



Conditionality Briefing: Migrants

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The identification of 'migrants' as a discrete group subject to welfare conditionality raises several significant issues. Important definitional questions - who counts as a migrant and who does not - need to be considered, as do broader debates concerned with rights to enter and reside in the UK and the ways in which UK immigration and welfare policies combine to establish and structure diverse rights to residence, work and welfare. Additionally, conditionality in a narrower sense needs exploration i.e. the ways in which migrants may experience behavioural conditionality in their interactions with varied welfare agencies.

Key points

- 'Migrant' is a general descriptor that triggers a host of definitional debates and categorisations based on differentiation by, for example, country of birth or citizenship, nationality, ethnic origin, migration pathway, immigration status and/or temporal dimensions concerned with length of stay and types of movement.
- Discussions about migrants and conditionality need to be informed by consideration of the intersection of immigration and welfare policy and also anti-racist critiques concerned with understanding how 'race' and ethnic difference impact on migrants' experiences of sanction and support.
- Recent New Labour administrations and the current Conservative/Liberal Coalition have introduced a series of immigration and asylum Acts, alongside numerous restrictive regulations to consistently reduce and curtail many migrants' rights to residence, work and welfare in the UK.
- Immigration triggers contentious debate about the legitimacy of migrants' claims to collective systems of welfare. Those who favour restricting migrants' entitlements to welfare routinely cite both economic and sociological arguments focused on how migrants may undermine and abuse national welfare systems by migrating to nations where more generous welfare benefits are available. This is despite evidence suggesting that citizens routinely get a better deal from welfare states than migrants, and that the longer term benefits of migration to host nations potentially outweigh costs.
- Financial, cultural and behavioural aspects of conditionality are increasingly a feature of UK immigration and welfare policy.
- Literature that explores welfare to work policy in relation to migrants, ethnicity and behavioural conditionality indicates that discriminatory and racialised attitudes may be significant in influencing both higher levels of sanction and lower quality of support for migrants (and Black and Minority Ethnic citizens more generally), when compared to the wider population.

Background

The term 'migrant' is a general descriptor that triggers a host of definitional debates and categorisations based on differentiation by, for example, country of birth or citizenship, nationality, ethnic origin, migration pathway, immigration status and/or temporal dimensions concerned with length of stay and types of movement (Anderson, 2013). A long-term international immigrant is defined as:

A person who moves to a country other than that of his or her usual residence for a period of at least a year (12 months), so that the country of destination effectively becomes his or her new country of usual residence (UN, 2013).

Recent and ongoing UK immigration and asylum policy has strengthened the long-established link between immigration status and the widely divergent rights to residence, work and welfare available to different migrants, dependent upon their specific socio-legal status (Bloch and Schuster, 2002). Further useful distinctions can be made between three broad groups within the general population of international (im)migrants resident in the UK, namely: those seeking asylum; nationals of European Economic Area (EEA) states; and Third Country Nationals (TCNs) (i.e. from non EEA countries). Beneath this simple tripartite separation, complex rules, regulation and case law define individual migrants' entitlements and responsibilities in the UK (rf. Bolderson, 2011; Dwyer et al. 2011; Kennedy, 2014 for discussions).

Alongside 'stratified conditions of eligibility' (Morissens and Sainsbury, 2005) the notion of 'earned citizenship' has become more prevalent. For many migrants, permanent residence and access to full rights to work and welfare are increasingly conditional on first demonstrating economic self-sufficiency. Those looking to apply for naturalised British citizenship status after 5 years must demonstrate good character through financial probity and the absence of a criminal record (Home Office, 2013a). For TCNs in particular, financial and cultural conditionality, in the form of minimum English language proficiency and annual income levels, are also a feature of recent immigration policy (Gower and Hawkins, 2013).

