



Conditionality and sanctions in the Welfare Reform Bill

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Introduction to conditionality in the Bill

The Welfare Reform Bill sets out a series of proposals to increase the level of sanctions, the way that sanctions are applied and the range of things which an individual can be sanctioned for.

The proposals aim to introduce a tougher yet clearer system with less discretion around the length of time a sanction applies for. For example: whereas in the current regime a Jobseeker's Allowance claimant can face a sanction of up to 26 weeks, the Bill proposes sanctions of fixed lengths depending on the type of failure and whether it is the claimant's first, second or third.

The Bill divides claimants into four conditionality groups:

- Full conditionality – those subject to 'all work related requirements' and required to be available for, and actively seeking work – currently those claiming Jobseeker's Allowance.
- Work preparation (and work focussed interviews) only. Currently those in receipt of ESA and in the Work-Related Activity Group.
- Keeping in touch with the labour market (work-focussed interviews only) – lone parents with children over one but under 5.
- No conditionality – ESA claimants in the support group and lone parents with children under one.

The Bill sets out four levels of sanction. The highest level sanctions are for three months for the first failure to comply; six months for the second and three years for the third. Only claimants subject to 'all work-related requirements' - currently those on JSA - will be subject to the highest two levels of sanction. Refusing to apply for a job, accept a job offer or leave a job voluntarily, would result in a high level sanction. Low level sanctions are primarily about failure to attend appointments and continue until attendance, with an additional one week for a first failure, two weeks for a second and four weeks for a third failure.

As a group of organisations we welcome the greater clarity about what 'failures' will result in which consequences – it is the experience of many of our clients and advisers that the length of a sanction for JSA claimants varies considerably. We recognise the importance of a benefits system which has a balance of rights and responsibilities. However, we have a number of concerns with the current sanctions regime which we believe will be made worse by the reforms in the Bill. This briefing outlines our concerns, suggests amendments and provides case studies to illustrate the problems.

Problems with the current conditionality regime and proposals

Lack of evidence to support the effectiveness of sanctions

Evidence to support the effectiveness of sanctions in moving claimants closer to the labour market is far from conclusive. A recent review of the evidence by the Joseph Rowntree Foundation (JRF) found that current research was limited and while there were cost savings to be made from people exiting the benefit system, amongst this group there was an increased likelihood of low wages and high job churning¹.

The report also highlighted that research into New Deal claimants found that those who had been sanctioned and experienced hardship were much less likely to be in employment than those who had not been sanctioned and those who had been sanctioned but had not experienced hardship².

DWP research examining the impact of sanctions on lone parents (not required to seek work) was even less positive. Evidence from the UK as well as Australia, Sweden, the Netherlands and the United States shows that when sanctions are used they have had a disproportionate effect on more disadvantaged lone parents such as those that have poor literacy levels³. The UK sanctions regime was found to have limited effect on helping parents access advice and information about work and training opportunities, but had a discernable impact on increasing stress levels and poverty.

Recent research⁴ into skills conditionality suggests that claimants already feel a sense of obligation to their personal adviser to comply with actions without the threat of sanctions. Therefore sanctions should only be used when other means of engagement have been exhausted. Both advisers and claimants felt the need for more personalised conditionality, and highlighted that mandating action was only successful where available training was appropriate and of high quality. These findings suggest that for conditionality to be effective it needs to be matched with high quality support that addresses existing barriers first.

The impact of sanctions on vulnerable claimants

It is easier to find evidence to link sanctions with disadvantage and vulnerability than to improved job outcomes. Like the lone parent research (above), the JRF review also found that some of the most disadvantaged claimants were more likely to be sanctioned than others. For example:

- Younger people
- Those with lower levels of qualifications
- Those with practical barriers to employment (e.g. no transport, lack of telephone or email and childcare)
- Those with health problems.

CAB evidence also supports these findings. Citizens Advice Bureaux (CAB) across England and Wales saw a 33% rise in enquiries about JSA sanctions in 2010/11 compared with the previous year, despite a slight decrease in all JSA enquiries during the same period (2%). Many of the clients who faced sanctions were also vulnerable, with health problems, disabilities or literacy needs.

A survey of front line St Mungo's staff found that sanctioning of their homeless clients was common with only 20% saying that no clients had been sanctioned in the last 12 months and 30% saying that over a quarter had been.

¹ Finn D & Gloster R "Lone Parent Obligations: a review of recent evidence on the work-related requirements within the benefit systems of different countries" Research Report 632 DWP.

