



## Conditionality Briefing: Offenders

Del Roy Fletcher

Offenders have traditionally been subjected to sanctions and support to promote behavioural change in the criminal justice system. This approach is increasingly defining their experience of the benefits system. Successive UK governments have sought to help offenders into work as a means of reducing the high rates of re-offending. This has extended the active welfare state into the criminal justice system and led to a closer alignment of welfare and criminal justice policies.

### Key points

- Conditionality is increasingly defining offender experiences of both the criminal justice and benefit systems. Policy makers have sought to identify offenders in the benefits system and help them into work as a means of combatting recidivism. These developments have been given further impetus by a landmark government data share project which has found a significant proportion of claims for out-of-work benefits are made by offenders.
- Additional support has been provided to offenders e.g. through making Work Programme employment support available from 'day one' of release and the proposal for extending statutory support to short-sentenced prisoners. However, these apparently rehabilitative measures expose offenders to greater sanctioning and may reinforce the revolving door of prison, breach and recall back into custody.
- Offenders have not featured prominently in debates about the role of sanctions and support in the welfare system. There is little evidence regarding how offenders have experienced growing conditionality and its impact on their behaviour.
- A key justification for providing additional support to offenders is the potential for realising significant reductions in both welfare expenditures and the high costs of re-offending. Sanctions are being used to ensure that individuals take up the additional support.
- It is not clear whether conditionality is effective at changing the behaviour of vulnerable groups and, if so, in what circumstances. Offenders often have complex and multiple needs including homelessness, unemployment, drug/alcohol problems, mental health needs and learning disabilities. Some may not fully understand their responsibilities or behave rationally.
- Those objecting to increased conditionality for offenders have argued that it exacerbates vulnerability and risks harming third parties such as children; may propel individuals away from the benefits system and raise crime rates and the prison population.

## Background

The use of sanctions and support has become an integral feature of offender experiences of the benefits system. There has been a series of UK policy reforms since the mid-1980s that emphasise greater compulsion and enforce a stricter benefit regime. Unemployment benefits have always been conditional on unemployment being involuntary, with an expectation of active job search. It is the sharp focus on individual behaviour that is new (Larsen, 2001).

It is in this context that policy makers have increasingly sought to identify offenders in the benefits system and help them into work as a means of reducing high recidivism rates. The Social Exclusion Unit (2002) has estimated that the cost of recorded crime committed by ex-prisoners was £11 billion per year and suggested that work could reduce re-offending by up to a half. Consequently, the active welfare state has been extended into the criminal justice system. There are nearly 140 prison-based Employment and Benefit Advisers to help prisoners into employment on their release. Recent proposals have sought to transform prison regimes to prepare prisoners for the labour market as part of a package of measures which promises a 'rehabilitation revolution' (Ministry of Justice, 2010).

An increasingly closer alignment of welfare and criminal justice policies has also become evident. In 2009, the Permanent Secretaries of the Department for Work and Pensions (DWP) and the Ministry of Justice (MOJ) commissioned a joint strategic review of offender employment services. A key objective was to develop a delivery framework that would articulate the roles and responsibilities of Jobcentre Plus and the National Offender Management Service (NOMS). This was facilitated by a number of initiatives including the introduction of single points of contact within Jobcentre Plus and Probation to work together on offender issues and a legally approved data sharing form for use between front-line staff.

These developments were given further impetus by a landmark data share project in 2011. The intention was to share administrative data between the DWP, MOJ and HMRC to improve the evidence-base on the links between offending, employment and benefits. This has resulted in a database of 3.6 million offenders who have received at least one caution or conviction in England and Wales between 2000 and 2010 and have a benefit and/or a P45 employment record during this time. This showed that 26% of the 4.9 million open claims for out-of-work benefits as at 1st December 2010 in England and Wales were made by offenders (MOJ and DWP, 2011).

## Key policy developments on conditionality

There have been three key Coalition Government policy developments that significantly increase the conditionality applied to offenders:

- The day one mandation of prison leavers onto the Work Programme.
- The extension of statutory supervision to short-sentenced prisoners.
- The development of intensive community punishment with a core of punitive elements.