Aside from broader debates about the ways in which immigration policy combines with welfare policy to remove or restrict rights, certain migrants - most notably TCNs with refugee status or indefinite leave to remain and EEA migrants - may also be subject to the application of behavioural conditionality as unemployed and/or disabled people, lone parents, etc. The available literature on migrants' interactions with welfare agencies that implement conditional welfare interventions illustrates a number of concerns.

Key policy developments on conditionality and migration

Under New Labour (1997-2010) legislation systematically separated asylum seekers from mainstream welfare provisions, removed the right to work and heralded policies which, at best, provided limited and highly conditional support for some while simultaneously promoting the destitution of others (Dwyer, 2010; Bale, 2013). Following the expansion of the European Union (EU) in 2004, transitional rules enabled the pre-existing EU-15 Member States to dictate the conditions under which EEA migrants from the new Accession states of Central and Eastern Europe could access employment within their territories for up to seven years. The UK government subsequently introduced the, now lapsed, Worker Registration Scheme (for A8 nationals¹) and the Accession Worker Card for A2 nationals, both of which restricted their rights to public welfare in the UK (Currie, 2008).

Following the arrival of significant numbers of A8 migrants, New Labour further cemented its commitment to 'stronger borders' and 'firm but fair' 'managed migration'. In 2008 it acted to close entry routes for low skilled, TCN labour migrants by introducing the Points Based System (Lewis et al. 2012). Seeking to maximise the benefits of migration and minimise the impacts at a local level (DCLG, 2008: 5), the Borders, Citizenship and Immigration Act (2009) established new rules that further denied TCNs access to social assistance benefits and local authority housing or homelessness assistance.

The current UK Coalition Government has extended New Labour's restrictive approach. They have introduced an annual 'migration cap', which limits the number of TCN labour migrants allowed to enter the UK. Additionally, they have sought to reduce family orientated migration by targeting 'sham marriages' and introducing age limits and English language requirements for spouse visa holders. Student visa numbers have also been reduced. The Immigration Bill (2013) focuses on reducing 'illegal entry' and attempts to stop migrants "abusing public services to which they are not entitled" (Home Office 2013b: 1). An increase in restrictive immigration policy is likely as the Coalition Government seeks to deliver the Prime Minister's pledge to make the entry rules for new non-EEA migrants (with exception of very wealthy and/or highly skilled migrants) the toughest in Europe (Cameron, 2013).

Extending rights to UK welfare benefits and services to European migrants remains controversial for some. Since 2006, EU law has stipulated that all EEA migrants, including those who are economically inactive, have an initial, three month, right to residence in other Member States. In 2013 the European Commission instigated infringement proceedings against the UK government as it continues to deny EEA nationals the right to claim benefits solely on their three month right to reside. Most recently, and perhaps swayed by the antipathy displayed towards migrants generally, the UK government has introduced new measures to further limit EEA nationals' rights to access benefits. These include a minimum earnings threshold, a 'genuine prospect of work' assessment and restrictions on entitlement

to Housing Benefit for newly arrived EEA ‘jobseeker’ nationals (Kennedy, 2014). Under this ‘activationist-plus’ regime, the UK government is also looking to exclude EEA migrants from certain additional allowances available under Universal Credit rules (O’Brien, 2013).

Key arguments for and against conditionality

Immigration triggers contentious debates about the legitimacy of migrants’ claims to collective systems of welfare. Although some argue that, given the EU’s increasing role we have entered an era of ‘semi sovereign welfare states’ (Hemerijck et al., 2013), nation states continue to retain primacy in setting out the broad principles and specific eligibility arrangements that govern access to collective welfare benefits and services (Corrigan, 2009). Within the UK, and elsewhere, those who advocate further restrictions on entitlement and increased conditionality for migrants often cite the need to retain national sovereignty over immigration policy in order to prevent ‘benefit tourism’ by migrants looking to abuse welfare systems. This is despite evidence that citizens often get a better deal from welfare states and that such discrepancies widen in respect to migrants of colour (Morissens and Sainsbury, 2005).