² Sanctions: Qualitative summary report on lone parent customers, Joyce, L; Whiting, K, DWP Working Paper 27, 2006

³ Finn D & Gloster, *ibid*

⁴ The Jobseekers Allowance Skills Conditionality Pilot, Department for Work and Pensions. August 2011

A separate survey of St Mungo's homeless clients found that for about 10% of clients, loss or reduction of benefits had contributed to an individual's homelessness. This group was also found to have a significant range of needs:

- 48% had a mental health problem
- 62% had a physical health need
- 80% used substances problematically
- 72% needed support with education (including literacy)
- 60% had an offending record
- 21% had mobility issues
- 15% had a care background
- 80% had slept rough

This evidence finds that claimants with extra needs and barriers to work have faced sanction. In some cases it is apparent that there have not been adequate attempts to address these barriers to work and to help a claimant to comply in advance of the application of the sanction.

Problems with the administration of the current sanctions regime

Sanctions are often poorly administered, with CAB clients, for example, reporting being given no notice of the sanction threat and no explanation of its cause. This must clearly limit the effectiveness of a sanction as there can be no merit in sanctioning an individual if they have not understood the rules that they have broken or were not capable of meeting the requirements.

Since 2008, 300,000 lone parents have moved from income support to JSA. Though flexibilities have been introduced into the JSA regime to recognise the parent's responsibility to care for a dependant child, many single parents are not told about flexibilities that are open to them. A DWP study showed that only 12% knew of the school hour limit and only 8%⁵ knew of the special circumstances for childcare. In terms of the relationship of single parents with Jobcentre Plus 27% did not think that their individual circumstances had been taken into account in the advice they had received.

CAB evidence shows that the most common reason for sanctions was a claimant's failure to apply for specified jobs. Following discussion it is clear that they have not understood that it was a 'direction' rather than a suggestion and often had good reasons why they didn't apply – finding on receipt of more details for example that they did not have the necessary qualifications or experience. If they had understood that failure to apply would have resulted in a sanction they would have been more likely to apply or to contact Jobcentre Plus and explain the situation.

Sanctions in the Bill – clauses 26 and 27

We believe that clauses 26 and 27 must be amended to ensure that:

- **only the standard allowance of Universal Credit can be reduced,**
- **sanctions are lifted if the claimant enters employment;**
- **claimants must be fully informed as to the length and nature of the sanction in advance of its application.**
- **the use of sanctions be monitored and evaluated, to assess their effectiveness in ensuring movements towards the labour market and ensure that vulnerable claimants are not disproportionately affected by them.**

⁵ Coleman N & Lanceley L (May 2011) "Lone Parent Obligations: supporting the journey into work" Research Report 736 DWP

Sanctions should only apply to the standard allowance of a Universal Credit claim. No reductions should be made from payments in respect of housing costs, children, disabilities or any other additional amount. It would be deeply unfair to place someone's home at risk or to disadvantage children as part of a sanction. It is also illogical to reduce allowances that do not have conditionality attached to them.

Sanctions must be flexible. We strongly believe that a person who begins to comply with work requirements and enters employment should no longer be subject to sanctions whilst they are in work. Sanctions should also then not be reapplied if someone who had entered employment later lost their job through no fault of their own. It will also be vital to determine exactly what counts as employment, as Universal Credit will be payable as an in-work benefit and will encourage part-time working.

If a sanction is to be fair and effective, the claimant must understand what is required of them and they must be able to meet that requirement. Once referred for a sanction they must also understand why, in order to be able to prevent it from happening again.

Given the CAB evidence on sanctions for failing to apply for specified jobs, it is worrying that this is on the list of failures which will result in the highest level sanctions. It would entail a reduction of up to 100% of the standard allowance element of Universal Credit for three months for the first failure, six months for the second and three years for the third.

The Claimant Commitment – Clause 14

Clause 14 (2) should be amended to ensure that the claimant commitment is written together with the claimant and not simply 'prepared by the Secretary of State'. It should take account of a 'needs assessment' carried out indicating any direction and support requirements necessary to address a claimant's barriers to work. It should set out what help will be available to the claimant and what they will be required to do.

The Bill proposes that all Universal Credit claimants will have to sign a 'claimant commitment'. The commitment will highlight requirements to report accurate personal circumstances and keep them up to date. Importantly it will also set out a claimant's work-related requirements including specific actions the claimant is required to make.

The value of a Claimant Commitment is to encourage responsibility, commitment, motivation and ownership. It should offer 'carrot' as well as 'stick' but more importantly lead to a motivated jobseeker and employee.

