation 141 was amended by S.Is 1996/1517, 1996/2538 and 1999/2860.

(b) Regulation 146A was inserted by S.I. 2000/1978 and was amended by S.I. 2001/1029, 2005/2877, 2005/2687, 2008/1554 and 2009/480.

(c) Regulation 32(7) was amended by S.Is 2006/588, 2008/698, 2008/2767 and 2009/480.

(d) Regulation 42(7) was amended by S.Is 2006/588, 2008/698, 2008/2767 and 2009/480.

(e) Paragraph (9A) was inserted by S.I. 1998/808, was substituted by S.I. 1999/1523 and was amended by S.Is 2000/973, 2000/531, 2000/2798 and 2002/530.

(f) Paragraph (10A) was inserted by S.I. 1998/2117 and was amended by S.Is 1999/2640, 2003/455, 2006/588, 2008/698 and 2009/480.

Notional capital

31.—(1) This regulation applies to the following provisions (which relate to notional capital)—

- (a) regulation 39(4) of the Council Tax Benefit Regulations(**a**);
- (b) regulation 49(4) of the Housing Benefit Regulations(**b**);
- (c) regulation 38(3A) of the Housing Renewal Grants Regulations(**c**);
- (d) regulation 113(3A) of the Jobseeker’s Allowance Regulations(**d**).

(2) In each of the provisions to which this regulation applies insert the following sub-paragraph after sub-paragraph (b)—

“(ba) in respect of a person’s participation in the Mandatory Work Activity Scheme;”.

Income to be disregarded

32.—(1) This regulation applies to the following Schedules (which relate to sums to be disregarded in the calculation of income other than earnings)—

- (a) Schedule 4 to the Council Tax Benefit Regulations;
- (b) Schedule 5 to the Housing Benefit Regulations;
- (c) Schedule 3 to the Housing Renewal Grants Regulations;
- (d) Schedule 7 to the Jobseeker’s Allowance Regulations.

(2) In each Schedule to which this regulation applies insert the following paragraph at the beginning—

“**A1.** Any payment made to the claimant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme.”.

Capital to be disregarded

33.—(1) This regulation applies to the following Schedules (which relate to capital to be disregarded)—

- (a) Schedule 5 to the Council Tax Benefit Regulations;
- (b) Schedule 6 to the Housing Benefit Regulations;
- (c) Schedule 4 to the Housing Renewal Grants Regulations;
- (d) Schedule 8 to the Jobseeker’s Allowance Regulations.

(2) In each Schedule to which this regulation applies insert the following paragraph at the beginning—

“**A1.** Any payment made to the claimant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme but only for 52 weeks beginning with the date of receipt of the payment.”.

Further amendments of the Jobseeker’s Allowance Regulations

34. The Jobseeker’s Allowance Regulations are amended as follows—

- (a) in the definition of “relevant notification” in regulation 25(1A) (entitlement ceasing on a failure to comply)(**a**), insert the words “or under the Mandatory Work Activity Scheme” after “scheme”;

(a) Regulation 39(4) was amended by S.Is 2006/588, 2008/698, 2008/2767 and 2009/480.

(b) Regulation 49(4) was amended by S.Is 2006/588, 2008/698, 2008/2767 and 2009/480.

(c) Paragraph (3A) was inserted by S.I. 1999/1523 and was amended by S.Is 2000/531, 2000/973, 2002/530 and 2002/2798.

(d) Paragraph (3A) was inserted by S.I. 1998/2117 and was amended by S.Is 1999/2640, 2001/1029, 2004/2308, 2005/3391, 2006/588, 2008/698 and 2009/480.

- (b) in regulation 47(4)(b)(ii) (jobseeking period)(b) insert the words “regulations made under section 17A or by virtue of” before “section 19”;
- (c) in regulation 55(1)(a) (short periods of sickness)(c) before “; and” insert—
 - “or who failed without good cause to comply with regulations made under section 17A”;
- (d) in regulation 55A(1)(a) (periods of sickness and persons receiving treatment outside Great Britain)(d) before “; and” insert—
 - “or who failed without good cause to comply with regulations made under section 17A”
- (e) in regulation 140(1)(f)(i) (meaning of “person in hardship”)(e), before “section 19” insert “regulations made under section 17A or because”.
- (f) in regulation 152(1)(c) (relevant week)(f), before “section 19” insert “regulations made under section 17A or in accordance with”.

