

The National Disability Strategy & Benefit Sanctions

The Government has published its [National Disability Strategy](#) today (28 July 2021).

Alongside this DWP has now published its [Health and Disability Green Paper](#). The green paper is open for consultation until 11 October 2021.

Earlier this year the Minister for Disabled People indicated that aspects of [benefit sanctions would be a “key theme”](#) of the green paper¹.

However the published paper includes limited detail on this topic.

Key points relevant to benefit sanctions and access to justice that do appear in the paper include:

- **A “new” approach to conditionality:** in September 2019 DWP started to test a new approach to conditionality. This included the option for work coaches to agree voluntary steps, rather than applying mandatory requirements, with an associated reduction in the risk of sanction. The green paper does not appear to introduce any additional measures in this area beyond those piloted in September 2019. The paper notes DWP’s continuing commitment to rolling out this approach nationally, subject to ongoing evaluation and further refinement based on those evaluation findings.
- **A recognition of the fear of sanctions as a barrier to accessing support:** the paper makes reference to [DWP research published in February 2020](#) aimed at improving DWP’s understanding of what prevents people from taking up DWP support. The paper acknowledges that this, combined with feedback from Green Paper events, shows that some disabled people and people with health conditions worry that taking part in employment support might lead to a sanction. The paper does not appear to propose measures to address this beyond the “new approach to conditionality” described above.
- **Accessibility of the appeals process for assessment (rather than benefit sanction) decisions:** the paper indicates that DWP is concerned about what it views as a “high number” of initial assessment decisions being appealed to tribunal (citing figures showing that 9% of PIP initial decisions have been appealed to tribunal). Consistent with previous statements from DWP, the paper refers to reducing the number of mandatory reconsiderations (the internal review process that must precede an appeal to tribunal) and tribunal appeals as an objective, noting that appeals can be lengthy and stressful for claimants, and costly for DWP.

The solutions described in the paper focus on trying to resolve issues at an earlier stage in the process:

- **Initial decision stage:** seeking to improve the initial decision making process to reduce the need for challenge - including through allowing decision makers more time to gather evidence and taking what DWP describe as a “holistic approach”.

¹ Answers given by the Minister for Disabled People, Justin Tomlinson MP, to the Work & Pensions Select Committee on 19 May 2021 <https://www.parliamentlive.tv/Event/Index/040e97c8-832b-4f93-a12a-9ae4eb2790d9> and as reported by the Disability News Service <https://www.disabilitynewsservice.com/tomlinson-sketches-out-reforms-on-sanctions-assessments-and-access-to-work/>

- **Mandatory reconsideration stage:** as with the initial decision stage, allowing decision makers more time to gather evidence and take a more “holistic” approach. The paper does not consider the potential impact of the time taken to reach a mandatory reconsideration decision as a potential barrier to challenge. The paper notes that the percentage of PIP decisions changed at mandatory reconsideration stage has nearly doubled since the introduction of this approach.
- **Tribunal stage:** the paper refers to the option of “lapsed appeals” whereby decisions can be changed after an appeal has been lodged, but before a tribunal hearing takes place, through the submission of fresh evidence or information. The green paper consultation is seeking input on how they can improve the way they communicate new decisions in these situations.

The measures described above largely pre-date the publication of the green paper rather than representing fresh proposals.

The paper appears to view a reduction in the number of mandatory reconsideration requests and onward appeals as a proxy for improvements in the quality of decision making and increased claimant satisfaction with the process. It does not consider the potential impact of barriers to challenge on appeal numbers.

The ministerial foreword to the paper includes a statement that *“for those who do want to appeal a decision, we must ensure this process is as easy and efficient as possible”*. However, the paper doesn’t set out any further measures to achieve this beyond those described above.

[Benefit sanctions](#) are one of PLP’s five current areas of focus. As part of this, PLP will be undertaking a piece of research aimed at understanding the barriers claimants may face when challenging unfair or incorrect benefit sanction decisions.

To help shape the research design, we are keen to hear from organisations providing support to individuals at risk of sanctioning. If that applies to you, please do take five minutes to complete our [survey](#) in order to share your experiences of benefit sanctioning since the start of Covid-19.

If you have any questions about the survey or the broader research, please get in touch with Caroline Selman at c.selman@publiclawproject.org.uk.