Van Oorschot (2008) notes that negative views often dominate public and political debates concerned with migration and welfare due to economic concerns about the potential for immigration to trigger increased welfare state expenditure, which is consequently seen as undermining the fiscal viability of a nation’s collective welfare arrangements. Proponents of such arguments view migrants as an added burden on increasingly stretched welfare budgets because they are deemed to be disproportionately dependent on welfare. Counter arguments have been made by others who state that the long term contributions of migrants routinely outweigh their costs to the welfare system (Dustmann and Frattini, 2013). However, as van Oorschot states, empirical evidence to settle the argument one way or another is disputed by those who take up opposing positions.

Drawing on the work of Freeman (1986), van Oorschot also notes the significance of sociological arguments about why immigration may be viewed as problematic for welfare states. Such debates centre on concerns about diversity undermining the legitimacy of the solidaristic collective welfare arrangements of national welfare states. Here welfare states are considered to be bounded systems of collective welfare that emerged alongside the racialised development of nation states, in which decisions about who can access support are commonly based on notions of belonging, merit and desert (cf. Morris, 2007), decided by, and reserved for, citizens. This goes some way to explaining why it is “consistently true that the informal solidarity Europeans feel towards migrants is low when compared with solidarity shown towards other vulnerable groups” (van Oorschot, 2008: 12). The continuing relevance of racism and xenophobic intolerance needs to be emphasised; however, concerns about newly arrived migrants being in competition with disadvantaged established

communities for finite local jobs and welfare resources also needs to be acknowledged (Cook et al., 2012; Pemberton and Scullion, 2013).

Those who object to the application of welfare conditionality in relation to migrants have raised a number of important issues. Breidahl's (2012: 119) consideration of 'immigrant targeted activation' in Scandinavian welfare states highlights a tendency toward 'welfare chauvinism' whereby "harsher policies have been introduced and implemented more eagerly when the target group for activation reforms has been immigrants". Furthermore, Monnat (2010: 679) – with reference to Black and Latino women in the US - states that "race remains a significant predictor of welfare outcomes". The broader issue of discriminatory and racialised attitudes influencing the sanction and support decisions of welfare administrators has resonance with noted problems faced by Black and Minority Ethnic communities in relation to the UK welfare state (cf. Craig, 2007).

A DWP report on minority ethnic clients' experiences of Jobcentre Plus notes that some respondents on the New Deal for Young People, particularly Pakistani, Bangladeshi and Black African respondents, reported a perceived punitive approach to the application of benefit sanctions, which, on occasion, resulted in people abandoning the programme and thus losing their entitlement to JSA (Hudson et al. 2006). UK studies with refugees provide similar evidence of unreasonable sanctioning decisions (Scottish Refugee Council, 2013). In a small scale study by Dwyer (2009), refugees routinely stated that they had little or no comprehension of how conditionality operated and stated that staff did not adequately explain the rules and/or tended to view them as lacking the will to find work. Some were subject to inappropriate sanctions for breaches of regulations caused by a lack of English and/or accessible information. Certain evidence indicates that EEA migrants may face similar difficulties when trying to access conditional unemployment benefits (Cook et al., 2008).

Shutes (2011) points to a key tension between the welfare to work rhetoric about personalised training and support packages for refugees (and others who face multiple disadvantages), and the short-term 'work first' approach that underpins providers' contracts. She argues that providers are likely to engage in 'creaming' and 'parking' practices i.e. selecting the most job ready individuals and offering only limited assistance to those "considered hardest to help and therefore more difficult to place in work" (2011: 563), such as those with limited education or English language capabilities.

Conclusions

When undertaking the fieldwork that is central to the Welfare Conditionality: Sanctions, Support and Behaviour Change study, we intend to explore how those charged with implementing and administering conditional welfare interventions interpret and make sense of both issues related to race and ethnicity, and the behaviour of migrants who may be subject to the imposition of systems of sanction and support. Additionally, in our repeat qualitative interviews we hope to fill a gap in current

knowledge in relation to migrants' lived experiences of the "new politics of the welfare" (Rodger, 2008: 87) and the ways in which international migration and ethnicity may mediate the effects of conditionality.