Consequential amendments relating to sanctions

35.—(1) Paragraph (2) applies to the following provisions—

- (a) regulation 2(4)(a) and (b) (interpretation) of the Council Tax Benefit Regulations;
- (b) regulation 2(4)(a) and (b) (interpretation) of the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(g);
- (c) regulation 3(j) (circumstances in which discretionary housing payments may be made) of the Discretionary Financial Assistance Regulations 2001(h);
- (d) regulation 2(3)(a) and (b) (interpretation) of the Housing Benefit Regulations;
- (e) regulation 2(3)(a) and (b) (interpretation) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(i);

(2) In each of the provisions to which this paragraph applies insert the words “or regulations made under section 17A” after “section 19 or 20A”.

(3) In regulation 5(3)(b) (meaning of “person in hardship”) of the Social Security (Loss of Benefit) Regulations 2001(j), after “8” insert “, 17A”.

(4) In regulation 8A(5) (credits for unemployment) of the Social Security (Credits) Regulations 1975^(k), after sub-paragraph (b) insert—

“(ba) a week in respect of which, because of regulations made under section 17A of that Act, a jobseeker’s allowance was not payable to the person concerned even though he satisfied the conditions for entitlement to that allowance; or”.

Consequential amendments relating to decisions and appeals

36. The Social Security and Child Support (Decisions and Appeals) Regulations 1999(l) are amended as follows—

-
- (a) Relevant amending instruments are S.I. 1999/530, 2000/1978, 2000/2194 and 2010/509.
 - (b) Regulation 47(4) was amended by S.I. 1996/1514, 2001/518, 2001/1711 and 2002/490.
 - (c) Regulation 55(1) was amended by S.I. 1996/1517, 1999/2860, 2000/1978 and 2008/1534.
 - (d) Regulation 55A was inserted by S.I. 2004/1869 and was amended by S.I. 2008/1554.
 - (e) Relevant amending instruments are S.I. 1999/2860 and 2000/1978.
 - (f) A relevant amending instrument is S.I. 2000/1978.
 - (g) S.I. 2006/216.
 - (h) S.I. 2001/1167.
 - (i) S.I. 2006/214.
 - (j) S.I. 2001/4022. Relevant amending instruments are S.I. 2010/424 and 1160.
 - (k) S.I. 1975/556. Regulation 8A was inserted by S.I. 1996/2367 and paragraph (5) was amended by S.I. 2001/518.
 - (l) S.I. 1999/991.

- (a) in regulation 3(6) (revision of decisions)(a), after “Jobseekers Act” insert the words “, or with regulations made under section 17A of that Act”;
- (b) in regulation 6(2) (supersession of decisions)(b), after sub-paragraph (f) insert the following sub-paragraph—
- “(fa) is a decision that a jobseeker’s allowance is payable to a claimant where that allowance ceases to be payable or is reduced by virtue of regulations made under section 17A of the Jobseekers Act;”;
- (c) after regulation 7(8) (date from which a decision superseded under section 10 takes effect)(c) insert the following paragraph—
- “(8ZA) A decision to which regulation 6(2)(fa) applies shall take effect as from the beginning of the period specified in regulation 8(6) of the Jobseeker’s Allowance (Mandatory Work Activity) Regulations 2011.”.

Signed by authority of the Secretary of State for Work and Pensions

Name
Minister of State
Department for Work and Pensions

Date

We consent

Date

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations establish the Mandatory Work Activity Scheme, under section 17A of the Jobseekers Act 1995 (“the Jobseekers Act”), which is designed to provide work or work-related activity for up to 30 hours per week over a period of four consecutive weeks with a view to assisting jobseeker’s allowance claimants improve their prospects of obtaining employment.

