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## **Welfare Sanctions and Conditionality in the UK**

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# WELFARE SANCTIONS AND CONDITIONALITY IN THE UK

Conditional welfare arrangements require people to behave in a certain way to access welfare goods, such as cash benefits, housing or support services. These behavioural conditions tend to be enforced through penalties or ‘sanctions’ that reduce, suspend or end access to these goods. This paper examines the efficacy and ethicality of conditional forms of welfare. It considers existing evidence about how effective welfare conditionality is at achieving and sustaining desired forms of behavioural change; what the impacts are; how different groups fare; and to what extent welfare conditionality can be morally justified.

## Key points

- Behavioural requirements for out-of-work-benefits are the most high-profile form of conditionality, but pronounced strands of conditionality have also emerged in relation to anti-social behaviour, social housing and homelessness policies, particularly in England.
- Sanctions are now used much more frequently within the welfare benefits system. The severity of sanctions has also increased and conditionality is now applied to previously exempt groups (e.g. lone parents, disabled people).
- Benefit sanctions are having a strongly disproportionate effect on young people under 25, and there is also evidence of severe impacts on homeless people and other vulnerable groups.
- International evidence indicates that benefit sanctions (especially severe sanctions) substantially raise exits from benefits, and may also increase short-term job entry; but the longer-term outcomes for earnings, job quality and employment retention appear unfavourable.
- Little evidence is available on the impact of welfare conditionality in other spheres, such as social housing.
- There is qualitative evidence to suggest that, with appropriate support, interventions including elements of conditionality or enforcement may deter some individuals from anti-social behaviour and street-based lifestyles.
- The ‘theories of behaviour change’ underpinning conditionality have been questioned by commentators from both the Right and the Left, particularly with respect to the assumed ‘rationality’ of welfare recipients’ responses to financial sanctions and incentives.
- There are also concerns that welfare conditionality leads to a range of unintended effects, including: distancing people from support; causing hardship and even destitution; displacing rather than resolving issues such as street homelessness and anti-social behaviour; and negative impacts on ‘third parties’, particularly children.

## Authors

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# INTRODUCTION

This *Round-up* synthesises evidence collected during the initial stages of a five-year Economic and Social Research Council (ESRC) funded research study – ‘*Welfare Conditionality: Sanctions, Support and Behaviour Change*’ – being conducted by six UK universities<sup>1</sup>.

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The study focuses on two key questions:

- How effective is welfare conditionality in promoting and sustaining behaviour change amongst welfare recipients?
- To what extent, and on what grounds, can welfare conditionality be morally justified?

It seeks to establish a comprehensive evidence base on the *efficacy* and *ethicality* of conditionality across a diverse range of welfare service users, including: unemployed people; lone parents; disabled people; social tenants; homeless people; individuals/families subject to anti-social behaviour orders or family intervention projects; offenders; and migrants.

The study is predominantly qualitative in nature, involving a major programme<sup>2</sup> of interviews with senior policy-makers and other influential ‘key informants’; focus groups with frontline workers charged with implementing conditional welfare policies; and repeated in-depth interviews with ‘welfare recipients’. It compares the implementation of welfare conditionality in England and Scotland, and across six case study cities (Bristol, Edinburgh, Glasgow, London, Peterborough and Sheffield).

This *Round-up* synthesises evidence gathered in the first year of the project, prior to the start of the fieldwork. It draws on the following sources:

- current UK and international evidence on the effectiveness and ethicality of conditional forms of welfare;
- a series of policy briefing papers<sup>3</sup> detailing the application of conditionality to the eight welfare recipient groups above;
- statistical analysis of available quantitative data on the volume and trends in the application of benefit sanctions and other aspects of welfare conditionality<sup>4</sup>; and
- a theoretical mapping of key concepts associated with welfare conditionality.

## What is ‘welfare conditionality’?

Welfare recipients are subject to various forms of ‘conditions’ when accessing state support, including the following (adapted from Clasen and Clegg, 2007):

- **Conditions of category:** entitlements are conditional on membership of a defined category of support (e.g. being unemployed, disabled, homeless, etc.);
- **Conditions of circumstance:** eligibility criteria exclude or include individuals on the basis of their circumstances (e.g. passing a means test or demonstrating a particular level of need);
- **Conditions of conduct (i.e. behavioural conditions):** demand for particular patterns of behaviour from welfare recipients.

The recent shift towards a much greater emphasis on conduct conditionality is the main focus of this *Round-up* (Dwyer and Wright, 2014). While the application of sanction-backed behavioural

conditions within the benefits system are often seen as the 'archetypal' form of welfare conditionality, increasingly conditional approaches have also emerged in other areas of social policy, including in relation to social housing, homelessness and anti-social behaviour (ASB). Behavioural conditions tend to be enforced through the use of penalties that reduce, suspend or end access to benefits, housing or other welfare 'goods', though conditional welfare arrangements may also combine sanctions with support and/or incentives to enable and encourage welfare recipients to behave in particular ways. Relevant interventions range from overt 'punishments' – such as the withdrawal of benefits, eviction from social housing, or the imposition of Anti-Social Behaviour Orders (ASBOs) – to broader forms of 'social control' that seek to change behaviour through a more subtle mix of 'nudging', 'persuasion' and/or 'social pressure' (Dolan, et al., 2012; Grant, 2012).

## Conditionality in welfare benefits

### The evolution of conditionality in welfare benefits

Conditionality has been a longstanding feature of welfare benefit entitlements in the UK. Access to unemployment benefits, for example, has always been conditional on recipients being involuntarily unemployed and available for work. However, the scope and scale of *behavioural* forms of conditionality, as well as the severity of the sanctions applied for failure to comply with the required conduct (e.g. attending appointments with employment advisers), has increased substantially since the 1980s. Some particular groups - notably lone parents, sick and disabled people, offenders and some categories of migrants - have also been targeted for specific conditionality measures.

A series of social security reviews conducted by the Conservative Government (1979–1997) led to the introduction of a 'stricter benefit regime' from the late 1980s and culminated in the introduction of Job Seekers Allowance (JSA) in 1996, a pivotal change which intensified monitoring of **unemployed** claimants' job-seeking behaviour. The incoming Labour Government in 1997 adopted a 'work first' and 'work for all' approach, embracing JSA's monitoring of claimants' job search activities, backed up by benefit sanctions in cases of non-compliance. A range of measures were also introduced to 'make work possible' and 'make work pay', including increased financial support for childcare, as well as the introduction of the National Minimum Wage, increased levels of Child Benefit, and tax credits to assist low-income families.

These 'enabling' measures were implemented alongside an expansion in the reach of work-related conditionality to previously exempt groups, with **lone parents** – previously subject to 'light' if any conditionality – increasingly targeted (Whitworth and Griggs, 2013). Compulsory 'Work Focused Interviews' for lone parents on Income Support (IS) were introduced from 2001. Lone Parent Obligations (LPO), implemented from 2008, have seen an incremental reduction in the age threshold of the youngest child that enables lone parents to qualify for IS, rather than the much more conditional JSA; by 2012, this threshold had been lowered to age 5. Under LPOs, lone parents deemed able to work are treated in broadly similar terms to other JSA claimants, albeit that some LPO 'flexibilities' have been incorporated to recognise the responsibilities involved in caring for a child. Also in 2008, Employment and Support Allowance (ESA) was introduced to replace Incapacity Benefit (IB) and IS for **sick and disabled people**, with this benefit embracing more conditional elements (and the use of sanctions) for those deemed capable of 'work-related activity'.

The current UK Coalition Government has further intensified benefit conditionality. Initially, this included a dramatic increase in the use of *fixed length sanctions* (imposed for failure to satisfy work-related activity requirements), while *varied length sanctions* (associated with 'voluntary unemployment') and *entitlement sanctions* (related to benefit eligibility), which previously dominated, tended to decrease or remain static, although the recession may have affected these as well (e.g. fewer people leave jobs voluntarily when job opportunities are scarce). Under a new JSA sanctioning regime introduced in October 2012, the maximum sanction – for repeated 'high level' non-compliance – is now complete withdrawal of benefits for three years. Claimants in the 'work-related activity group' (WRAG) of ESA also face more stringent sanctions under a new regime introduced in December 2012: those who fail to comply with the conditions for receiving the benefit now receive an open ended sanction, followed by a fixed period sanction when they re-comply. The sanctionable amount has increased to 100 per cent of the work-related activity component of benefit for a single claimant (from 50 per cent for the first four weeks and 100 per cent thereafter under the previous regime).