The Work Programme is the Coalition Government's flagship employment programme. Believing that early intervention is the key to preventing re-offending and that many prison leavers experience significant barriers to work, the Government has brought forward the mandatory JSA entry points on the Work Programme of nine or twelve months. From March 2012, all prison leavers who claim JSA entered the programme from 'day one' of their release. In addition, any individual claiming JSA within thirteen weeks of leaving custody are also referred to the programme. Sanctions are used to ensure that offenders engage with support. Individuals who do not co-operate with Work Programme providers will be sanctioned and lose benefits (DWP Press Release, March 6th 2012). However, there are concerns that providers will 'park' offenders and not provide the necessary support. Consequently, an additional payment to incentivise Work Programme providers to work with offenders linked to reducing re-offending is also currently being piloted.

Additional support is also being provided to short-sentenced prisoners. Prisoners serving sentences of less than 12 months account for the majority of those released each year. On average they have 16 previous convictions and lead 'chaotic lives' characterised by drug and alcohol problems (National Audit Office, 2010). Between a third and a half are not involved in work or courses and spend almost all day in their cells (National Audit Office, 2010). They have the greatest level of need, receive the least help during their incarceration and are the group most likely to be reconvicted. The Offender Rehabilitation Bill 2013 extends statutory supervision to short-sentenced former prisoners. Previously, unless aged 18-21, years there was no requirement for supervision by the Probation Service for those released from short custodial sentences. The supervision will be the responsibility of voluntary groups, charities and private companies who will be paid only if a certain proportion of offenders do not commit further crimes. Increased support is again tied to sanctions. 'We will introduce a scale of available measures, to provide a range of options for challenging offenders who fail to engage with providers. This will include consideration of the option of custody as a last resort' (Ministry of Justice, 2013: 19).

The proposal to develop intensive community punishment draws upon the Intensive Alternatives to Community (IAC) pilot programme. IAC orders typically lasted 12 months and combined intensive probation supervision with a mix of demanding requirements and interventions (accredited programmes to tackle offending, unpaid work, curfew, specified activities e.g. basic skills, reparation

etc.). The maximum length of curfew courts can impose will be extended from 12 hours a day to 16 hours, and the overall duration from 6 months to 12 months.

## Key arguments for and against conditionality for offenders

Offenders have not featured prominently in debates about the role of sanctions and support in the welfare system. It is, however, possible to discern four key justifications of increased conditionality for offenders:

- **Economics:** helping offenders into work will reduce welfare expenditures and the costs of re-offending.
- **Mutualism:** people have obligations and responsibilities to each other. 'By enabling them to pay their own way sooner rather than later through immediate entry onto the Work Programme, we will break the cycle of crime earlier for more offenders, which is in the interests of us all' (Blunt, DWP Press Release March 6th 2012).
- **Quid-pro-quo:** providing assistance requires beneficiaries to 'give something back'. The 'day one' requirement means that employment support is provided earlier but offenders must take up the offer.
- **Paternalism:** conditionality encourages behaviour that is in the best interests of the welfare claimant. This justification underpins the decision to extend statutory support to short-sentenced prisoners. 'In order to support compliance, there must be consequences for offenders who will not engage with efforts to rehabilitate them' (Ministry of Justice, 2013: 19).

Those who object to increased conditionality for offenders have argued that it is:

- **Disciplinary:** it is a mechanism for punishing marginalised groups and may increase the prison population.
- **Indiscriminate:** it exacerbates vulnerability and risks harming 'third parties' e.g. partners and children. Smith et al (2007) found that imprisonment brings a multitude of challenges for families who face systematic impoverishment.
- **Ineffective:** in terms of changing the behaviour of vulnerable groups who may not fully understand their responsibilities and whose rationality may be severely compromised (see Social Security Advisory Committee, 2011). The evaluation of the Work Programme has suggested that sanctioning may be particularly ineffective with offenders. 'Ex-offenders were also thought to be less responsive to sanctions because they could be accustomed to deprivation' (Newton et al, 2012: 83).