Part 1 contains general provisions, including provisions concerning interpretation.

Part 2 concerns the circumstances in which jobseeker’s allowance claimants are required to participate in the Scheme. Regulation 3 provides that any claimant who is aged at least 18 can be selected.

Regulation 4 requires a person so selected to participate in the Scheme upon being notified by the Secretary of State, and to do so for a period of four weeks from the date specified in the notice. It also prescribes the contents of the notice.

Regulation 5 concerns the circumstances in which a claimant is not required (or no longer required) to participate in the Scheme. They are where a participant’s award of jobseeker’s allowance terminates or where the Secretary of State gives the participant notice in writing that his or her participation is no longer required. It also provides that a claimant who is not required to meet the jobseeking conditions is not required to participate in the Scheme.

Part 3 deals with failure to participate in the Scheme and good cause for failure to participate.

(a) Regulation 3 was revoked, in so far as it related to child benefit or guardian’s allowance, by S.I. 2003/916. Regulation 3(6) was amended by S.I. 2000/1982.

(b) Regulation 6 was revoked, in so far as it related to child benefit or guardian’s allowance, by S.I. 2003/916. Relevant amending I instruments are S.I. 1999/2677.

(c) Regulation 7 was revoked, in so far as it related to child benefit or guardian’s allowance, by S.I. 2003/916. Regulation 7(8) was substituted by S.I. 1999/2677 and was amended by S.I. 2000/1982 and 2008/2677.

Regulation 6 provides that a person is to be regarded as having failed to participate in the Scheme where he or she fails to comply with any of the requirements notified to him or her under regulation 4.

Regulation 7 provides that a person who fails to participate in the Scheme must show good cause for that failure within 5 working days. It is then for the Secretary of State to determine whether that person has shown good cause, taking into account his or her circumstances.

Regulation 8 provides that claimants who fail without good cause to participate in the Scheme may have their jobseeker's allowance stopped or reduced for 13 or 26 weeks. It also makes provision for bringing the sanction period to an end in the case of claimants who are no longer required to participate in the Scheme.

Part 4 allows for an income-based jobseeker's allowance to be payable even though a sanction applies to the claimant because he or she has failed without good cause to participate in the Scheme. It does so by applying the hardship provisions in Parts 9 and 9A of the Jobseeker's Allowance Regulations 1996 (with modifications).

Part 5 makes various consequential amendments to other Regulations in relation to a person's participation in the Scheme.

Regulation 11 inserts a definition of the Mandatory Work Activity Scheme in the Jobseeker's Allowance Regulations 1996, the Housing Renewal Grants Regulations 1996, the Council Tax Benefit Regulations 2006 and the Housing Benefit Regulations 2006. Regulations 12 and 13 ensure that persons will not be treated as having notional income or notional capital by virtue of their participation in the Scheme, and regulations 14 and 15 provide that travel and other expenses paid to participants are disregarded as income and capital for the purposes of certain income-related benefits.

Regulations 16 and 17 make consequential amendments to other Regulations to ensure that, where a sanction is imposed on a customer who fails without good cause to participate in Mandatory Work Activity, he or she is treated consistently with a claimant who incurs a sanction under section 19 or 20A of the Jobseekers Act.

Regulation 18 deals with consequential changes in relation to decisions and appeals. The effect is to ensure that provision is made for sanctions imposed under these Regulations as well as those incurred under section 19 or 20A of that Act.

A full impact assessment has not been produced for this instrument as it has no impact on the voluntary or private sectors.

Annexe 2 Equality Impact Assessment (November 2010)

Equality impact assessment for Mandatory Work Activity

Purpose and aim of Mandatory Work Activity

Introduction

1. The Department for Work and Pensions has conducted the following impact assessment for the proposed Mandatory Work Activity to ensure the Department meets the requirements of the Equality Act 2010.
2. The equality impact assessment will ensure:
 - a. The Department's strategies, policies and services are free from discrimination
 - b. Due regard is given to equality in decision making and subsequent processes
 - c. Opportunities for promoting equality are identified
3. The equality impact assessment considers the impact of Mandatory Work Activity in terms of age, disability, gender, gender reassignment, race, religion or belief and geographical area.

