

## **Written evidence from the Welfare Conditionality: Sanctions, Support and Behaviour Change Project**

### **Submission to Social Security Advisory Committee consultation: Decision making and mandatory reconsideration**

**March 2016**

#### **1 Executive summary**

- 1.1 Our five-year (2013-2018) ESRC funded project *Welfare conditionality: sanctions support and behaviour change*, involving researchers from six universities, is exploring the ethics and effectiveness of welfare conditionality. We are particularly investigating the effects of sanctions and support on the lives of nine groups: unemployed people, those claiming Universal Credit, lone parents, disabled people, social tenants, homeless people, individuals/families subject to antisocial behaviour orders/family intervention projects, offenders and migrants.  
This evidence was prepared on behalf of the project by Prof Peter Dwyer and Dr Janis Bright, University of York; and Dr Sharon Wright and Dr Alasdair B R Stewart, University of Glasgow.
- 1.2 From our sample of 64 Jobseeker's Allowance (JSA) recipient interviewees, 34 had been sanctioned. Most viewed their sanction as unjust or disproportionate, but the majority did not request a mandatory reconsideration or appeal because they thought it would be futile.
- 1.3 The minority that did take action to initiate mandatory reconsideration or appeal found the process complex, time-consuming, lengthy and costly. JSA recipient interviewees who challenged their sanction rarely understood the process of mandatory reconsideration and often did not know the difference between mandatory reconsideration and appeal. Decision outcomes and justifications were not necessarily communicated to recipients.
- 1.4 Jobseeker's Allowance recipients found the mandatory reconsideration and appeals system confusing, difficult to navigate and contradictory.
- 1.5 Some welfare service users recounted that they had not received important information affecting their benefits. Some in vulnerable groups had limited understanding of information they did receive.



- 1.6 Respondents in our disability sample wanted more timely and precise information about why sanctioning decisions or judgements to allocate them to a particular ESA grouping had been made and how these would impact on their benefits.
- 1.7 We recommend for further exploration a series of measures to improve information and communications with welfare benefit recipients.

## 2 Introduction

2.1 Our project *Welfare conditionality: sanctions support and behaviour change* is a five year (2013-2018) programme of research funded by the Economic and Social Research Council. It brings together researchers working in six English and Scottish Universities - University of Glasgow, Heriot-Watt University, University of Salford, Sheffield Hallam University, University of Sheffield and the University of York, which acts as the hub for this partnership.

This evidence was prepared on behalf of the project by Prof Peter Dwyer and Dr Janis Bright, University of York; and Dr Sharon Wright and Dr Alasdair B R Stewart, University of Glasgow.

2.2 We are exploring two key questions linked to the effectiveness and the ethics of welfare conditionality:

- First, how effective is welfare conditionality in changing the behaviour of those in receipt of welfare benefits and services?
- Second, are there any particular circumstances in which the use of conditionality may, or may not be, justifiable?

2.3 Our research involves interviews with people from nine cities and towns in England and Scotland (Bath, Bristol, Edinburgh, Glasgow, Inverness, London, Manchester, Peterborough, and Sheffield) who experience varying types and degrees of welfare conditionality in their everyday lives. The focus is on nine particular groups: unemployed people, those claiming Universal Credit, lone parents, disabled people, social tenants, homeless people, individuals/families subject to antisocial behaviour orders/family intervention projects, offenders and migrants.

Our briefing papers available at [www.welfareconditionality.ac.uk/category/publications](http://www.welfareconditionality.ac.uk/category/publications) offer further discussion of issues in relation to conditionality and these groups. We are conducting three waves of repeat qualitative longitudinal interviews over a two year period with 480 participants subject to welfare conditionality, to establish the longer term effects of the sanctions/support they experience. Our interim findings

will be published in 2016 and our final report in early 2018. For this reason we cannot offer definitive information on the reconsideration and appeals process at this stage. However, the analysis of our first wave of interviews, and our extensive review of existing literature on this topic, do offer valuable evidence, and we summarise relevant findings here.

2.4 The evidence offered here in summary is drawn from publications available on our website at [www.welfareconditionality.ac.uk](http://www.welfareconditionality.ac.uk) and from our forthcoming findings (to be published in May 2016) which will also be available on our website. Our submission follows the order of the committee's areas of interest in the evidence call, though we offer evidence on only some of the questions.

### **3. How well does the appeals process currently function? Does mandatory reconsideration facilitate, encourage or discourage appropriate redress for claimants?**

3.1 From our sample of 64 Jobseeker interviewees, 34 had been sanctioned. Most did not request a mandatory reconsideration or appeal because they thought it would be futile:

*I don't know. I just sort of felt as if it would have been a waste of time... Because I mean even if I did, it probably sort of would still have been weeks before I got that money. I'd have been actually off the sanction thing by the time they got round to paying it back or whatever. (WSU-GL-AS-009)*

3.2 A minority did take action to challenge their sanction. They found the process complex, time-consuming, lengthy (several months) and costly (particularly in paying premium rate telephone calls). Appeal outcomes were not necessarily communicated and reasons for decisions were often not given:

