



## **A human rights-based response to the impacts of welfare conditionality**

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This paper describes the work that we do in two three-year projects at [Citizens Advice Rossendale and Hyndburn](#). We bring a human rights based response to the impacts of welfare conditionality upon our clients, and in this paper we will explain a little about how we do this, in the 'small places, close to home'.<sup>1</sup>

We are a small local Citizens Advice office, part of the Citizens Advice Service. We serve a population of around 155,000 people, from two offices, in Accrington and Bacup, in Lancashire. We have 21 staff and 35 volunteers. We helped 3,478 clients in 2017/18 and advised on 14,000 issues. Our top advice issues were benefits and debt.

We have two projects working specifically to address our concerns about the impact of sanctions on our clients. Firstly the Welfare Reform and Preventative Services Project uses strategic casework to challenge unfair decisions and sanctions, for clients in vulnerable situations. Our second project, the Equality & Welfare Reform Transformation Project, works to address inequalities and poor decision making within the welfare benefit system through training and policy work.

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<sup>1</sup> Eleanor Roosevelt. For full quote see: <http://www.un.org/en/events/humanrightsday/>

What do we mean by a human rights based response? To encapsulate our approach we have an acrostic:

show **Respect** for people's dignity and rights

**Involve** people with direct experience of issues

**Give** confidence and empower people

use **Human rights** in everyday situations

build **Trust** and understanding

build and support **Sustainable** services and progress

Our human rights based approach is about:

- respect
- nothing about us without us
- empowering people
- using human rights and equality rights in everyday situations
- building trust
- sharing learning and contributing to making other services more sustainable.

## **Our rights based response**

In this paper we will describe how we use a rights based response. We will look at this in four sections:

1. Firstly, the importance of providing an empathetic, supportive casework service to challenge unreasonableness and discrimination. A fundamental characteristic of our service is that our caseworkers show our clients that they recognise them as being of equal dignity, worth and respect.
2. Secondly we make positive use of Equality Act 2010 rights, public law and human rights. We bring challenges on behalf of our clients using these rights

in our everyday interactions with public officials in the DWP and the JobCentre.

3. The third element of our rights based response is to seek to 'educate' the public officials with whom we interact. We make professional and calm challenges using legal rights, and offer insights into the impact of conditionality on our clients. We amplify what we hear when we listen to our clients, who live with, and experience, inequality and conditionality every day.
4. Lastly, and in the longer-term, we share our strategic approach with other advice agencies across England and Wales, for wider change and sustainability. We work hard to ensure our strategic approach makes our casework service responsive to emerging needs.

Our rights based approach contrasts with the rationale of welfare reforms, and is a vital response to the impacts of conditionality:

- control
- oversight
- a narrative of shame
- disproportionate impact on disabled people and others
- a do-it-yourself approach to support.

## **Background**

Over half of all our clients describe themselves as disabled or having a long term health condition. Many of our benefits clients have mental health issues and are in very vulnerable situations. The control and compliance of the welfare conditionality regime is harsh and unforgiving for these clients.

In our day to day advice work we see that the conditionality regime tries to impose unreasonable demands that our clients cannot fulfil. We see this happen to clients like Rachel who had who faced multiple sanctions (15 at one time) but told us that

multiple sanctions were better than the impact upon her, of having to engage with the Work Programme.<sup>2</sup>

Failure to meet the demands of conditionality leads to sanctions, then to no money, then to no food. We see this happen to clients like Daniel, who came to us for a food parcel three days before Christmas, after he was given a 79 day sanction for failing to attend a work focussed interview.

This makes a bitter cluster or cocktail - of worsening mental health issues, vulnerability, and distress - with sanctions added on top. At our outreach sessions we see clients with complicated lives, in vulnerable situations, and facing multiple barriers to engagement with the DWP. Clients like Emma who (due to the way that length of sanctions are calculated) was given a 105 day sanction in February for failing to attend a JobCentre appointment the previous November. It was her vulnerability that had prevented her from engaging with the DWP for that period of time - and it was that vulnerability that resulted in a harsher, longer sanction. This kind of non compliance sanction then deters a client from future compliance. This is a worsening circle for vulnerable UC clients who we see are getting more, and lengthier sanctions as a result.

### **An empathetic casework service**

The first stage of our approach is to provide an empathetic, supportive casework service to our clients and to help them to challenge unfair decisions and discrimination. The conditionality regime creates a narrative of shame, and many clients feel compelled to apologise for claiming benefits they are entitled to, or they apologise for seeking our help. For example, Tony (who has agoraphobia) emailed us to say

“I had a bad panic attack on Monday when I had to get some electric late that evening - and I dropped my card and money at the shop and raced home. Luckily the guy in the shop knew me and came round to my home with the things I dropped and the electric I needed.

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<sup>2</sup> All names, and some personal details, have been changed to preserve confidentiality.

I got the appointment letter yesterday - for the PIP assessment tomorrow - and I called them to say I could not make - it stating my condition - and they replied "but you go to the doctors don't you" ? and I said - it has been some weeks since I have been to the doctors - for the same reasons I am not coming to you.

At this rate, I do not think I am able to do the ESA appeal. Just hope I have not wasted your time for filling in my PIP form for me, - to top all this I got a letter Monday saying the £76 I get towards my mortgage interest will be stopped on the 5th of April as this will only come in the form of a loan from now on?"