The ability of an adviser to make appropriate referrals for jobs, training and potential subsequently sanctions, should the claimant fail to take up these opportunities, rests on the quality and accuracy of the claimant commitment. A claimant commitment that accurately reflects the claimants skills, experience, disabilities and barriers to work such as childcare responsibilities or debts, is much more likely to enable an adviser to provide the right support for a claimant and to make appropriate referrals to specific jobs or training.

The claimant commitment must follow a thorough needs assessment where claimants are supported to explain any personal circumstances that might prove a barrier to work as well as highlight any skills or experience. It should not only set out what is required of the claimant but the support that will be available to them. It clearly set out the consequences of non-compliance and how they can complain if they feel that they are not getting the support that has been agreed as necessary.

Getting the support right is going to be even more important with an increasing number of claimants with extra needs being brought into the JSA regime, or in future Universal Credit with full conditionality. There are currently around 2.5m JSA claimants which will include some of the 300,000 lone parents who have moved from income support since the 2008 welfare reforms. The Welfare Reform Bill will require parents to look for work when their youngest child is five will bring a further 100,000 single parents⁶ onto JSA. It is important that claimant commitment recognises the impact of these responsibilities on their work search.

Changes to the Work Capability Assessment for ESA and the reassessment of all Incapacity Benefit claimants by 2014 is expected to result in just under one million claimants being required to look for work. Many will still have significant health problems or disabilities, and have been out of the labour market for many years. The claimant commitment needs to fully take account of their needs and ensure that appropriate support is offered and available.

A new approach/model for conditionality: a joint personalised approach with the conditionality system linked closely to that of support

We believe that the relationship between employer and employee would be a useful model for structuring the relationship between Jobcentre Plus and the claimant. This type of relationship has clear expectations, is based on performance, support and motivation. If the employee is underperforming then the initial responsibility is on the employer to offer more support and or direction. Prior to sanctioning it is important that Jobcentre Plus can demonstrate that it has carried out its part in the contract. In turn, this model serves as more effective preparation for the workplace. An ideal model would have:

- Clear goal setting (short and long term)
- An all encompassing diagnostic needs assessment (including all barriers to employment)
- Support the claimant can expect and possible sanctions clearly defined
- A transparent and mutually agreed contract that is reviewed on a regular basis.

A model that is based on personal goals and individual needs would better engage claimants. It would *motivate* them and be more likely to move people closer to the labour market. By linking barriers and support to conditionality the package would be tailored to each individual's needs. Sanctions should be a last resort for an adviser, and only considered when despite the claimant being offered the support that they have agreed is appropriate, they have not engaged in accessing it.

1. The relationship

The relationship between the adviser and claimant is an extremely important tool for getting people into work. The relationship should be based on trust, understanding, collaboration, commitment, communication and empowerment. The journey back to work should be considered a *mutual endeavour*⁷ by both the adviser and claimant.

It is critical that the adviser can balance the role of supporter with their role to challenge and to sanction. Evidence reveals that even where people do not get the outcome they want, if the relationship has been effective they are more likely to accept the result⁸. Separating the role of policing compliance and support is worth considering; otherwise it is even more important to establish the right dynamics of this relationship.

⁶ DWP figures cited in Coleman N & Lanceley L "Lone Parent Obligations: supporting the journey into work" Research Report 736 (page 11).

⁷ Deep Value: A literature review of the role of effective relationships in public services, pg 7. Community Links, 2011

⁸ *ibid*

A good adviser-claimant relationship will add value to the support offered and will strengthen the sense of obligation that exists. A 'deep value'⁹ relationship will deliver better outcomes; a fuller understanding of the claimants needs, the correct action identified, commitment and motivation from both the adviser and claimant and acceptance of outcomes; including penalties such as sanctions. If this relationship is not formed outcomes are less likely to be achieved and vulnerable claimants with complex needs may not be adequately supported.

2. *The review process*

The claimant commitment should be a dynamic document that reflects the progress the claimant is making. There should be a regular review process built in so that it is up to date and acknowledges positive steps taken. A case review for individuals who have made no progress or have been sanctioned more than once should be built into the support and conditionality model to ensure all barriers are being properly addressed.

How the model should be delivered

The delivery of the proposed model requires a clear 'customer focussed' approach at the Jobcentre Plus office. To deliver this, staff must be supported at all levels with access to improved specific training programmes. As part of the training reforms already taking place in Jobcentre Plus, we recommend a specific module on delivering the dual role of policing and support via a 'deep value' relationship.