*'Yes, that it's not been accepted, you've been declined in your appeal.' I said to them, 'Why?' They said, 'That's what the decision makers made. The decision makers made this decision'. That was that. I put two appeals in, and I didn't get word, and I phoned... and said to them, 'Listen, I've been suspended, I put an appeal in, it's been three months, and it says like between four and six weeks it'll be getting done with. I've given you three months, why has it not been appealed? What's happening with this?' 'Oh, the decision's been made.' I said, 'I know the decision was made that I was sanctioned. I've been suspended. I know that's been made. That was made right away. But the appeal bit...?' 'No, they've not overturned it.' 'But why did you not tell me?' and it was like, 'We're telling you now on the phone.' 'But I'm phoning you.' ... You want to get your money back because you feel*



*that you've been wrong done by... It just makes you feel disregarded. I'm another number. (WSU-GL-AS-012)*

3.3 There was a lot of confusion between the processes of appeals and mandatory reconsiderations. Jobseeker's Allowance recipients found the system confusing, difficult to navigate and contradictory:

*Well late last year I thought, I'm just going to give up, you know, because the Jobcentre just are not going to pay me. How can you fight somebody that's lied? So, anyway, February this year I actually got a letter, it's the best letter I've ever had [laughs], from a court... because I'd given up before I thought, 'Oh, that's really, really good', but then, in the letter, it said that ... implementing the decision, they've got no legal powers to enforce the decision that the judge has made - which a few days later I got a letter from the Jobcentre to say they didn't agree with that decision and they weren't going to pay me. So, anyway, they must have appealed, but they lost, so I got my money this year. (WSU-SH-JM-015)*

3.4 One man, who believed his sanction was unfair, was determined to appeal, but had to abandon his action when the hearing was scheduled a long distance from his home and he could not afford the bus journey to attend:

*Eventually they gave me £4 at the Jobcentre because I just went up and said 'Why did you sanction me? I've no food. I've no electric and I would like to claim an emergency payment', but it's in town which is a two hour walk with no food, no sustenance and I'm a diabetic. Oh wow that was a horrible day but I eventually got a £30 payment off them to get food which made last. The trouble is I wanted to appeal against this. I was fuming that this had been done to me. It took four months for the appeal system to go through and eventually after four months the sanction had finished and I was back claiming. When the eventual final day came through it was in [city]. So I gave it up. I let it go. I shouldn't have done that, but I did. (WSU-BR-AS-011)*

3.5 Evidence from a co-ordinator in a regional rights organisation concerning mandatory reconsideration is also relevant.

*You used to be able to say I disagree with your decision about my benefit, I wish to appeal and I will go to a tribunal. Now you have to say I disagree with your decision about my benefit, I am not allowed to appeal straight to a tribunal, I have to ask you to reconsider. (K111)*

3.6 This respondent explained the delaying effect of the process of mandatory reconsideration, and the problems of lack of clear information:



*So you have to wait for DWP's reconsideration of their first decision before you're allowed to appeal to a tribunal. In principle it should take two weeks, in reality it's five or six. The fundamental point is, if you still don't know what it is that you've done wrong how can you ask for it to be reconsidered?*

*Most sanctions are four weeks, 13 weeks or 26 weeks. It takes you nearly a year to get to a tribunal. It'll take you four or five weeks just to get a reconsideration decision. So the incentive to just say sod it, I'll just try and live through this and then reclaim, try and avoid it next time, is massive. (KI11)*

3.7 The respondent also detailed the effects during that period on the person who might have been sanctioned:

*No money... Well you either have no money for the first two weeks if you're not in a vulnerable group or you can get a hardship payment straightaway. But remember hardship payments are discretionary and you have to ask for them. If you don't know they exist you aren't going to ask for them. (KI11)*

#### **4. Could more effective communication with claimants and their advisers improve the quality of decision making? What aspects of claimant communications should the government prioritise?**

4.1 Some welfare service users recounted that they had not received important information affecting their benefits and appeals, as detailed above. Some in vulnerable groups had limited understanding of information they did receive.

4.2 Welfare service users going through the reconsideration and appeals process need access to evidence and information concerning their case. One participant in our study was sanctioned because his Work Programme adviser reported that he missed a meeting (although the original sanction letter gave no reason). After six weeks the appeal was upheld (and his money was backdated), but only after the claimant persuaded the manager of the private provider to check the sign-in books for evidence that he did attend.

*The situation was basically, [the Work Programme adviser] said one thing, and I said something different. And without even listening to what I had to say they [Jobcentre Plus mandatory reconsideration team] said, 'Yes, well, this is true, then. So we will sanction you. Oh, you're allowed to appeal against it'... 'We'll listen to your appeal. But ... - what that person [private provider employee] said, who works for us, technically, what that person*

*says is true.'*  
(WSU-SH-JM-004)

**4.3** In the disability element of our study, there was a concern among key informants and disabled respondents about the way in which information was communicated to disabled people by agencies involved in training and benefit delivery. Typically respondents wanted more timely and precise information about why sanctioning decisions or judgements to allocate them to a particular ESA grouping had been made and how these would impact on their benefits. Several reported being unaware that they had been subject to a benefit sanction until they had tried to access money at an ATM and found that their benefits had not been paid.

## **5. Recommendations**

5.1 We **recommend for further exploration** the following approaches:

- Ensure that Jobcentre Plus and welfare agencies provide clear, timely and well-founded information on all aspects of benefits, mandatory reconsiderations and appeals
- Ensure that decisions to sanction within the current system are minimised by proper and effective communication with welfare service users
- Ensure that decisions on mandatory reconsideration and appeals are always communicated to welfare service users
- Ensure that the process of reconsideration and appeals is accessible, low cost and as expedited as possible, to help ensure fairness.

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