The Work Programme (WP) – introduced in 2011 – consolidates previous employment programmes and contracts out responsibility for employment support to private companies and third-sector bodies, with a significant ‘payment by results’ element. **Offenders** who claim JSA now enter the Work Programme from ‘day one’ of their prison release, rather than 9 or 12 months after starting claiming as for other groups (Ministry of Justice (MOJ), 2010; Fletcher *et al.*, 2012). In addition, any individual claiming JSA within thirteen weeks of leaving custody will be mandated to the Work Programme. These developments reflect policy-makers’ ambition to help unemployed offenders into work as a means of combatting recidivism, and were given further impetus by a landmark Government data-sharing project which revealed that a substantial proportion (26 per cent) of claims for out-of-work benefits in England and Wales at 1 December 2010 were made by ‘offenders’ who had received at least one caution or conviction between 2000 and 2010 (the equivalent figure for JSA specifically was 33%), with 5 per cent of claims made by offenders who had been released from prison during the same period (MOJ & DWP, 2011).

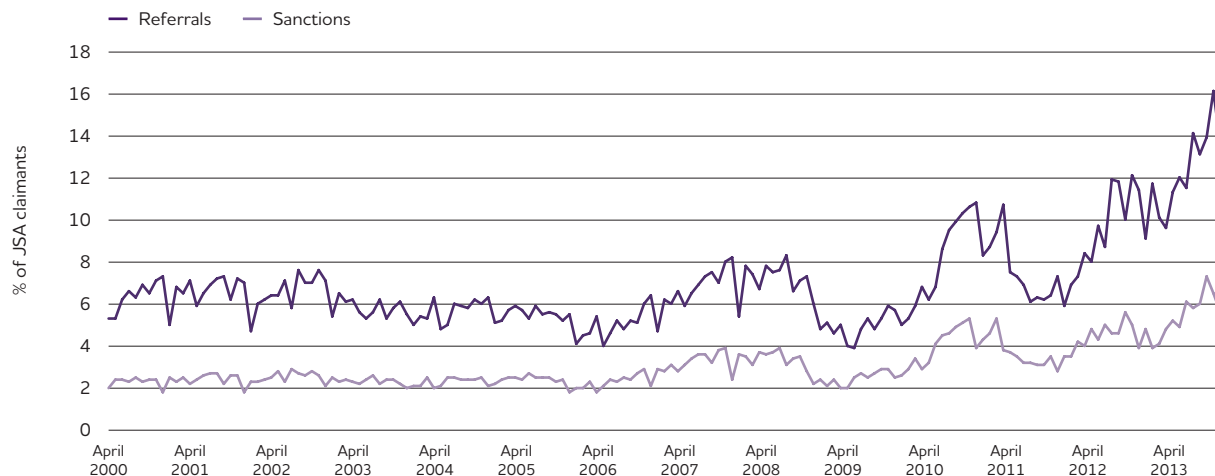
Recent and ongoing UK immigration and asylum policy has strengthened the long-established link between **migrants’** legal status and widely divergent rights to residence, work and welfare (Dwyer *et al.*, 2011). Alongside ‘stratified conditions of eligibility’ (Morissens and Sainsbury, 2005) the notion of ‘earned citizenship’ has become more prevalent, with permanent residence and access to full rights to work and welfare increasingly conditional on migrants demonstrating economic self-sufficiency. Most recently, the UK Government has introduced new measures to further limit European Economic Area (EEA) nationals’ rights to access benefits. These include a minimum earnings threshold, a ‘genuine prospect of work test’ and restrictions on entitlement to Housing Benefit, Child Benefit and Child Tax Credit for newly arrived EEA ‘jobseeker’ nationals (BBC, 2014b; Kennedy, 2014).

The roll out of Universal Credit further extends the scope and strictness of the conditionality regime. Individual ‘Claimant Commitments’ (now in place in most Job Centre Plus offices) increase job-seeking expectations for most claimants, with the default requirement that claimants treat looking for work as their full-time job. In addition, claimants of Universal Credit who are in work but on a low income are to be subject to conditionality for the first time. Those whose weekly gross earnings fall short of a ‘conditionality threshold’ (equivalent to around 35 hours work per week paid at national minimum wage rates) will be expected to meet the threshold by working more hours and/or increasing their pay rate, finding a second job to supplement their income, or getting a new job with better wages; otherwise they are potentially subject to sanctions (DWP, 2010; Dwyer and Wright, 2014). The Minister for Employment recently announced a big change in the nature of benefit conditionality, with new jobseekers set to face *pre-claim* behavioural requirements including preparing a CV, setting up an email address and registering on the Government’s new jobs website ‘Universal Jobmatch’ (DWP, 2014).

### Statistical evidence on the use of sanctions within welfare benefits

Statistics on the rates of ‘referrals’ of JSA claimants for sanctioning, and ‘adverse decisions’ resulting in actual sanctions, indicate four phases over recent years: relative stability from 2000–2006; a pulse of increased referrals and sanctions through 2007 and 2008; then an increasing use of referrals and sanctions after the Coalition Government took up office in 2010 (see Figure 1); finally, after dropping back in 2011, sanctions have surged upwards to higher levels through 2012 and 2013. Overall, monthly sanctions rates have risen from about 2 to 2.5 per cent of claimants in this earlier period, to around 3.5 per cent in 2008, and 5 per cent in 2010–11, and again to around 6 per cent by late 2013 (actually peaking at 7.3 per cent in October 2013).

**Figure 1: Monthly Referral and Sanction rates 2000–2013 – % of all JSA claimants**



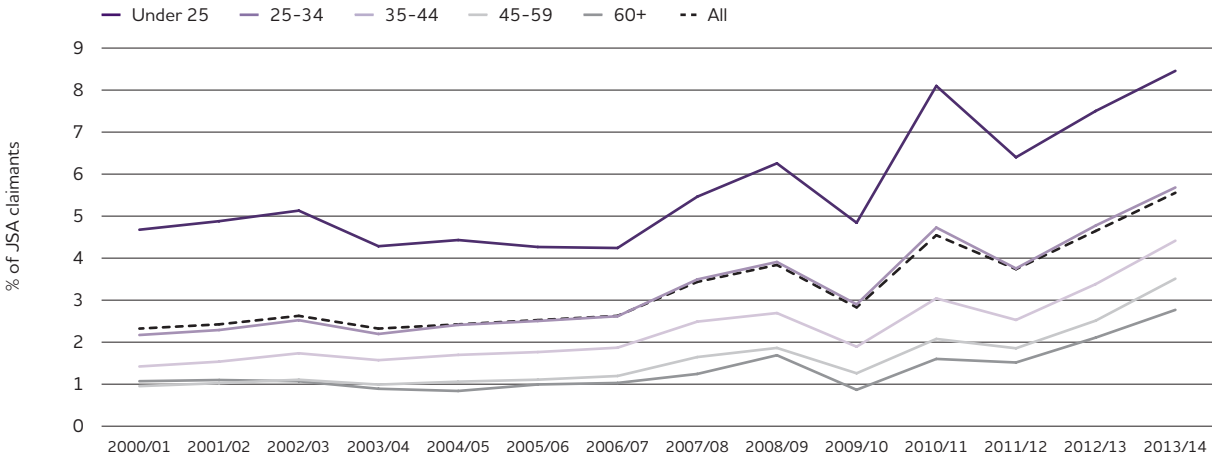
It has been argued (Webster, 2014c and personal correspondence) that the 2007–08 spike reflected a ministerial and policy change to strengthen conditionality at that time. Much higher general unemployment following the onset of recession from 2008 through to 2010 led to a fall in the rate of sanctions. Given that conditions in the labour market then did not significantly alter for a couple of years, the big pulse in referrals and sanctions in 2010–11 appears mainly to reflect the policy impact of the change of Government (see Webster 2013a, 2014c). In this light, the subsequent falling back in 2011–12 is somewhat surprising, but appears to have resulted from the introduction of the WP, and the shifting of the supervision of many claimants to WP contractors. By 2013 referral and sanctions rates had once again risen, exceeding those in 2010 (also note the growing gap between referral and sanction rates, discussed further below).