There are five areas that are central to the effective delivery of this model:

1. Clear and transparent communication of the rights and responsibilities of both the customer and Jobcentre Plus at the beginning of a claim and at particular interviews or milestones during a claim
2. A central framework from which to devise and adapt requirements to the personal needs/circumstances of the customer.
3. Competent advisers who are trained in assessing needs and adapting the requirements appropriately.
4. Shared responsibility between customer and adviser, using co-design to develop the claimant commitment.
5. Well designed and delivered group based training for claimants in how to set meaningful short and long-term job goals, rights and responsibilities and the realities of the world of work can also be of value¹⁰.

What models do other employment support providers use?

The recently launched Work Programme has a minimum standard of service that each provider must deliver on. The content of this standard differs between each employment support provider, however common features are: a good relationship, an in-depth needs assessment, personal goal setting, action plans that are reviewed fortnightly or monthly, and a session on the rights and responsibilities of the individual and the provider. No such minimum standard of service exists in Jobcentre Plus.

DWP has a Customer Charter but it does not identify the process for supporting individuals in their work preparation. Also, on the Work Programme action plans are produced which serve a similar function to the claimant commitment, they are designed to make sure that the assistance an individual receives is appropriate to their needs. It is a record of agreed objectives and achievements, which engages and motivates the individual. The claimant commitment should follow the same design purpose.

⁹ *ibid*

¹⁰ GOALS UK programme for example

An international model

The Australian employment support system operates as a network of different providers known as Job Services Australia (JSA). A central government body, Centrelink, acts as a conduit for these services and controls the allocation of social security and the application of sanctions. Initially, Centrelink uses the Job Seeker Classification Instrument (JSCI) to conduct an in-depth needs assessment of employment benefit claimants. Claimants are categorised into Streams 1-4, with Stream 1 for the more work-ready job seekers up to Stream 4 for the most highly disadvantaged job seekers with severe and complex non-vocational barriers. Claimants are then referred to different employment support services depending on their needs. On arrival at their support provider, claimants negotiate an Employment Pathway Plan (EPP) with their adviser, which like our model of the Claimant Commitment, comprises both the claimant's *and* the adviser's responsibilities. The results of the JSCI and other practical barriers are considered when negotiating these terms. The EPP is open to renegotiation.

As a result of this personalised approach in Australia, JSA providers have been able to develop new practices to identify and tackle individual employment barriers, from the simple provision of clothes or travel to work expenses through to counselling in job-search techniques, rehabilitation, and short job-focused training¹¹. Jobseekers also reported that they felt that they were being treated 'as a person rather than a number'¹².

Monitoring and evaluation

The monitoring and evaluation of support and sanctions is essential to delivering a service that is both cost effective and personally effective for customers. The data collection and analysis of conditionality must be able to track to what degree support and/or sanctions contributed to an outcome. The analysis should clearly demonstrate if it is conditionality or support that achieves a desired outcome.

It is essential that monitoring and evaluation:

- Identifies personal barriers and tracks sanctions against this over a period of time so as to assess the positive impact the sanction may have made in overcoming that barrier.
- Ensures JCP has access to feedback so it can refine its performance
- Separates and identifies the effect of sanctions and support

Recommendations

1. Introduce a minimum standard of support; outlining the responsibilities of Jobcentre Plus
2. Support services should be developed on the basis of the diagnostic needs assessment.
3. The work-related actions in the claimant commitment should fully reflect both a claimant's needs assessment and the support agreed as available to them.
4. All frontline Jobcentre Plus advisors should be trained to deliver a high quality¹³ 'deep value' relationship with claimants, with flexible funding made available to meet local needs.
5. Increase the number of specialist Jobcentre Plus advisers to reflect the growing demand of particular customer needs. Where no new funds are available, this may need to involve reprioritisation of existing resources.
6. Separate the monitoring and evaluation of conditionality and support for achieving a desired outcome.