About the Project

Welfare Conditionality: Sanctions, Support and Behaviour Change is a major five year programme of research funded under the Economic and Social Research Council's Centres and Large Grants Scheme, running 2013-2018. The project aims to create an international and interdisciplinary focal point for social science research on welfare conditionality and brings together teams of researchers working in six English and Scottish Universities i.e. University of Glasgow, Heriot-Watt University, University of Salford, Sheffield Hallam University, University of Sheffield and the University of York, which acts as the central hub for this collaborative partnership. Central to our work is a desire to inform international policy and practice through the establishment of an original and comprehensive evidence base on the efficacy and ethicality of conditionality across a range of social policy fields and diverse groups of welfare service users.

For further information about the project please visit www.welfareconditionality.ac.uk or contact the Project Manager, Fleur Hughes on 01904 321299 or email info@welfareconditionality.ac.uk

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References

- Anderson, B. (2013) *Them and Us?: the dangerous politics of immigration control*, Oxford, Oxford University Press.
- Bale, K. (2013) 'Universal Credit: not so universal? Deconstructing the impact of the asylum support system' *Journal of Social Welfare and Family Law*, 35(4): 427-44.
- Bolderson, H. (2011) 'The ethics of welfare provision for migrants: a case for equal treatment and the repositioning of welfare', *Journal of Social Policy*, 40(2): 219-236.
- Bloch, A. and Schuster, L. (2002) 'Asylum and welfare: contemporary debates', *Critical Social Policy*, 22(3): 393-414.
- Breidahl, K. N. (2012) 'Immigrant-targeted activation policies: a comparison of the approaches of Scandinavian welfare states', in Kilkey, M., Ramia, G. and Farnsworth, K. [eds] *Social Policy Review* 24, Bristol, The Policy Press/Social Policy Association.
- Cameron, D. (2013) 'Immigration speech by the Prime Minister. ', [online], available: <https://www.gov.uk/government/news/immigration-speech-by-the-prime-minister>

- Cook, J., Dwyer, P. and Waite, L. (2012). Accession 8 Migration and the Proactive and Defensive Engagement of Social Citizenship, *Journal of Social Policy*, 41(1): 329-347
- Cook, J., Dwyer, P. and Waite, L. (2008) New migrant communities in Leeds, Leeds: Leeds City Council. Available at <http://lssi.leeds.ac.uk/projects/11>.
- Corrigan, O. (2009) 'Migrants, welfare systems and social citizenship in Ireland and Britain: users or abusers?', *Journal of Social Policy*, 39(3): 425-437.
- Craig, G. (2007) 'Cunning, Unprincipled, Loathsome': The Racist Tail Wags the Welfare Dog', *Journal of Social Policy*, 36(4): 605-623
- Currie, S. (2008) Migration work and citizenship in the enlarged European Union, Farnham, Ashgate.
- DCLG (2008) Review of migrant integration policy in the UK (including a feasibility study of the proposal for an Integration Agency), London: Department for Communities and Local Government.
- Dwyer, P. (2010) [2nd edition] *Understanding Social Citizenship: Issues for Policy and Practice*, Bristol, Policy Press.
- Dwyer, P. (2009) *Integration? The perceptions and experiences of refugees in Yorkshire and the Humber*, Leeds: Yorkshire and Humber Regional Migration Partnership.
- Dwyer, P., Lewis, H., Scullion, L. and Waite, L. (2011) *Forced labour and UK immigration policy: status matters?*, York: Joseph Rowntree Foundation.
- Dustmann, C. and Frattini, T. (2013) *The Fiscal Effects of Immigration to the UK*, London: Centre for Research and Analysis of Migration (CReAM), University College London.
- Freeman, G. P. (1986) Migration and the political economy of the welfare state', *Annals of the American Academy of Political and Social Science*, 485 (May): 51-63.
- Gower, M. and Hawkins, O. (2013) *Immigration and asylum policy: Government plans and progress made*, London House of Commons
- Hemerijck, A. C., Palm, T. P., Entenmann, E. and Van Hooren, F.J. (2013) *Changing welfare states and the evolution of migrant incorporation regimes: background paper reviewing welfare state structures and reform dynamics in a comparative perspective*, Amsterdam, VU University/Oxford, COMPAS, *Impact of Admission Criteria on the Integration of Migrants (IMPACIM)*.
- Home Office (2013a) *Who can apply for British citizenship and other forms of British nationality?* London, Home Office web based resource available at: <http://www.ukba.homeoffice.gov.uk/britishcitizenship/eligibility/>
- Home Office (2013b) *Immigration Bill: overview factsheet*, London The Home Office available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/249251/Overview_Immigration_Bill_Factsheet.pdf
- Hudson, M., Barnes, H., Ray K. and Phillips, J. (2006) *Ethnic minority perceptions and experiences of Jobcentre Plus Research Report No 349 Plus*, London Department for Work and Pensions