The number of sanctions issued by WP providers has escalated rapidly, with over 290,000 issued in 2013, up from 185,000 in 2012 and over double the level issued by equivalent programmes before 2010 (MacInnes *et al.*, 2013; Oakley, 2014). Between the introduction of the new sanctions regime in October 2012 and September 2013, almost one million individuals were referred for sanctioning, and more than half a million (528,000) received an adverse decision.

Recent statistics show a substantial escalation in the JSA sanctions applied to vulnerable groups, specifically lone parents and disabled people (BBC, 2014a). There is also evidence that those with complex needs, such as homeless people, have been disproportionately affected by intensifying welfare conditionality (Crisis, St Mungo's and Homeless Link, 2012; Homeless Watch, 2013). Recognition of this has prompted an easing of work requirements for some recently homeless JSA claimants, as long as they take reasonable steps to find accommodation<sup>5</sup>. Some minority ethnic groups may also be disproportionately affected (Scottish Government, 2013, Bramley *et al.*, forthcoming; see also Webster, 2013a), which could reflect issues around language, understanding and communication (Peters and Joyce, 2006; Dwyer, 2009). The recently published independent review of sanctions applied to JSA claimants through mandatory back to work schemes, undertaken by Matthew Oakley on behalf of the Department for Work and Pensions (DWP), identified particular difficulties faced by the most vulnerable claimants (e.g. those with limited understanding of English or learning disabilities). Advisers involved in the review identified “a ‘vulnerable’ group who tended to be sanctioned more than the others because they struggled to navigate the system” (Oakley, 2014, p.35). These patterns are consistent with the international evidence, especially from the US, that the most vulnerable claimants are at greatest disadvantage within highly conditional systems, for example, those with mental health problems or low levels of qualifications or work experience, as well as ethnic minorities (Pavetti *et al.*, 2003; Meyers *et al.*, 2006; Schram *et al.*, 2009).

However, what is most clear from the available UK statistical evidence is that young people are more severely affected by the rapid growth in benefit sanctions than other age groups. As Figure 2 indicates, the recent escalation of sanction rates applies to all age groups. But the under-25 group has had a consistently higher sanction rate than other age groups, and individuals in this group account for 41 per cent of all sanctions issued under the new regime from October 2012 to December 2013. Figure 2 confirms that sanctioning is now a significant risk for an under-25 JSA claimant, affecting 8 per cent of claimants in this age group per month in 2010–11 (averaged over this financial year), and rising to 8.4 per cent in 2013–14 (part-year).

**Figure 2: Monthly adverse decisions as % of all JSA claimants**



Again, this heightened sanctioning risk for younger people is consistent with international evidence, particularly from the US (Pavetti *et al.*, 2003), and has been apparent in the UK for some time (Peters and Joyce, 2006). One explanation that has been offered is that younger claimants have a more ‘relaxed’ attitude to sanctioning as a result of the financial safety net provided for some by their families (Peters and Joyce, 2006, p. 17). Less reassuringly, it has also been suggested that they may be more likely to live in insecure or chaotic circumstances that make it difficult for them to comply with the strictures of the welfare system, and/or have less experience in how to navigate a highly conditional system (Fitzpatrick *et al.*, forthcoming; YMCA, 2014). It is also possible that some direct or indirect discrimination within the welfare system is placing young people at particular risk of financial penalties.

Worryingly, a recent sharp rise in reserved/cancelled decisions<sup>6</sup>, particularly the latter, appears to relate largely to errors in the paperwork submitted by WP contractors to DWP (Webster, 2014c). More broadly, there are increasing concerns about the levels of ‘wrongful sanctioning’, both in terms of the impact on ‘innocent’ claimants and the cost of appeals processes to the State (Miscampbell, 2014b; Oakley, 2014), though (for reasons that aren’t entirely clear (Adler, 2013)) independent tribunal appeals are made by only a very small number of sanctioned claimants (on average 3.1 per cent of sanctioned claimants appealed to tribunals in 2013, Webster, 2014d)<sup>7</sup>. Adler (2013) raises broader concerns about the significant discretion accorded to frontline staff in imposing sanctions and the (increasingly) limited means of redress available to sanctioned claimants.

In the recent review of sanctions referred to above, Oakley argues that an effective sanctioning system must offer those who are sanctioned “easily accessible and understandable recourse to appeal, and potential redress”, and acknowledged the confusing and complex nature of the current system, recommending various ways the system can be made clearer for claimants.<sup>8</sup> It should be noted that the scope of the Oakley review was limited to issues of communications and process, and to claimants mandated to back to work schemes (HM Government, 2013, see also Webster, 2014a). However, Oakley does refer to wider issues noted in the evidence submitted, including the effectiveness and proportionality of the sanctions regime; the quality of sanctions decisions and employment support; and the application of sanctions through Jobcentre Plus (the majority of sanctions) and to ESA

claimants (Oakley, 2014).<sup>9</sup> While the number of sanctions issued to ESA claimants is relatively small in comparison with JSA sanctions, there is now a discernible upward trend in both the number and rate of ESA claimants who are sanctioned. The rate of sanctions for ESA WRAG claimants has risen from a low of 0.06 per cent per month in June 2011, to 0.69 in November 2013 and an estimated 0.86 per cent in December 2013. This amounted to 4,789 ESA sanctions in December 2013, the highest monthly figure since sanctions were introduced for this group in 2008 (Webster, 2014d).

### The impact and effectiveness of conditions and sanctions within welfare benefits

While some would argue that the ‘punishment’ of non-compliers (Webster, 2014b) and achieving reductions in welfare expenditure (Griggs and Evans, 2010) have now emerged as additional key objectives, the main stated goal of conditionality within the benefit system is to influence claimants’ behaviour by incentivising them to actively seek work and move off benefits (Miscampbell, 2014b).

Based on a systematic review of international evidence, Griggs and Evans (2010) conclude that:

*“... sanctions for employment-related conditions (full-family sanctions in the case of US welfare systems) strongly reduce benefit use and raise exits from benefits, but have generally unfavourable effects on longer-term outcomes (earnings over time, child welfare, job quality) and spill-over effects (i.e. crime rates).” (p.5)*

Evidence from the US makes clear that the very severe sanctions applied in some states have produced substantial declines in welfare programme caseloads (see also Mead, 2011), but the US evidence for positive effects on job entry is far weaker, and with respect to earnings, is on balance negative. European evidence on the short-term effects of actually imposed sanctions on unemployment benefit claimants demonstrates a consistent and substantial increase in employment entry rates and/or reduced unemployment durations, particularly when sanctions occur early in a claim (Muller & Steiner, 2008; Hofmann, 2008). However, while data on longer-term impacts is scant, a key study in Switzerland which considered the effect of both the threat and imposition of sanctions found that they lowered the likelihood of sustainable employment and incomes over time (Arni *et al.*, 2009). Evidence on the wider ‘spill over’ effects that can be directly attributed to sanctions appears very limited, but one UK study identified an unfavourable impact on local property-related crime rates (Machin and Marie, 2004). The evidence on child welfare is likewise far from definitive, but some work in the US suggests raised levels of child safety concerns associated with welfare sanctions (Paxson and Waldfogel, 2003).

While severe sanctions (particularly immediate full-family sanctions in US) appear to have the most dramatic impacts on benefit exits, there is evidence from the Netherlands that less severe sanctions can be effective in increasing transition rates from welfare to work (Abbring *et al.*, 2005 and see Webster, 2014b).

Also highly relevant to the question of the effectiveness of welfare sanctions in ‘driving’ behavioural change (Miscampbell, 2014b) are the findings from a wide range of studies reviewed by Griggs and Evans (2010) about claimant knowledge and understanding. Evidence from both the UK and US indicates that, while welfare recipients are usually aware that penalties are part of the system, they often have little knowledge of when they could be imposed or how they could be avoided or reversed, implying that claimants are often “...effectively being punished for a lack of understanding rather than (deliberate) non-compliance.” (p.6). The recent independent review of the operation of JSA sanctions raised similar concerns, in particular around the poor understanding of the sanctioning system among the most vulnerable claimants (Oakley, 2014, see also DWP, 2013a). It appears that very few make an active choice not to meet the conditions of benefit receipt (Goodwin, 2008; see also Scottish Government, 2013).