Background

4. The support that Jobcentre Plus delivers to customers across all working age benefits (Jobseekers Allowance, Employment and Support Allowance and Income Support) is changing and will be introduced from April 2011. It will allow more flexibility to Jobcentre Plus managers and advisers to judge which interventions will help individual customers most cost effectively.
5. We are creating a framework in which Jobcentre Plus staff can predominantly focus on delivering outcomes for our customers rather than completing activity and processes, and have more discretion to draw down from a menu of support to help customers according to their individual needs. Included in this menu of support is Mandatory Work Activity.
6. Mandatory Work Activity will be available from April 2011 and will aim to enhance employment prospects of a small group of customers by providing opportunities to develop soft skills and attributes important in the world of work.
7. The introduction of Mandatory Work Activity also enables us to strengthen and support the existing conditionality regime, allowing Jobcentre Plus advisers the discretion to identify those customers who may not be doing enough to look for work and require them to carry out a period of work-related activity.
8. A placement will be mandatory and be for at least 30 hours a week and last for up to 4 weeks. It will be aimed at helping the customer develop

the labour market discipline associated with full time employment (attending on time and regularly, carrying out specific tasks, working under supervision) and will be of benefit to the local community.

9. Only a small group of customers will be referred to Mandatory Work Activity; It is intended to be a targeted measure for a very small number of customers, encouraging them to step up their activities and to demonstrate that they can not remain on benefits if they are not doing all they can to look for work.
10. Adviser discretion will form a key aspect of the deliver of Mandatory Work Activity however customers who may be required to participate are those that:
 - d) would benefit from a period of full time activity (for example they have minimal work experience) that will develop the labour market disciplines;
 - e) have consistently failed to fully engage with the expectations of the conditionality regime; and
 - f) may only be doing the very minimum of what is required of them to find work.
11. Advisers will be able to send a customer to Mandatory Work Activity at any point in their claim, provided that the individual is not currently undertaking contracted provision, for example the Work Programme. We would not normally expect that customers who were actively engaged in other support, such as a Work Club or Work Experience, would be referred, but this is discretionary.
12. We do however expect that only a very small proportion of customers will be referred within the first 13 weeks of their claim, and this expectation will be translated into Jobcentre Plus guidance.
13. The Mandatory Work Activity will be delivered by organisations through contracts with the Department for Work and Pensions in areas of work that are of genuine benefit to local communities.
14. The nature of activities to be undertaken will need to accommodate any recognised restrictions a customer has, such as due to disability or CRB records. Jobcentre Plus will notify delivery organisations of such restriction, although this will not necessitate sharing a customer's Jobseeker's Agreement.
15. While customers are undertaking a Mandatory Work Activity, they will continue to be subject to the usual conditions of receiving Jobseeker's Allowance. They will be expected to take steps to actively seek employment, and to be available to take up employment if they find it.
16. They will continue to have to demonstrate this when attending Fortnightly Jobsearch Reviews during their Mandatory Work Activity. They will also remain subject to the usual sanctions for a breach of

either of these conditions, even if they continue to attend and participate fully in their Mandatory Work Activity.

17. Participation on Mandatory Work Activity will be mandatory and those customers who fail to participate will be sanctioned for 13 weeks. A second failure to participate will receive a 26 week month sanction. Further sanctions will also apply if a customer leaves a placement early or loses their placement through misconduct.

Policy Intent

18. The ministerial intent for this policy is that Mandatory Work Activity will help move customers closer to full time sustained employment and ensure that every benefit recipient is meeting the requirements expected of them while there are receiving Jobseeker's Allowance.
19. Furthermore, we aim to instil a more active and engaged attitude towards the search for employment and improve customers' chances of finding work. By making it a condition of continued receipt of Jobseeker's Allowance that customers participate in Mandatory Work Activity, Ministers believe that these customers will shift their understanding of what is required of them if they are to continue to receive support.
20. An individual participating in Mandatory Work Activity will benefit from gaining a better understanding of the discipline and focus that is required in full time work and influence their search for work along with their level of engagement with the Jobcentre Plus offer.
21. There is a small risk that Personal Advisers will refer customers to Mandatory Work Activity in an uneven fashion, where customers who would most benefit from the support would not be referred to the activity. The Department will mitigate this risk through clear guidance to advisers on referrals, as well as through close monitoring the characteristics of customers referred to Mandatory Work Activity.