Many of our clients tell us that they feel heard, listened to, recognised and validated for the first time. Our caseworkers show our clients that they recognise them as being of equal dignity, worth and respect.

The complicated lives and vulnerabilities of our clients require us to be flexible, and empathetic in the delivery of our advice. This is a necessary part of our response to the regime that they face. For Tony, this meant that we made a home visit appointment, and we arranged for Meghan (from another agency) to offer him be-friending and support.

## **Positive rights**

The next stage of our human rights-based approach is to make positive use of Equality Act 2010 rights, public law and human rights.

We listen to our clients and their own experiences. Where we can we try to give our clients confidence and empower them, and we do this by looking at their whole circumstances.

When a client comes to us because they have been sanctioned, we help them to challenge the decision that led to that sanction, and we also look at the whole picture of how they have been treated. We talk to them about their lives, and how they have been affected - now and in the past. We uncover old decisions that have remained unchallenged so that we can put those right. We check that our clients are getting their entitlements and the income they are due. Our most frequent challenges are brought using welfare benefits routes like anytime revision, mandatory

reconsideration and complaints, but we also make frequent use of the Equality Act positive anticipatory duty on service providers and public authorities to make adjustments to their policies and procedures for disabled people.

We referred our client Emma - who had been given a 105 day sanction - to the Public Law Project so that a discrimination claim could be brought in the County Court - against the DWP and the Work Programme Provider for failing to make reasonable adjustments to the arrangements for her to attend the Work Programme, and also a claim for discrimination because of something arising in consequence of disability.<sup>3</sup>

We use equality and human rights in everyday situations - such as the daily interactions our clients have with the DWP: in everyday casework as well as cases that go to court.

Our client Ian was in receipt of Universal Credit. He had depression, was in a very vulnerable situation, and struggled at the Jobcentre. Ian struggled to complete forms as he found it hard to understand written questions, and he had learning difficulties.

When we saw him, Ian was very low on food (we gave him a food voucher). He had multiple sanctions, for his failure to comply with work preparation requirements and attend interviews. His past sanctions were for 21 days, 9 days, and 132 days. His current sanctions were for the full amount of his Universal Credit apart from the housing element which was paid direct to his landlord. He had three current sanctions, for 35 days, 28 days and 28 days.

We spoke to the Job Centre District manager and made sure an application for a hardship payment would be made. The Job Centre also promised us that if Ian failed to attend another appointment, they would try to telephone him. The JobCentre also changed his Claimant Commitment, by reducing his required work search activities.

A crucial part of our advice work is to build trust and understanding with our clients, as we try to repair the damage done to them.

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<sup>3</sup> s 20/21 and s15 Equality Act 2010.

We also try to build trust and understanding with our local Job Centre and DWP offices, and to amplify our clients voices - as we help those whose voices are often not listened to or heard.<sup>4</sup>

## **Raising awareness**

The third element of our work is to 'educate' the public officials in the DWP and the Job Centre, following on from our individual casework.

Our client Susan had learning difficulties and suffered anxiety. For most of her adult life she lived with her aunt and uncle. She told us they did everything for her until they died. She gets very anxious and upset if she doesn't understand something, or doesn't know what is expected of her, or how to manage a situation. Her first Work Capability Assessment was due to take place in the assessment centre in the local large city, a place she had never been to before. Susan finds big cities difficult and overwhelming, even if someone is with her. Her sister contacted the assessment centre to rearrange the appointment, at a centre in a large town, which Susan could go to if she had someone with her.

A second WCA was then arranged. But Susan's sister couldn't make that date, and again called the centre. Susan was told that because this was her second cancellation a decision would now need to be made on whether she had good cause for failing to attend: her ESA was stopped.

We challenged that decision using the complaints and revision procedure, and raised issues under the Equality Act: discrimination because of something arising in consequence of disability, and breach of the public sector equality duty. We asked for the decision to be changed, for compensation, and for the relevant decision makers to be given training on Equality Act duties. Following our complaint, a

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<sup>4</sup> The Citizens Advice service has two aims: Citizens Advice provides free, confidential and independent advice to help people overcome their problems. We are a voice for our clients and consumers on the issues that matter to them.

<https://www.citizensadvice.org.uk/about-us/introduction-to-the-citizens-advice-service/>

'learning difficulties workshop' including Equality Act duties was given to local DWP staff as part of their training.

## **Sharing for the future**

In the longer term, we want to make our casework service a responsive one. When we successfully address the ways in which welfare reform and conditionality is affecting our clients, we are then ready to move onto tackling new and emerging problem areas of conditionality. For example, responding to the trend that we are seeing for fewer sanctions overall, but an increase in longer non compliance sanctions for more vulnerable clients.

We also share our strategic approach with other advice agencies across England and Wales, for wider change. For example: through our own Citizens Advice network, through rightsnet, and through the National Association of Welfare Rights Advisers.

We have to be smart about how we can respond to changing needs and issues – and still meet the targets and outcomes of our funders. We are fortunate to have two three year funded projects, with relatively open project delivery targets, but it is still a challenge. Fighting for access to justice, and providing free advice to our clients, requires funding that is intelligent, flexible and responsive.

## **Conclusion**

Our overall mission is to prevent, challenge and stop the inequalities created by welfare conditionality: to restore equal justice without discrimination. And most importantly, to restore respect and dignity to Rachel, Emma and Daniel, and to all our clients whose vulnerability requires them to use the welfare of the state.

For more information about our work please contact:  
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