Material hardship is commonly reported by sanctioned claimants across the developed world, particularly those with dependents and/or no other source of income (e.g. from savings or family/friend/partner support) (Griggs and Evans, 2010). While in the UK sanctioned claimants are able to apply for a reduced level ‘hardship payment’, these awards are discretionary and subject to stringent access rules, with only about one quarter of sanctioned JSA claimants actually receiving them



(Webster, 2014b). The Oakley review has recently raised concerns that the most vulnerable claimants find it hardest to access hardship payments, in part because “only those claimants that asked about help in Jobcentre Plus were told about the hardship system” (Oakley, 2014, p.38). The review recommended that clear information about this system be included in all sanction-related letters sent to claimants. Depending on local access rules, sanctioned claimants facing hardship may also be able to access support through local welfare support schemes (which replaced key elements of the national Social Fund from April 2013), but DWP funding for these schemes will end in 2015 (DCLG, 2013).

Welfare reform and benefit sanctions have been identified as key factors driving demand for food banks by low-income people across the UK (Sosenko *et al.*, 2013; Lambie-Mumford, 2014). A recent survey of housing associations in Scotland reported significant levels of hardship amongst sanctioned tenants, including “where sanctions are leaving tenants destitute, with no money for rent, fuel or food” (SFHA, 2014, p.2). While no systematic research has been undertaken to establish the extent of destitution caused by sanctions in the UK, light should be shed on this issue by a study recently commissioned by JRF on *Destitution in the UK* (due to report in late 2015). Linked to these material impacts, sanctions and conditionality have also been associated with negative physical and mental health outcomes, increased stress and reduced emotional wellbeing (Dorsett, 2008; Goodwin, 2008; Peters and Joyce, 2006; Griggs and Evans, 2010).

UK-specific evidence on the effectiveness of welfare conditions and sanctions in achieving their ultimate stated goal – getting claimants into sustainable employment – is sparse. A qualitative study of the impacts of mandatory WFLs and associated sanctions on lone parents concluded that “the sanctions regime appeared to have a negligible impact upon the labour market behaviour of the lone parent customers involved in this study” (Goodwin, 2008, p.61). A more recent study, however, assessed the impact of the LPO and compared this to earlier interventions targeting lone parents (ISER/DWP, 2013). It found that the impacts of LPOs were “considerably higher” than the estimated impacts of these alternative approaches, and in particular LPOs were “clearly much more effective at moving lone parents off out-of-work benefits and into work” than interventions involving less conditionality (p.75). However, as with other research in this area, it is hard to separate out the distinct impacts of higher levels of support, intensifying conditions, and/or greater exposure to sanctions. The study found LPOs to be less effective among younger lone parents and parents of older children, with the explanation offered that these groups are typically less work-ready or experienced. That said, there are indications from one UK-based study (in Northern Ireland) that intensifying job search monitoring can, on its own, reduce registered unemployment levels, independent of adjustments in benefit sanctions or other aspects of the conditionality regime (McVicar, 2010).

Earlier UK studies exploring the intermediate outcomes of benefit sanctions on securing compliant claimant behaviour indicate mixed results (Griggs and Evans, 2010). On the one hand, the threat of sanctions was found to be instrumental in persuading some claimants to participate in work programmes (Joyce *et al.*, 2005), or to step up job search activities, especially following a penalty (Peters and Joyce, 2006). However, other claimants were unwilling or unable to comply regardless of the consequences, and it was suggested that sanctions could have counter-productive ‘scar effects’ in generating hostility towards services and/or more negative views about work (Dorsett, 2008; Joyce *et al.*, 2005). Fletcher (2008), for example, argues that benefit sanctioning may strengthen the hostility of offenders towards authority, propelling them further away from the benefit system and mainstream institutions.

International evidence (from Australia and the Netherlands in particular) suggests that performance-based contracting of employment programmes improves the short-term job prospects of participants by 5 to 10 per cent, and there is also some limited evidence that contracting out these services can be cost efficient (Finn, 2008). Current official statistics make clear, however, the limited success of the current UK WP in achieving positive employment outcomes. Data issued in June 2013 shows that only around one in seven JSA claimants achieved a ‘Job Outcome’ within 12 months following their referral to the programme, and only around one in 25 ESA claimants (DWP, 2013b). That said, there has been some improvement in outcomes since the inception of the scheme and some contend it is too soon

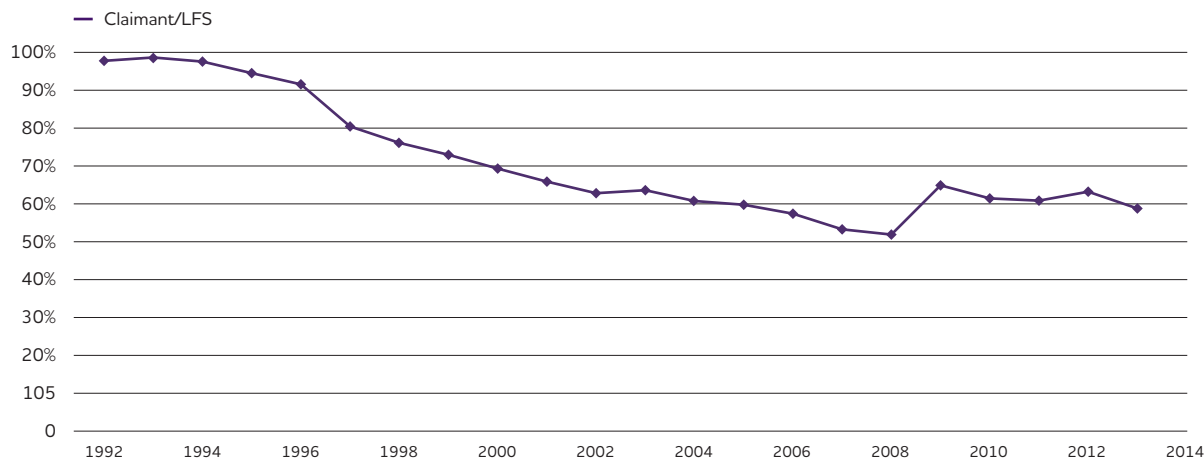
to judge its performance (Holmes and Oakley, 2013). The picture is least encouraging for vulnerable groups far from the labour market, and some have suggested that WP prime contractors are making an economic decision not to focus their efforts on the most disadvantaged claimants, such as homeless people, despite the higher premium attached to achieving successful outcomes in these cases (Crisis, St Mungo's, & Homeless Link, 2012; Sanders, Teixeira and Truder, 2013). This corresponds with international evidence (Finn, 2008) and UK evidence from the early evaluation of the programme (Newton *et al.*, 2012; Rees *et al.*, 2013) suggesting a degree of 'cherry picking' by providers to focus on cases most likely to succeed. That the current system is failing those with 'multiple disadvantages' has recently been acknowledged by the think-tank Policy Exchange, who have called for a radical overhaul of Jobcentre Plus and employment support (Miscampbell, 2014a).

There have been longstanding concerns in the UK about large numbers of exits from unemployment and sickness benefits to 'unknown destinations' (Blyth, 2006). The recent spike in 'cancelled' sanctions decisions may be further evidence that increasing numbers of claimants may be simply leaving the JSA system, deterred by the general rigour of the conditionality regime, without necessarily entering paid work (Bramley *et al.*, forthcoming; Finn and Goodship, 2014; SFHA, 2014), although these cancelled decisions may reflect other factors including administrative errors by WP contractors. It is in this light that the House of Commons Work and Pensions Committee (2014a, p.31) has recommended that benefit off-flow targets (a key performance measure for Jobcentre Plus) be immediately replaced with 'off benefit and into work' measures. The Government have rejected this recommendation, on grounds of the impracticality and cost of collecting such data within the present system, but they are exploring plans to pilot employment-related performance measures under Universal Credit (House of Commons Work and Pensions Committee, 2014b).