Delivery

22. Mandatory Work Activity will be delivered by organisations through contracts with the Department for Work and Pensions.
23. Placements offered to customers must be additional to existing or expected vacancies. This is to ensure that employers do not take advantage of Mandatory Work Activity as a source of labour at the expense of employing workers in the open labour market.
24. Although placements are primarily to enhance participants' employment prospects, they are also expected to produce additional benefit to the local or wider community.

Legislation

25. Legislation to deliver Mandatory Work Activity is covered by section 17A of the Jobseekers Act 1995.

Consultation and involvement

26. There has been limited consultation on the development of Mandatory Work Activity. We have drawn on information from a number of sources to help influence policy development. This includes feedback from:

previous consultation exercises for programmes that contained similar elements to that proposed for Mandatory Work Activity; and a Jobcentre Plus wide exercise to enable delivery colleagues to suggest ideas for change which included the broad design for this policy.

Impact of Mandatory Work Activity

27. To explore the equality impacts of Mandatory Work Activity the characteristics of the following customers have been compared:

Customers referred for a disentanglement decision for not actively seeking employment who receive a favourable decision¹
Customers making a new claim for Jobseeker's Allowance²

28. Customers referred for a disentanglement decision for not actively seeking employment who receive a favourable decision have been used as a proxy for customers who could be mandated to Mandatory Work Activity. This is the best group to use because Personal Advisers will use Mandatory Work Activity in circumstances where customers are struggling with jobsearch or are only meeting the minimum requirements. Mandatory Work Activity will not be used as an alternative to a sanction. However, the factors that determine who is referred for a Mandatory Work Activity will be complex and the characteristics of the group who are referred could differ to this proxy group.

29. The characteristics of customers making a new claim for Jobseeker's Allowance are used as a comparison group to help understand whether any particular group will be disproportionately impacted by Mandatory Work Activity.

This has been used as a comparison group because the eligible population for Mandatory Work Activity are all Jobseeker's Allowance customers.

30. Care needs to be taken when comparing characteristics of customers referred for a disentanglement decision to the characteristics of customers

¹ Source: DWP Tabulation Tool. Customers referred for disentanglement for not actively seeking employment who received a favourable decision since 2000.

² Source: National Benefits Database & LMS Client evaluation database. Characteristics of new JSA claimant from April 2000 to March 2010.

making a new Jobseeker’s Allowance claim. The chance of being sanctioned or disentitled depends on the length of claim. Customers at longer durations are subject to more interventions and increased conditionality which increases their chances of being sanctioned (or disentitled), for example customers from ethnic minorities have longer claim durations so they are subject to more sanctions. The Department is exploring scope for multivariate analysis for further updates of this Equality Impact Assessment.

Age

31. A smaller proportion of young people are referred for a disentitlement decision for not actively seeking employment and receive a favourable decision, compared with the proportion of young people making a new claim for Jobseeker’s Allowance.
32. Relatively, more jobseekers aged 25 and over could benefit from Mandatory Work Activity. However advisers will use their flexibility to target customers who will benefit most from a Mandatory Work Activity, regardless of age.