- Kennedy, S. (2014) People from abroad: what benefits can they claim?, Commons Library Standard Note, House of Commons, <http://www.parliament.uk/business/publications/research/briefing-papers/SN06847/people-from-abroad-what-benefits-can-they-claim>
- Lewis, H., Dwyer, P., Scullion, L. and Waite, L. (2012) 'From restrictions to the cap: trends in UK immigration policy', *Poverty and Social Justice*, 20(1): 87-91.
- Morissens, A. and Sainsbury, D. (2005) 'Migrants social rights, ethnicity and welfare regimes', *Journal of Social Policy*, 34(4): 637-660.
- Morris, L. (2007) 'New Labour's community of rights welfare immigration and asylum' *Journal of Social Policy*, 36(1): 39-57.
- Monnat, S. M. (2010) 'The color of welfare sanctioning: Exploring the individual and contextual roles of race on TANF case closures and benefit reduction', *The Sociological Quarterly*, 51: 678-707.
- O'Brien, C. (2013) 'From safety nets and carrots to trampolines and sticks: national use of the EU as both menace and model to help neoliberalize welfare policy', chapter 5 in D. Schiek [ed] *The EU Economic and Social Model in the Global Crisis*, Farnham, Ashgate.
- Pemberton, S. and Scullion, L. (2013) 'The Policies and Politics of Managed Migration: Exploring Mature Labour Migration from Central and Eastern Europe into the UK', *Journal of Ethnic and Migration Studies*, 39(3): 443-461.
- Rodger, J. (2008). *Criminalising Social Policy: Anti-Social behaviour and welfare in a de-civilised society*. Cullompton: Willan Publishing.
- Scottish Refugee Council (2013) *Inquiry into Jobcentre Plus: evidence submitted by the Scottish Refugee Council*, Glasgow, Scottish Refugee Council.
- Shutes, I. (2011) 'Welfare to work and the responsiveness of employment providers to the needs of refugees', *Journal of Social Policy*, 40(3): 557-574.
- United Nations Statistics Division (2013) *Principles and Recommendations for a Vital Statistics System, Revision 3* available at <http://unstats.un.org/unsd/demographic/sconcerns/migration/migrmethods.htm#B>
- Van Oorschot, V. (2008) 'Solidarity towards immigrants in European welfare states', *International Journal of Social Welfare*, 17(1): 3-14.
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ⁱ The Accession 8 (A8) states are: Poland, Lithuania, Estonia, Latvia, Slovenia, Slovakia, Hungary and the Czech Republic. The Accession 2 (A2) nations of Romania and Bulgaria joined the EU in 2007.