Indirect evidence that the tightened sanctions regime is reducing benefit use without concomitant entry into employment can be found by comparing the claimant-based unemployment count with the 'official' survey-based unemployment measure<sup>10</sup> (Bramley *et al.*, forthcoming). In 1995, claimant unemployment was nearly as high as the survey-based rate (94%). Following the introduction of JSA, it fell to 75 per cent in 1998 and continued to fall to 62 per cent in 2002 and to 51 per cent by 2008. These sustained falls may have reflected the general improvement in employment conditions in this period, but it also seems likely that the sanctions regime and active job search requirements associated with JSA will have contributed to this downward trend. The ratio then jumped sharply to 64 per cent in 2009, at a time when general unemployment was rising rapidly in the economic crisis, with both sets of figures rising by 600,000 or 2 percentage points. Since then, the ratio has fallen again, particularly in 2010, and then again in 2013.

Clegg (2008) discusses the general relationship between claimant and survey-based (ILO) unemployment, based on data and estimates going back to the 1970s. Various reasons for divergences are discussed and, in particular, it is argued that people move from defining themselves as 'active' (even if unemployed) in favourable labour market periods to 'inactive' in recessionary conditions, and vice versa. This has the effect of increasing the gap between survey/ILO unemployment in 'good times' and reducing it in recessions. This effect explains the upward movement shown in Figure 4 in 2008–09, and some part of the fall in 2012–13. However, Clegg is silent on the reasons for the very large, and historically unprecedented, increase in the gap between ILO and claimant unemployment in the period to 2007, largely sustained through the subsequent Great Recession. We would argue that it is likely that the increasing level of sanctions is 'driving' people off JSA, or is discouraging them from applying in the first place. This latter point has echoes of the US experience of deliberate 'diversion' from welfare via the 'hassle' associated with making benefit claims (Finn and Goodship, 2014; Mead, 2014).

**Figure 3: Ratio of claimant unemployed to survey-based unemployed 1992-2013**



This is clearly a highly contentious area and, as Griggs and Evans (2010) comment, there is a need for much more evidence on: the impacts of benefit conditionality and sanctions in the longer term (e.g. on income and work sustainability); the range of exit destinations (formal or informal work, education, re-partnering, caring roles or 'disconnection' from both work and welfare); and differential impacts by claimant characteristics (e.g. age, gender, ethnicity, health and migration status). Unravelling the distinctive impacts of the job search conditions themselves, the sanctions regime that enforces them, and any accompanying forms of support, would be especially valuable. Specifically in the UK, evidence on the patterns and duration of any hardship associated with dramatically increased use of sanctions would be important, particularly where it impacts on third parties, such as children.

### Conditionality in anti-social behaviour policy

Tackling ASB has been a key priority for successive UK and Scottish governments, with a tendency for the scope of ASB-related conditionality to broaden in terms of the people, behaviours and geographic areas covered. As well as requiring local authorities and social landlords to tackle ASB, the 1997–2010 Labour governments substantially increased the range and forms of legal and non-legal mechanisms available to do so, as part of a 'triple-track' approach of prevention, support and enforcement (Respect Task Force, 2006). ASBOs were a key new intervention made available to local authorities, the police and registered social landlords. These civil orders aim to protect the public from behaviour that causes, or is likely to cause, 'harassment, alarm or distress'. They require that individuals desist from, or adhere to, particular behaviours ('behavioural' conditions) and/or proscribe them from entering defined areas ('geographical' conditions), and are effective for a minimum period of two years. Envisaged as a balanced and supportive intervention, ASBOs were intended to be delivered through Individualised Support Orders, though these were not widely used in practice. Breach of an ASBO is a criminal offence, carrying a maximum penalty of five years imprisonment.

Other key mechanisms introduced to tackle ASB have included:

- Acceptable Behaviour Contracts (normally between a young person and their parent/guardian, their landlord, school or the police): these voluntary and non-legal mechanisms seek to codify the rights, responsibilities and required actions of individuals and agencies.
- Parenting Orders: POs can be imposed by a court when a 10 to 17 year old is convicted of an offence; is subject to an ASBO; where a Child Safety Order is made; or where a parent has been convicted of failing to ensure the child attends school. They require parents to attend counselling or guidance sessions and failure to engage with this support can result in a fine of up to £1,000.

- The pilot of Housing Benefit Sanctions (2007–2009) introduced a mechanism for households to be sanctioned for failure to engage with support, though in practice no sanctions were used in the pilot period (Flint *et al.*, 2011).
- Dispersal Orders: these enable the police to disperse groups of two or more people from particular areas, where their presence or behaviour has resulted in – or is likely to cause – a member of the public to be harassed, intimidated, alarmed or distressed.
- Family intervention projects: FIPs became a key strand in response to ASB in the late 2000s and continue to be so under the current Government's 'Troubled Families Programme' which requires local authorities to identify their most troubled families and redesign their services to intervene early and 'turn their lives around'. FIPs seek to address the underlying causes of ASB in families through holistic, whole-family interventions. Though the emphasis has tended to be on support and *voluntary* engagement, engagement in such projects can be a condition of families remaining in social housing tenancies (Batty and Flint, 2012).

Data on the use of these various mechanisms in practice is patchy. Where available, it suggests a decline in the use of several interventions: the use of ASBOs has declined in England and Wales<sup>11</sup> from a peak of 4,122 in 2005 to only 1,329 in 2012 (Ministry of Justice, 2013). There has also been a substantial (53 per cent) fall in the number of POs in England and Wales since 2009–10 (from 1,026 to 486 in 2012–13) (Youth Justice Board/Ministry of Justice, 2014). On the other hand, the use of FIPs appears to have increased over time (Department for Education, 2011), with recent figures showing that at March 2014 almost 100,000 families had been supported under the Troubled Families Programme (DCLG, 2014).

The Anti-Social Behaviour, Crime and Policing Act (which received Royal Assent on 13 March 2014) consolidates and further extends legal powers around ASB, replacing ASBOs with Injunctions to Prevent Nuisance and Annoyance (IPNAs) and Criminal Behaviour Orders (CBOs); broadening the range of behaviours that may be defined as 'anti-social'; lowering thresholds and burdens of proof; increasing requirements for positive behaviours and extending the geographical reach of interventions.<sup>12</sup> Implementation of this new framework may prompt a renewed surge in ASBO-like interventions following their recent decline. There has also been a focus on enabling social (and private) landlords to respond to and manage ASB, including proposals to widen grounds to evict households where members have been convicted of other offences, including those relating to the riots. In Scotland, there has been a particular emphasis on promoting positive behaviour through mentors and role models and through proactive engagement with support. Scotland has also expanded the capacity of social landlords to respond to ASB, a trend that continues under the current Housing (Scotland) Act (see below).

Overall, evidence on the effectiveness of ASB-related forms of conditionality is uneven and inconclusive. There is a lack of robust evidence evaluating the effectiveness of ASBOs and the available evidence reaches mixed conclusions. In a review of ASBO use in Scotland based on four in-depth case studies, DTZ and Heriot-Watt University (2007) found that in 27 per cent of cases examined, it was considered that there had been an improvement in perpetrator behaviour following an ASBO being granted. In 29 per cent of cases there had not (though this does not preclude future improvements).

Ministry of Justice data suggests that a fairly high proportion of ASBOs are breached – around 30 per cent within a year of being issued. ASBO breaches are particularly common among under-18s, with over two-thirds of 10 to 17 year olds having breached their ASBO at least once by the end of 2012, compared with around half of adults subject to an ASBO (Ministry of Justice, 2013). As DTZ and Heriot-Watt University (2007) note however, that an ASBO has been breached does not necessarily indicate that it has had no positive behavioural impact: in around a third of cases where improvements in behaviour were recognised, the individual had been subject to further complaints about their behaviour or had breached the ASBO.

It is key to recognise here that ASBOs are intended to relieve communities affected by ASB. This is best achieved by changing the behaviour of the 'perpetrator' of ASB, but may also be pursued by removing the perpetrator from a particular area (e.g. through eviction from a social housing tenancy or by legally enforceable requirements that the perpetrator not enter certain areas, see above). In this latter case, ASBOs potentially *displace* rather than resolve behavioural issues, albeit that this may offer some very welcome relief to longstanding victims (DTZ and Heriot-Watt University, 2007).