Table 1: Customers referred for a disentitlement decision for not actively seeking employment who receive a favourable decision and new JSA claims by age

	Under 18	18-24	25-49	50+
Referred for not actively seeking (favourable decision) ³	1%	26%	59%	14%
New JSA claims ⁴	2%	37%	48%	13%

Disability

33. The table below shows that a higher proportion of disabled customers are referred for a disentitlement decision for not actively seeking employment who receive a favourable decision compared with the proportion of disabled customers making a new claim for Jobseeker’s Allowance. Disabled customers are not exempt from Mandatory Work Activity because customers struggling with jobsearch are expected to benefit from this support.
34. Personal advisers will consider whether a Mandatory Work Activity is appropriate depending on the needs of the customer. As part of the contract process with providers the Department will gain assurances that provision supplied meets existing Health and Safety standards and the Department expects suppliers to meet their duties under the Equality Act 2010.
35. Statistics on disability of Jobseeker’s Allowance customers are not published. The statistics for New Jobseeker’s Allowance claims in the table below are calculated by linking individual level data from the

³ Source: DWP Tabulation Tool. Customers referred for disentitlement for not actively seeking employment who received a favourable decision since 2000.

⁴ Source: National Benefits Database & LMS Client evaluation database. Characteristics of new JSA claimant from April 2000 to March 2010.

National Benefits database and the LMS Client Evaluation database. From April 2000 to March 2010 there were 25 million new Jobseeker's Allowance claims of which 5.5 million declared a disability during a Jobcentre Plus interview.

Table 2: Customers referred for a disentanglement decision for not actively seeking employment who receive a favourable decision and new JSA claims by disability

	Not disabled	Disabled
Referred for not actively seeking (favourable decision) ⁵	73%	27%
New JSA claims ⁶	78%	22%

Race

36. A significantly higher proportion of customers from an ethnic minority background are referred for a disentanglement decision for not actively seeking employment who receive a favourable decision compared with new Jobseeker's Allowance claimants. However customers with an ethnic minority background have longer claim durations than average.
37. Customers from an ethnic minority background could be disproportionately referred to Mandatory Work Activity. Personal Advisers will refer customers to Mandatory Work Activity who are most likely to benefit from it. If proportionally more ethnic minorities are referred this could help to promote equality of outcomes.

⁵ Source: DWP Tabulation Tool. Customers referred for disentanglement for not actively seeking employment who received a favourable decision since 2000.

⁶ Source: National Benefits Database & LMS Client evaluation database. Characteristics of new JSA claimant from April 2000 to March 2010.

Table 3: Customers referred for a disentanglement decision for not actively seeking employment who receive a favourable decision and new JSA claims by ethnicity

	White	Mixed	Black	Asian	Other
Referred for not actively seeking (favourable decision) ⁷	74%	2%	10%	11%	4%
New JSA claims ⁸	87%	1%	5%	5%	2%

Gender

38. A higher proportion of males claim Jobseeker's Allowance compared with females and a relatively larger proportion of males get referred for a disentanglement decision for not actively seeking who receive a favourable decision. Customers will be mandated to a Mandatory Work Activity if they are struggling with jobsearch or only doing the minimum required to meet Jobseeker's Allowance eligibility regardless of their gender.

Table 4: Customers referred for a disentanglement decision for not actively seeking employment who receive a favourable decision and new JSA claims by gender

	Female	Male
Referred for not actively seeking (favourable decision) ⁹	24%	76%
New JSA claims ¹⁰	29%	71%

Location

39. The table below suggests that a disproportionate number of customers in London could be referred to Mandatory Work Activity. This is partly because customers in London have longer than average claim durations. Mandatory Work Activity will not be targeted at any region in particular but will be aimed at helping customers that are struggling with jobsearch.

⁷ Source: DWP Tabulation Tool. Customers referred for disentanglement for not actively seeking employment who received a favourable decision since 2000. Unknown ethnicities are assumed to follow the same distribution as knowns.

⁸ Source: National Benefits Database & LMS Client evaluation database. Characteristics of new JSA claimant from April 2000 to March 2010. Unknown ethnicities are assumed to follow the same distribution as knowns.

⁹ Source: DWP Tabulation Tool. Customers referred for disentanglement for not actively seeking employment who received a favourable decision since 2000.

¹⁰ Source: National Benefits Database. Characteristics of new JSA claimant from April 2000 to March 2010.

