



Welfare Conditionality

SANCTIONS, SUPPORT AND
BEHAVIOUR CHANGE

Citizenship, conditionality, and welfare chauvinism: EEA migrants in the UK

‘Brexit what welfare, what rights for European migrants’
in Britain,’ University of York 29 March 2017

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Welfare conditionality: sanctions, support and behaviour change (2013-2018)

Twin aims

- To consider the ethics and efficacy of welfare conditionality
- Qualitative fieldwork with three sets of respondents:
 1. Semi-structured interviews with 55 Policy Stakeholders
 2. 27 focus groups with frontline welfare practitioners
 3. Three rounds of repeat qualitative longitudinal interviews with a diverse sample of 480 welfare recipients who are subject to conditionality (i.e. 1,000+ interviews in total)

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EU migrants and conditionality

■ Our EU sample

48 EU migrants (37 +11)

14 Member States

In the UK 1-14 years

26 Female, 22 male

■ How does WC impact on the lives of EU migrants resident in UK?

■ Why is conditionality important in understanding the restriction and removal resident EU migrants' rights?

■ Welfare conditionality works to disadvantage EU migrants at three levels

- Supra national level: 'EU' citizenship
- National UK level: immigration and welfare policy interact
- Micro level: everyday encounters of EU migrants with the increasingly conditional UK welfare state

Supra national EU: the conditional promise of EU citizenship

■ EU Citizenship

Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, **subject to the limitations and conditions** (Article 21 TFEU) (OJ 2012/C 326/01)

■ Charter of Fundamental Rights of the EU

1. Recognises and respects the entitlement to social security benefits and social services providing protection... **in accordance with the rules...**
3. Right to social and housing assistance... a decent existence... those who lack sufficient resources, **in accordance...** (Article 34, CFREU [OJ 2012/C 326/02]).

■ Right of Residence Directive 2004/38/EC (Art. 7)

1. All Union citizens shall have the right of residence on the territory of another Member State for a period of longer than three months if they:
 - (a) workers
 - (b)... sufficient resources... **not to become a burden on social assistance... have comprehensive sickness insurance**

Figure 1: Changes to EU nationals' rights to social benefits in the UK

(Sources: H. M. Treasury 2014; Kennedy, 2014, 2015; Sibley and Collins, 2014; O'Brien 2015)

Date	Change in UK policy
January 2014	EU nationals claiming income based JSA will not be considered 'habitually resident' unless they have been living in the Common Travel Area for three months
January 2014	From the outset of their claim, EU nationals will need to offer evidence that they are 'seeking employment' and have a 'genuine chance of being engaged' to be eligible for income-based JSA . Continued receipt of JSA will only continue after six months if they can provide 'compelling evidence' that they are actively seeking work and have a 'genuine prospect of work', under the 'Genuine Prospect of Work test (GPoWT)
March 2014	A new minimum earnings threshold (initially set at £153 per week) established. This is to be used to determine whether an EU national is in 'genuine and effective work' and therefore has a right to reside in the UK as a 'worker' or 'self-employed person.'
April 2014	EU nationals whose only right to reside is derived from their status as 'jobseeker' are no longer able to access Housing Benefit. Existing EU national Housing Benefit claimants can continue to receive it. EU 'workers' or 'self-employed persons' who retain their worker status on stopping work – e.g. due to incapacity – are not affected.
July 2014	New EU migrant jobseekers arriving in the UK need to live in the country for three months in order to claim Child Benefit and Child Tax Credit.

National UK level: immigration and welfare policy

- **Rescinding rights and restricting the welfare for EU migrants**

Habitual Residence Test (1994)

Social Security (Persons from Abroad) Amendment Regulations (2006) SI 2006/1026

The Genuine Prospect of Work Test (GPoWT)

- **The impact of restrictive residency rules**

It has smashed my life like this... I don't know what I can do or where I can go...She knew all the information about who I am and how many years I've been working in this country. I have lots of photocopies of these documents... it's not easy for me because... the Jobcentre says No, No. (BR-PD-001a)

- **The Genuine Prospect of Work Test**

I was told I'm not entitled because of the new regulations [GPoWT]... I write how I'm looking for a job, what I'm going to do. It's not enough for them because they need proof that in the future I will get a job in the form of a letter of your potential employer... It's the way to nowhere, so in the sense nobody could obtain these benefits (LO-KJ-003a)

Micro level: everyday encounters in the conditional welfare state

- **A principle of (behavioural) conditionality**

Access to certain basic publicly provided welfare benefits and services should “be subject to the condition that those who receive them behave in particular ways, or participate in specified activities” (Deacon, 1994: 53)

- **Largely negative experiences of sanction and support**

It's a culture of fear... of mistrust. Under these kind of schemes I see no way out. People will not be improving employability at all... at the end of it with this Work Programme and the sanctions, I became really paranoid (LO-LS-004a)

[Arrears]£1200 for water and £300 for the council and they need to go to the court now to explain why they've not paid... 'They put me on a sanction, the Jobcentre, I'm receiving... £12.35per week' (ED-BW-042a)

- **Welfare chauvinism, discrimination and racism(?)**

In this country we are supposed to have the same rights, but they deal with us in a different way, we have fewer rights (GL-SJ-001a)

Conclusions

- **Tensions at the heart of the EU project (Thym, 2015)**

Free movement and EU citizenship conditional on participation in PLM and economic self sufficiency

Divergent theoretical visions: 'residence' vs. 'integration' models

- **EU citizenship being hollowed out (O'Brien, 2016)**

Welfare nationalism and decreasing resistance from ECJ

- **National 'membership conditionality structures' (Baldi and Wallace Goodman (2015)**

Member States are keen to retain powers that define access to welfare

- **UK a unique 'constellation of conditionality' (Dwyer et. al forthcoming)**

Austerity, the Referendum, BREXIT, 'Work first' conditional welfare state, EU migrants rights likely to become more constrained and conditional



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