The provision of support is generally considered to be an important component of ensuring the long-term success of ASBOs, though related supportive interventions have been underused in practice (Squires, 2008). Perhaps related to this, ASBOs remain a highly contentious policy tool for achieving behaviour change (Flint, 2006; Millie, 2009 and Squires, 2008), with calls for more supportive, preventative and less stigmatising responses to ASB rather than enforcement-based interventions (Squires and Stephen, 2005; DTZ and Heriot-Watt, 2007).

The evidence base concerning the effectiveness of FIPs is particularly contentious (see Batty and Flint, 2012, for an overview), not least due to the close connection between FIPs and the Coalition Government's Troubled Families Programme<sup>13</sup>, and in particular Louise Casey's controversial personal study of troubled families (DCLG, 2012a). A second DCLG publication provided a somewhat more robust account of the existing evidence base (DCLG, 2012b) and suggested that evaluations of interventions had largely been positive (e.g. Lloyd *et al.*, 2011), including in reducing anti-social behaviour (and consequently, reducing eviction). The report identified five key family intervention factors linked to success: a dedicated worker; practical hands-on support; a persistent, assertive and challenging approach; considering the family as a whole and gathering the intelligence; and a common purpose and agreed action. The report was criticised however for failing to acknowledge wider structural or societal factors that impact on the effectiveness of FIPs (e.g. poverty or overcrowded or low-quality accommodation) or the impacts of austerity measures on services that FIPs access for their users (such as funding cuts to voluntary organisations). It has been argued that assessing the effectiveness of FIPs requires a complex approach, which takes account of the multiple goals (crisis management, stabilisation, 'soft' and 'hard' outcomes) these interventions pursue (Batty and Flint, 2012). Such assessments are rendered yet more complex by the diversity of approaches between FIPs in terms of ethos, resources and the balance between support and sanctions (Flint and Hunter, 2010; Flint *et al.*, 2011; Flint, 2009, 2011).

## Conditionality in social housing

Although social housing tenancies have always had an element of conditionality, security of tenure has been considered an essential element of social housing since it was formally introduced in 1980 with bi-partisan support (Bradshaw *et al.*, 2008). Nonetheless, both national policy rhetoric (particularly in England) and local practice reveal a range of ways less secure social housing tenancies may potentially be used to influence the behaviour of tenants considered 'anti-social', 'welfare dependent' or otherwise deemed to have problematic lifestyles or patterns of conduct (Flint and Nixon, 2006).

In England, new forms of social tenancies have been introduced that delay security of tenure for new tenants until satisfactory completion of a 'probationary' period. New flexibilities were also introduced under the Localism Act 2011 that enable social landlords to offer fixed-term (minimum of two years), renewable tenancies to all new social tenants, with Government guidance suggesting that decisions regarding renewal may take into account income, employment status, under-occupancy and behaviour (Garvie, 2012). Ending security of tenure for new social tenants is ostensibly aimed at ensuring the efficient allocation of scarce housing to those most in need (Fitzpatrick and Pawson, 2013), but at the same time social landlords are being encouraged to give longer tenancies to employed people or those who contribute positively to their neighbourhoods (DCLG, 2010). Moreover, Government has indicated that it would like to see a higher priority given in social lettings to ex-service personnel, working households and others making a 'community contribution' (DCLG, 2012). This indicates a shift away from need and back towards behavioural forms of 'deservingness' in the allocation, and retention, of social housing in England.

The implications of these recent policy changes for ‘conditionality’ in social housing in England are complex. Fixed-term tenancies could potentially be a powerful new tool for “disciplining the poor” (Marsh, 2013), but this does depend on the extent to which social landlords decide to adopt the fixed-term tenancy regime in practice, and how ‘behaviourally-focused’ the tenancy renewal criteria adopted locally turn out to be. The limited available evidence suggests that tackling under-occupation is the most widely favoured objective among those (mainly Conservative) local authorities adopting the new fixed-term regime in their published tenancy strategies (Fitzpatrick & Pawson, 2013). A recent online survey of housing associations found that half of the 48 organisations which responded either had already introduced fixed-term tenancies or were considering doing so (Rallings, 2014). Nonetheless, given the likely time and resource implications, it has been argued that aggressive deployment of the new powers is likely to seem unattractive to social landlords at the point when detailed tenancy review procedures need to be implemented (Fitzpatrick and Pawson, 2013).

The conditionality agenda appears to have very little purchase within social housing in Scotland, beyond the concerns noted below with respect to ASB, and there continues to be a strong presumption in favour of social housing providing a secure ‘home for life’. The recently passed Housing (Scotland) Act includes measures to give social landlords more flexibility in how they allocate their stock, but the most contentious proposal in this regard – to allow them to take applicant age into account – has been dropped. A proposal to introduce an initial (probationary) tenancy for all new social housing tenants – envisaged as an additional means of addressing ASB – was dropped at an earlier stage after vigorous campaigning from voluntary organisations (Shelter Scotland, 2013). The Housing (Scotland) Act nonetheless includes a range of other measures focusing on ASB within the social rented sector, reflecting a common theme north and south of the border. This includes allowing a minimum period to be put in place before anti-social tenants are eligible for social housing, allowing landlords to use Short Scottish Secure Tenancies for applicants and tenants with a history of ASB, and simplifying evictions for tenants convicted of a serious offence. However, the focus in Scotland is on sustaining tenancies, and the Act also includes new tenants’ rights for eviction cases to be reviewed.

Across the UK, evidence about the effectiveness of, or even the implementation of, increased conditionality in the social housing sector is sparse. Little is known about the use of fixed-term or probationary tenancies, far less the extent to which they are employed to impose conduct conditions beyond the core landlord concerns with regard to payment of rent and desistance from ASB. Virtually nothing is therefore known about their effectiveness in promoting and sustaining behavioural change. In part, this reflects the diversity of practice in the sector, with social landlords and local authorities utilising different forms of tenancies and incentive schemes, and little centralised collation of practice. In Australia, specifically New South Wales, where the fixed-term social tenancy regime is longer-standing, there is little evidence of ‘positive’ impacts on tenant behaviour, and in fact some indications that tenancy reviews which take income into account in assessing continuing eligibility might be counter-productive with respect to labour market participation (Fitzpatrick & Pawson, 2013).

In both England and Scotland, softer ‘non-binding’ measures – such as Good Neighbour Agreements, incentive schemes and Household Ambition Plans (Croucher *et al.*, 2007, Marsh, 2013) – are also employed by some social landlords to encourage ‘good’ behaviour on the part of social tenants. However, again it is not clear how widespread such approaches are, nor how assiduously they are monitored and implemented in practice.

## Conditionality in homelessness policy

Shifts towards more conditional, interventionist and enforcement-based approaches that seek to change people’s behaviour are also evident in homelessness policy. Uniquely, some groups of homeless people in the UK have legally enforceable rights to rehousing (Fitzpatrick *et al.*, 2009). This right has always been conditional on applicants meeting various criteria, including being ‘unintentionally homeless’, but policy shifts initiated in the early 2000s sought to further ‘responsibilise’ those in housing need. Homeless applicants are now expected to consider all ‘housing options’ for resolving their situation rather than simply access their statutory entitlements (Fitzpatrick *et al.*, 2012). Despite substantial differences in the statutory homelessness framework in the two jurisdictions, this emphasis on ‘housing options’ has signalled a recalibration in the relationship between state and citizen, with the

former taking on a more 'activist' role in encouraging the latter to behave as active 'house seekers' rather than passive welfare recipients (Pawson, 2007). There is evidence that this has prompted a more creative, problem solving approach on the part of many local authorities, which may better meet the needs of homeless applicants than simply processing their case through the statutory system (Pawson *et al.*, 2007). However, there are enduring concerns that substantial declines in levels of statutory homelessness in both England and Scotland since the introduction of housing options may mean that some local authorities are 'diverting' homeless people away from claiming their statutory entitlements (Fitzpatrick *et al.*, 2012). In England specifically, provisions of the Localism Act 2011 which allow for 'compulsory' (i.e. without applicant consent) discharge of the main homelessness duty via the offer of a private sector tenancy may be acting as a disincentive to homelessness applications in some parts of the country (Fitzpatrick *et al.*, 2013).