¹¹ Job Services Australia: design and implementation lessons for the British context, Department for Work and Pensions. 2011

¹² The use of contestability and flexibility in the delivery of welfare services in Australia and the Netherlands, Department for Work and Pensions. 2005

¹³ Deep Value: A literature review of the role of effective relationships in public services, pg 7. Community Links, 2011

Appendix 1

Case study from St Mungo's

Steve has been on Income Support for many years. He has had a number of recent periods sleeping rough and has drug issues which he has recently got under control but continues to drink. He was found fit for work following the Work Capability Assessment and has found the last few months since this so stressful he has seriously contemplated going back on the streets (he last slept rough in October last year). As a result of his Income Support being stopped his Housing Benefit was stopped and he is now in arrears, which is proving stressful. He has also found responding to the demands of his JCP advisor very difficult and can't see that any account has been taken of the problems he is having. He currently volunteers with St Mungo's gardening project but he was told by his advisor to volunteer at a different gardening project as his work with St Mungo's 'doesn't count'. He is also being pressured to take a 1 month job which will pay him just above the minimum wage but he fears it will leave him destitute as he will have no income for a month and will have wait for his Housing Benefit to be reinstated once the job ends leaving him further in arrears.

Case studies from Community Links

Suhail worked in social care for 15 years before completing a Masters in social work. At the end of his 6 month probation period, he was told that his employment would not be extended. Since April this year he has been claiming JSA for the first time in his life. He has a mortgage, a wife and three children between 2 months and 12 years. On arriving at the Jobcentre, Suhail was keen to get back into work and confident that it would not take more than a couple of months at most. He requested extra advice/training on CV writing etc. but was told that no such support was available. He was initially pushed to broaden his job search outside of social work, but negotiated a 6-7 month period in which to find relevant employment. Since then, he has completed all the tasks asked of him - even on occasions when he felt they were unnecessary or irrelevant – with the perception that if he did not, there would be an impact on his benefits, although this was never explicitly explained to him. He has struggled to get support from the Jobcentre as none of the four advisers he has seen have any detailed knowledge of social work employment. Now five months into his 6-7 month period, he is feeling mounting pressure to widen his job search as advisers begin to dictate more of his applications despite their lack of specialist knowledge. His overarching perception is of being part of a box-ticking process rather than being treated as an individual. Suhail has recently approached Community Links about volunteering with families and children while he seeks work. Volunteering has never been presented as an option to him by the Jobcentre.

Case study from Citizens Advice

This case illustrates the need for support and conditionality to work hand in hand to ensure effectiveness at helping someone get work. The client was released from prison in December and seeking work since. He was sanctioned for two weeks for failure to comply with Jobseekers agreement – not applying for enough jobs. He said it was because as soon as he put down on his application that he had a criminal record, he is rejected. He felt very depressed by this and felt like giving up on jobsearch. The bureau commented that he was very vulnerable and needed extra help with jobsearch, not extra sanctions. He had not eaten for two days and his gas and electric had been disconnected. He had been refused a crisis loan and he did not meet the criteria for a hardship payment on grounds of vulnerability. The bureau adviser referred him for support of an employment adviser within probation. They then gave him a bowl of porridge and organised a food parcel from local Baptist church with items that do not need heating/cooking. For hot meals they were able to give him details of Salvation Army who could provide one hot meal per day until he got his JSA payment

Case Study

Jenny is a single parent and has one daughter aged 5. She worked for 20 years as a graphic designer but was made redundant 2 years ago. Jenny is on Jobseekers Allowance and has recently been transferred onto the Work Programme. She is keen to find work to support her and her child which also reflects her circumstances as a sole carer. Her case is an illustration of why Advisers need to take account of an individual's circumstances and why there is a need for additional training for advisers who fall short of doing this.

When her Job Seekers Agreement was drawn up it contained a requirement for Jenny to work full-time. She was not told by Jobcentre Plus of the flexibilities open to parents with dependent children nor was this raised when she received her introductory letter from her Work Programme provider. The Work Programme provider were unaware that she even had a child and she was initially asked to attend an assessment appointment during the school holidays with no childcare provision.

“I have been told by the job centre if I miss any appointments with the Work Programme provider, or do not do exactly as they tell me, I could face sanctions. The provider (CDG) have not contacted me since July - I was meant to have an appointment with them in August - so I'm really not sure what on earth is going on there. This worries me a great deal because I'm concerned that I'll get blamed for this at the Job Centre. The threat of sanctions is very stressful and makes me feel extremely paranoid dealing with both the Job Centre and CDG.

When I was referred to the WP, the JC advisor also made me apply for a permanent job in North London despite my protest that it would be too far for me to travel and get my daughter to a childminder, there and back (Jenny lives in an outer South London Borough). At that time I hadn't made contact with SPAN and had no idea of my rights as a single parent.”

ⁱ Griggs J and Evans M, Sanctions within conditional benefit systems; a review of the evidence, December 2010

ⁱⁱ Bryson A et al, The new deal for young people; national survey of participants, 2000