- Diversionary: it seeks to force individuals off benefits and thus reduce public expenditures rather than change individual behaviour (see House of Commons Committee of Public Accounts, 2013).
- Exclusionary: sanctioning may strengthen the hostility of offenders towards forms of authority and propel them further away from the benefit system and mainstream institutions (Fletcher, 2008).
- Criminogenic: conditionality may increase local crime rates (Machin and Marie 2004). O'Connor et al (1999) have also shown that the coping strategies of some individuals subjected to sanctions have included engagement in informal work and crime.

## Conclusions

The future stages of our research project will enable us to investigate further, and establish empirical evidence about, some of the key debates highlighted above. These include the extent to which dominant justifications underpinning increased welfare conditionality reflect the 'lived reality' of offender lives; the extent to which the threat of sanctions influences the propensity of individuals to engage with support; the relative balance of support and sanctions experienced by individuals; the way in which support interacts with sanctions; how and why offenders respond in the way they do to conditional support; what is most effective at facilitating positive engagement with support; how conditionality in the benefits system interacts with sanctioning in the criminal justice system.

## 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](http://www.welfareconditionality.ac.uk) or contact the Project Manager, Fleur Hughes on 01904 321299 or email [info@welfareconditionality.ac.uk](mailto:info@welfareconditionality.ac.uk)

## About the Author

Prof Del Roy Fletcher is Professor of Labour Market Studies at Sheffield Hallam University, and is leading on Offending for the project.

## References

- Department for Work and Pensions Press Release March 6<sup>th</sup> 2012. Government launches employment support for prisoners.
- Fletcher, D.R. (2008) 'Offenders in the post-industrial labour market: from the underclass to the undercaste?' *Policy & Politics*, 26, 2, 283-297.
- House of Commons Committee of Public Accounts (2013) Department for Work and Pensions: Responding to change in jobcentres. Fifth Report of Session 2013-14. Stationery Office: London.
- Howard League for Penal Reform Press Statement May 9<sup>th</sup> 2013. Post-Prison Supervision Plans Set People Up to Fail.
- Larsen, J.E (2001) *The Active Society and Activation Policy*. Paper presented at the cost A13 Conference: Social Policy, Marginalisation and Citizenship. Aalborg University, Denmark.
- Machin, S. and Marie, O. (2004) *Crime and Benefit Sanctions*, CEP Discussion Paper No 645, Centre for Economic Performance, London: London School of Economics.
- Ministry of Justice and Department for Work and Pensions (2011) *Offending, employment and benefits- emerging findings from the data linkage project*. London: Ministry of Justice.
- Ministry of Justice (2010) *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders*. London: The Stationery Office.
- Ministry of Justice (2012) *Punishment and Reform: Effective Community Sentences*. London: Ministry of Justice.
- Ministry of Justice (2013) *Transforming Rehabilitation. A revolution in the way we manage offenders*. London: Ministry of Justice.
- National Audit Office (2010) *Managing offenders on short custodial sentences*. London: National Audit Office.
- Newton, B. et al (2012) *Work Programme Evaluation: findings from the 1<sup>st</sup> Phase of qualitative Research on Programme Delivery*. London: Department for Work Research Report No 821.
- O'Connor, W. Bruce, S. and Ritchie, J. (1999) 'New Deal for Young People: pathfinder follow-through, findings from a qualitative study amongst individuals', prepared on behalf of the Employment Service.
- Prison Reform Trust (2013) *Prison Reform Trust Response to Transforming Rehabilitation*.
- Smith, R. Grimshaw, R. Romeo, R. and Knapp, M. (2007) *Poverty and disadvantage among Prisoners Families*, Centre for Crime and Justice Studies and Joseph Rowntree Foundation.
- Social Security Advisory Committee (2011) *Rights and Responsibilities in the Social Security system: Social Security Advisory Occasional Paper No. 6*. London.
- Social Exclusion Unit (2002) *Reducing re-offending by ex-prisoners*. London: Social Exclusion Unit.
- Vincent, J. (1998) *Jobseeker's Allowance Evaluation: Qualitative Research on Disallowed and Sanctioned claimants. Phase Two After Jobseeker's Allowance*, DfEE Research Report RR86.