At the same time, policies and services addressing the most extreme and visible form of homelessness – rough sleeping – have seen an escalation in the use of enforcement-based, coercive and interventionist approaches in England (there remains little appetite for such approaches north of the border). Policies combining 'care' and 'control' in line with an ethic of 'tough love' can be traced back to the late 1990s when improvements in the accessibility and quality of services were accompanied by increased expectations that rough sleepers actively engage with support (Fitzpatrick and Jones, 2005). A renewed emphasis on tackling a 'hard core' of rough sleepers – in particular those engaged in related street activities of begging or street drinking – emerged in the early 2000s. An array of tools have been promoted by central government, including:

- arrests: under the Vagrancy Act 1824 begging and persistent begging are arrestable offences, as is rough sleeping if the individual has been directed to a 'free place of shelter' and failed to take this up;
- ASBOs: these civil orders (see above) have been issued to those engaged in street activities;
- Controlled Drinking Zones such as Designated Public Places Orders (DPPOs), within which individuals refusing to comply with police requests that they stop drinking or surrender alcohol for confiscation can be arrested and fined;
- 'designing out': manipulating the built environment to make it less conducive to rough sleeping and other street activities (e.g. removing seating, installing 'spikes' and gating off certain areas);
- and diverted giving schemes: campaigns that seek to encourage the public to give to charity rather than giving money directly to those who beg.

There has also been a trend towards 'interventionist' approaches in support services, which increasingly expect homeless people to engage with support and/or alter their lifestyle and behaviour. Street outreach services have increasingly adopted 'assertive' approaches which explicitly seek to persuade homeless people to move into accommodation, rather than merely ameliorate their experiences sleeping rough (Parsell, 2011). Hostel improvement programmes have encouraged staff to take a more proactive approach to moving people on from homelessness into settled accommodation (Jones and Pleace, 2010). More recently, following the roll-out of 'No Second Night Out' principles across England, local authority funded services are increasingly requiring 'new' rough sleepers to engage with a 'single service offer' (this sometimes comprising 'reconnection' to another area); failure to comply can leave them ineligible for support from other participating agencies (Homeless Link, 2014; see also Johnsen and Jones, forthcoming).

These trends have been paralleled recently by increasing interest in – and some small-scale and localised development of – initiatives that relax requirements around service user engagement and behaviour change, particularly for 'entrenched' rough sleepers with multiple and complex needs. 'Housing First', for instance, enables service users to access settled housing, but *choose* the level and manner of their engagement with support (Johnsen and Teixeira, 2010; Johnsen, 2013; Busch-Geertsema, 2013). Approaches based on 'personalisation' – including personal budgets – seek to engage people with support more on their 'own terms' rather than those dictated by the state or service in question (Hough and Rice, 2010; Brown, 2013).

The use of enforcement-based and interventionist responses to rough sleeping and street culture have generated considerable controversy, largely in the context of limited evidence regarding the effectiveness of such initiatives. There are indications that, when accompanied by intensive tailored support (and practice in this regard varies substantially), the use of ‘hard’ enforcement measures (e.g. ASBOs) can in some circumstances lead to positive behavioural outcomes (e.g. desistance from ASB and engagement with drug treatment programs and other services) for people living in desperate, even life-threatening circumstances (Fitzpatrick and Johnsen, 2009; Johnsen and Fitzpatrick, 2007, 2010). Enforcement in these instances can act as “a ‘crisis point’ prompting reflection and change” (Johnsen and Fitzpatrick, 2007, p.54), albeit that it can also have the capacity to undermine the wellbeing of individuals targeted by displacing them from sources of support or diverting them into more dangerous or damaging activities (e.g. sex-work or acquisitive crime).

The reasons why such approaches ‘work’ for some homeless people but not others are at present poorly understood (Johnsen and Fitzpatrick, 2007) and in this sense, such approaches represent a high-risk strategy for this vulnerable group. ‘Softer’ forms of enforcement – such as controlled drinking zones and ‘designing out’ – while often viewed as effective from the perspective of the local community and residents, do not appear to benefit the individuals targeted (Johnsen and Fitzpatrick, 2007).

## Justifying and contesting conditionality

The fundamental case for ‘conduct conditionality’, and certainly welfare sanctions, is “rooted in the concept of reciprocity” (Miscampbell, 2014b, p.8). This is the *contractualist* idea that, in return for welfare assistance, claimants must do all that they can to find work and cease their dependence on benefits. We can also see (fainter) echoes of this contractualist notion in other welfare spheres, for example, the requirement that homeless people ought to do all that they can to resolve their own housing problems under housing options, and in some of the instruments that are used in ASB programmes to define the responsibilities of perpetrators.

This concern with reciprocity is closely allied to *communitarian* notions of citizenship that focus on the mutually-reinforcing responsibilities citizens owe to each other. It also links to a particular conceptualisation of ‘fairness’ or *social justice* which is intolerant of ‘free riding’ and sees ‘deservingness’ as a key moral criterion for the allocation of societal goods, with deservingness defined primarily in relation to preparedness to make a societal contribution via paid work.

There are also a range of *utilitarian* arguments in favour of conduct conditionality, which stress its efficiency in promoting overall societal well-being and ensuring that the best possible use is made of finite resources. Some of these utilitarian arguments relate to the financial costs to society as a whole (and taxpayers in particular) of, for instance, having large numbers of people receiving welfare benefits or the pressure placed on a limited social housing stock by high levels of statutory homelessness. There are also non-financial utilitarian arguments in favour of intervening to tackle, for example, ASB in the interests of the rest of society, and in particular to protect the well-being of those directly affected.

Finally, some justifications of welfare conditionality take a quite different tack, focusing on *paternalist* justifications that welfare conditionality, even benefit sanctions that are acknowledged to cause short-term hardship, are in the long-term best interests of welfare recipients as it encourages them to free themselves from poverty and welfare dependency. Paternalist arguments are critical to the case for conditional and enforcement-based interventions on homelessness, and to a lesser extent with respect to ASB, where the vulnerabilities and complex needs of many of those involved are recognised by at least some stakeholders. Conditionality from this perspective serves not only to protect people from the consequences of their own poor decision making, but also promotes a (different) conceptualisation of *social justice* by operating to benefit the least advantaged.

Those who oppose conditionality, particularly in welfare benefits, tend to do so on interconnected ‘moral’ and ‘empirical’ grounds. The moral case against sanctions – and welfare conditionality more broadly – tends to be rooted in a rights-based vision of *social citizenship* that is unconditional, at least with respect to the meeting of fundamental needs. In this view, regardless of people’s ‘culpability’, the



status of citizenship should guarantee access to a minimum standard of welfare as a matter of right. Advocates of *human rights* expand this approach to argue that unconditional welfare rights should be made available to all, citizens and non-citizens alike, on the basis of shared human needs and frailty (Dean, 2013). These approaches are clearly irreconcilable with a contractualist or communitarian notion of citizenship that makes access to rights conditional on first fulfilling responsibilities. This disagreement reflects people's fundamental moral and political values and cannot be resolved via an appeal to evidence. In practice, however, it seems that even those with a strongly contractualist perspective tend to favour some sort of basic 'subsistence' standard of living that would be protected regardless of people meeting their social obligations, ensured in the social security setting, for instance, through hardship payments that prevent extreme hardship (Miscampbell, personal correspondence).

However, opponents of conditionality also dispute a wide range of the empirical claims or assumptions underpinning conditional approaches.

First, conditional welfare approaches rest on the assumption that the problems they seek to address are fundamentally *behavioural* in nature and are therefore amenable to remedy through a mix of incentives and sanctions (mainly the latter). This has been forcefully rejected in some quarters, with critics arguing that the root causes of, for example, 'entrenched' and/or intergenerational unemployment (Shildrick *et al.*, 2012), or economic inactivity amongst sick and disabled people (Lindsay and Houston, 2011), lie not in individual patterns of conduct, but in societal-level factors, such as barriers to workforce participation and weak demand for labour.