Table 5: Customers referred for a disentitlement decision for not actively seeking employment who receive a favourable decision and new JSA claims by region

	New JSA claims ¹¹	Referred for not actively seeking (favourable decision) ¹²
East of England	7%	8%
East Midlands	7%	10%
London	13%	27%
North East	6%	3%
North West	13%	13%
Scotland	11%	7%
South East	10%	6%
South West	7%	5%
Wales	6%	4%
West Midlands	10%	9%
Yorkshire and The Humber	10%	7%

Gender Re-assignment and Sexual Orientation

40. All participants on Mandatory Work Activity will be treated fairly and equally regardless of their gender or sexual orientation. The Department does not currently collect data on customers who have undergone gender re-assignment or on their sexual orientation. The more personalised and flexible support on offer, however, will enable us to take each individual's personal circumstances into consideration.

Religion or Belief

41. All participants on Mandatory Work Activity will be treated fairly and equally regardless of their religion or beliefs. They will not be asked to undertake any activity which goes against their beliefs and allowances will be made to reflect religious holidays and practices.

Child Poverty Impact Assessment and Impact on Families

42. One of the risk factors associated with child poverty is children who live in workless households. Around 14% of Jobseeker's Allowance claimants have dependant children.¹³ The primary purpose of Mandatory Work Activity is to improve the employability of customers who are struggling with jobsearch or who have little work experience, and so it is expected that MWA will help to reduce child poverty.

43. In addition, Universal Credit will ensure that work will be more financially rewarding than inactivity.

Monitoring

¹¹ Source: National Benefits Database. Characteristics of new JSA claimant from April 2000 to March 2010.

¹² Source: DWP Tabulation Tool. Customers referred for disentitlement for not actively seeking employment who received a favourable decision since 2000.

¹³ Source: DWP Tabulation Tool: February 2010

44. The Government has set out clear expectations that departments should be moving away from a position where they monitor and report on unnecessary processes and activities and focus on delivering outcomes.
45. This approach will be followed in the process to develop management information requirements for Mandatory Work Activity. However the Department will ensure it captures vital information including the number of customers referred, the numbers completed, the characteristics of those referred and information on those who don't attend or complete.
46. We will also ensure that management information requirements compliment our evaluation requirements.

Evaluation

47. The Department for Work and Pensions are currently working on an evaluation strategy to cover the range of new interventions options open to Jobcentre Plus advisers including Mandatory Work Activity. Detailed evaluation plans for Mandatory Work Activity are yet to be agreed.
48. The key evaluation questions for the evaluation of MWA are:
 - (a) How is MWA being implemented, what is advisers' feedback on the effect of the policy?
 - (b) What is the provider feedback on the delivery of MWA?
 - (c) Has customer engagement improved as result of the policy?
 - (d) Has the policy had an impact on compliance with the regime both for those referred to MWA and the Jobseeker's Allowance claimants as a whole?
 - (e) What are the impacts on the long-term soft and hard outcomes for MWA participants?
 - (f) The final evaluation strategy is being developed as part of the pre-Work Programme evaluation strategy as MWA is one of many tools available to Jobcentre Plus advisers to engage customers, and support customers return to sustained employment.
49. The evaluation strategy will include a range of methods, including qualitative and quantitative approaches, alongside internal monitoring.
50. Through the evaluation of Mandatory Work Activity we will also consider the impact that the programme has on different customer groups in relation to diversity and equality.

Conclusion

51. Despite the tougher economic climate, we still expect all Jobseeker's Allowance customer to take active steps to find work and do what is required of them while receiving benefits.
52. The introduction of Mandatory Work Activity will enable advisers to offer further support to small groups of customers who aren't making a concerted effort to find a job and who are at risk of being sanctioned.
53. Mandatory Work Activity will offer customers the opportunity to engage in the system and help improve their skills and experience.
54. In conclusion, Mandatory Work Activity is not being targeted at specific groups and is potentially available to any customer. The Department will monitor the impact of mandatory Work Activity on different groups to identify if any disproportionate impacts are experienced.

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APPENDIX 2

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

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

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

APPENDIX 3

Suggested Principles

Selection of Participants

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

Placements

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

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

Sanctions

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



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