Second, another key assumption underpinning the perspectives of advocates of conditionality – that people will, on the whole, respond in an *economically rational* manner to sanctions and incentives (Miscampbell, 2014b) – has also been brought into question. Behavioural economics has highlighted that human decision making occurs in conditions of uncertainty, often under pressure, relying on 'rules of thumb' rather than rational calculations (Dawney and Shah, 2005; Darnton, 2008), with human preferences being multiple and contradictory, rather than consistent and ordered, and extending well beyond the economic (see also Hoggett, 2001; Lukes, 2005). These accounts suggest that welfare recipients may respond to conditionality in ways that depart radically from policy-makers' expectations. For instance, it has been suggested that offenders may "be less responsive to sanctions because they could be accustomed to deprivation" (Newton *et al.*, 2012, p.83), and that homeless people with complex needs may fail to respond 'rationally' as they do not comprehend the consequences of their actions (or inactions) with work-related and other programmes (DrugScope and Homeless Link, 2013). Interestingly, criticism about the naiveté of the rational economic model is not confined to the Left. For example, Mead (2014) has argued that:

*"As to the essence of conditionality, it's not economic. It's about authority. What gets recipients to work in America is chiefly being told clearly that they have to work. Economic payoffs are secondary."*

Recognition of the limits of economic incentives in driving behavioural change may explain the emphasis on exerting "social pressure" (or "public shaming" (Webster, 2014b, p.7)) on non-compliant benefit claimants in proposals recently put forward by Policy Exchange, by paying their benefits via a pre-paid 'yellow card' as a "non-financial sanction" (Miscampbell, 2014b).

Third, there are concerns about the practical prospects for enhancing the *well-being* of targeted groups via conditional approaches related, for example, to the kind of employment that sanctions may 'activate' people into. In the UK, the 'low-pay, no-pay' cycle has been highlighted as particularly acute (Shildrick, *et al.*, 2010; Wright, 2012), undermining the paternalist case for benefit conditionality, albeit that those in low-paid work are still likely to be *less* poor than those reliant on out-of-work benefits (Goulden, 2014). Another relevant example would be the controversy over the 'high risk' nature of enforcement measures designed to combat street culture activities: while in some cases these measures prompt positive behaviour, in other instances they may displace the problem and drive vulnerable people away from support (Johnsen and Fitzpatrick, 2007, 2009).

Fourth, critics point to the evidence of material and other forms of *hardship* endured not only by those directly subject to benefit sanctions, but also those ‘diverted’ away from benefits altogether who may become ‘disconnected’ from both work and welfare. Opponents of conditional approaches see them as punitive, disciplinary and iniquitous, ‘punishing the poor’ by holding them to standards of conduct not required of more advantaged groups (Dwyer, 1998; Deacon, 2004; Manchester CAB, 2013; Standing, 2011).

For some, however, this is at heart a moral argument that, notwithstanding the evidence about the consequences of sanctions, the use of sanctions is morally justified because they uphold core societal norms of reciprocity and (a particular conception of) fairness. Whether or not this argument is deemed compelling will depend on one’s personal political outlook and values.

## Conclusion

This *Round-up* has provided an overview of policy developments, trends, key debates and available evidence concerning conditional approaches to welfare. Though benefit sanctions are the most prominent form of welfare conditionality, increasingly conditional, interventionist and enforcement-based elements have emerged in other social policy realms, particularly in relation to ASB, social housing and homelessness. In addition to an expansion in scope, some forms of conditionality (in particular benefit sanctions) appear to be more frequently used now than in the past, with the severity of sanctions and range of behaviours covered having also increased. There is strong evidence that benefit sanctions are having disproportionate effects on particular groups, especially vulnerable people and younger age groups.

Sanction-backed conditionality regimes do seem to reduce benefit use by both lowering benefit take-up and speeding up benefit exit, as has been most dramatically illustrated in the case of the US. But concerns remain about the destinations of those who exit benefits, and in particular about whether increasing numbers are becoming ‘disconnected’ from both work and welfare. There is some European evidence (though little that is UK-specific) that benefit sanctions can shorten periods of unemployment and raise short-term job entry rates, but the evidence available on their longer-term impacts is much more limited, and on balance negative, suggesting that benefit sanctions may lower the likelihood of sustainable employment and incomes over time. Moreover, the current evidence base does not enable one to untangle the relative impacts of the job search conditions themselves, the sanctions regime that enforces them, and any accompanying forms of support. There is a notable lack of empirical evidence in either the UK or elsewhere on the effectiveness of conditionality in other spheres, particularly in the case of social housing. There are indications, however, that when combined with appropriate support, initiatives that include conditional or enforcement-based elements may lead to positive behavioural outcomes in relation to street-based lifestyles and ASB. Nonetheless, across all of these realms of welfare conditionality there are a range of concerns about unintended (and less intended) consequences, particularly the hardship faced by those excluded from benefits, services and/or support as a result of failing to meet behavioural requirements.

## About the ESRC project

The future stages of the ESRC project will provide a wealth of qualitative evidence on the medium to longer-term impacts of welfare conditionality on the behaviour of a wide range of welfare recipient groups. The study will allow us to provide an in-depth account of the ‘rational’ or otherwise nature of recipients’ responses to the combination of behavioural conditions, penalties, support and incentives found in the modern welfare system, and also how the individuals charged with administering conditional welfare interventions interpret and implement these measures. The interrelationship between various forms of conditionality across different social policy arenas and interventions will also be explored. The distinct policy frameworks in Scotland and England will provide scope for considering the impact of different approaches on the experiences of key groups subject to welfare conditionality. The normative and empirical data generated will also help to inform debates on the extent to which, and on what terms, welfare conditionality might be considered morally justifiable.

## About this paper

This *Round-up* draws on an ongoing study *Welfare Conditionality: Sanctions, Support and Behaviour Change* (ESRC Grant number ES/K002163/1) and was written with contributions from members of the wider project team: Professor Peter Dwyer, University of York; Professor Del Roy Fletcher, Sheffield Hallam University; Professor John Flint, University of Sheffield; Professor Sarah Johnsen, Heriot-Watt University; and Dr Sharon Wright, University of Glasgow. More information on the project can be found at: [www.welfareconditionality.ac.uk](http://www.welfareconditionality.ac.uk)

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## Endnotes

- 1 University of Glasgow, Heriot-Watt University, University of Salford, Sheffield Hallam University, University of Sheffield and the University of York.
- 2 See [www.welfareconditionality.ac.uk](http://www.welfareconditionality.ac.uk)
- 3 Summaries of these briefing papers can be found at [www.welfareconditionality.ac.uk](http://www.welfareconditionality.ac.uk)
- 4 This forthcoming paper will be available at [www.welfareconditionality.ac.uk](http://www.welfareconditionality.ac.uk)
- 5 See <http://www.homeless.org.uk/sites/default/files/site-attachments/Easement%20Regulations%20Guidance.pdf>
- 6 Decisions are 'cancelled' when the claimant is no longer claiming JSA at the time of the referral, or the paperwork for the referral has not been properly completed. Decisions are 'reserved' when the claimant has stopped claiming between the time of referral and the time of decision. In this latter case, people may have left JSA before a sanction can be imposed on them, but the sanction will apply if they re-claim a benefit.
- 7 Since October 2013 those wishing to appeal an adverse decision are required to request internal 'reconsideration' prior to appeal to a tribunal. The stated aim is to try to help resolve disputes without an appeal, and this seems likely to depress further the number of such appeals that are made.
- 8 The government have accepted and are already implementing a number of Oakley's recommendations: see <https://www.gov.uk/government/publications/jobseekers-allowance-sanctions-independent-review-government-response>
- 9 To access evidence submitted to the review by a range of organisations, see <http://www.cpag.org.uk/content/oakley-sanctions-review-responses-other-organisations>
- 10 This is based on the Annual Population Survey (alias Labour Force Survey) using the ILO definition of unemployment and seeking work.
- 11 No centralised data on the use of ASBOs is available in Scotland.
- 12 See <http://services.parliament.uk/bills/2013-14/antisocialbehaviourcrimeandpolicingbill.html>
- 13 See <https://www.gov.uk/government/policies/helping-troubled-families-turn-their-lives-around>

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## FOR FURTHER INFORMATION

This summary is part of JRF's research and development programme. The views are those of the authors and not necessarily those of the JRF.

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