

Extending conditionality and sanctions to people in work ... but who is responsible for low pay?

The introduction of Working Tax Credits in 2003 has enabled many people with mental health conditions to return to and prosper in employment. Some people who experience mental health challenges are only able to work limited hours. Prior to the introduction of Working Tax Credits, such people were prevented from getting a job because to do so would actually decrease their income – they would receive less in work than they received in out of work benefits. Although they were not without their problems, Working Tax Credits changed this. For those on low incomes – either because they were in poorly paid jobs, or working limited hours, or both – they offered a kind of “top up” income that ensure that people did not lose income by entering work. In 2015-2016, three million in-work families received tax credit payments (see Social Security Advisory Committee, 2017).

However, with the introduction of Universal Credit, things are changing.

Already recent benefit changes are disadvantaging those people who would formerly have been in the Employment Support Allowance “Work Related Activity Group” (WRAG). The Work Capability Assessment divides people into one of three groups: first, there are those who are judged to be fit for work: they receive only Job Seekers Allowance and its Universal Credit basic payment equivalent. Second, there are those who are judged to have “limited capacity for work and work-related activity – you can’t work now and you’re not expected to prepare for work in the future” (www.gov.uk/health-conditions-disability-universal-credit) and are in the Employment Support Allowance Support Group or its Universal Credit equivalent. These people will continue to receive an extra amount of money under Universal Credit. Third there are those who are judged to have “limited capacity for work – you can’t work now but you can prepare for work in the future” (www.gov.uk/health-conditions-disability-universal-credit). The people with mental health challenges who have really lost out are those in this group. In the past, they would have been in the Employment Support Allowance “WRAG” and received enhanced benefit payments. Now people judged to be in this group receive only the basic level of Job Seekers Allowance or Universal Credit – the enhanced payment they used to receive will disappear.

Next, those people who have mental health challenges and can only work limited hours risk being disadvantaged under Universal Credit through the extension of conditionality and sanctions to people in work.

Working Tax Credits, like other welfare benefits are disappearing and will become part of the Universal Credit system. People will still be able to receive some benefits if they are on a low income. However, the Government has an explicit ambition to encourage people to earn more in order to reduce, and eliminate, their need to claim these “top up” benefits:

As part of Universal Credit, we will, for the first time, be actively supporting claimants who are in low paid work to earn more and become independent and self-sufficient (Department for Work and Pensions, 2015, p. 2).

They say that they intend to do this in two ways (see Social Security Advisory Committee, 2017):

- extending to people on low paid work similar requirements and support to those which have in the past only applied to unemployed claimants; and
- working with employers at both national and local level to understand their requirements and assist them in offering progression to low paid employees (Social Security Advisory Committee, 2017, p. 8).

In order to find out “the best and most effective ways to help people on Universal Credit to earn more.” (Department for Work and Pensions, 2015, p. 2) the Department for Work and Pensions are conducting an “In Work Progression” randomised control trial of providing a Work Coach to help people “set goals, address barriers and define actions for claimants” (Department for Work and Pensions, 2015, p. 2). In this trial three groups are being compared. As well as a control group who will receive the Universal Credit “business as usual” service (an initial telephone appointment to establish voluntary actions and a follow-up telephone call eight weeks later to review progress) two interventions to help people to earn more are being piloted:

- Group 1 have to meet with their Work Coach every eight weeks to get support, agree the actions they will take to increase their earnings and review progress; and
- Group 2 will be the same as group 1 except that they will have to meet with their Work Coach every two weeks.

The catch is that for that for these two groups, the action plan is mandatory – if people do not attend their appointments with their Work Coach, or do not adhere to the action plan agreed in their “claimant commitment” to increase their earnings, benefit sanctions will be applied.

Hitherto, people who are out of work have been subject to “conditionality”. As a condition of their benefit they are required to do things to prepare themselves to get work and if they fail to do so they are “sanctioned” – their benefit is stopped for a period. Now conditionality and sanctions will be extended to those people who have a job but are on low incomes.

This will affect everyone on a low income – both those whose pay is very low and those who are only working limited hours. It assumes that a person’s pay and hours are something that they can control: surely it is employers who determine the rate of pay for a job and, in most cases, the hours that a person works? In theory, the Department for Work and Pensions will be “working with employers at both national and local level to understand their requirements and assist them in offering progression to low paid employees” (Social Security Advisory Committee, 2017, p. 8). However, the research trial does not include this work with employers, and nowhere is there any mention of mandating employers to pay people more/give them more hours or imposing sanctions on employers if they fail to do so. The reality is that the onus is placed on low paid employees to take steps to earn more and if they fail to do so then it is the employee who is punished.

This has widely been seen as unfair on everyone with a low income (see e.g. Butler, 2016):

Fines imposed on full-time workers who claim universal credit amount to “punishing the working poor” [...] In-work conditionality means that claimants who are working up to 35 hours a week – and who may never have been on the doles in their life – are forced to attend jobcentre interviews [...] [and] spend several hours per week applying for second jobs online, or face financial penalties (p. 1).

An “In-Work Progression Trial” update from the Department for Work and Pensions (Department for Work and Pensions, 2017) show that 2 per cent of participants – 319 people – have received benefit sanctions. In total, 92 per cent of these people had their benefits docked because they failed to attend a meeting with their Work Coach without good reason. But what constitutes a “good reason”? Butler (2016) describes one woman on a “zero hours” contract who worked between 20 and 50 hours per week around an average of 30 hours. She was “fined” £218 and apparently told that going on holiday was no excuse not to look for more work. Could someone also have been fined if they failed to attend an appointment because their employer asked them to do overtime?

Work Coaches have “discretion” about the imposition of sanctions, but how will they exercise this discretion? What rules will apply? What about people who are only able to work limited hours because of their mental health challenges (or other health condition or impairment)? Will they be forced to increase their hours or seek a higher paid, more stressful, job if this would be bad for their mental health? Could not the threat of sanctions itself lead to stress that may exacerbate their mental health problems and make them unable to work? It is not impossible that the mandatory action plans, and associated sanctions, of the in-work progression requirements could worsen people’s mental health and decrease their ability to work.

There is no evidence that conditionality actually works to help disabled people (including those with mental health challenges) to get work. Baumberg Geiger (2018) cites six studies which show that conditionality and sanctions have either no impact or a negative impact on work outcomes for disabled people and a wide range of anecdotal evidence that they lead to anxiety and broader ill health. A survey conducted by Mind (2014) of those receiving out of work benefits in the Work Programme (with its heavy focus on conditionality and sanctions) found that 83 per cent said it made their mental health worse and 76 per cent said it left them feeling less able to work. If sanctions do not work to get people into work, why should they work any better to make people earn more?

The Department for Work and Pensions' "In-Work Progression Trial" has largely involved single childless people who have moved from unemployment into low paid work (Social Security Advisory Committee, 2017). It will not tell us what sort of support will help people with mental health conditions to earn more, neither will it tell us the potentially harmful impact on the mental health and employment of low earners who experience mental health challenges.

The data we do have suggests that there is little reason to have confidence that Work Coaches will use their discretion in a way that is sensitive to the needs of people with mental health challenges who are in employment. Although discretion exists for those who are unemployed, we know that sanctions have been disproportionately applied to disabled people in general (Baumberg Geiger, 2018) and people with mental health conditions in particular. The number of people with mental health challenges who have been sanctioned has risen enormously:

A joint analysis of the figures by the Independent and the mental health charity Mind found that 19,259 people with such conditions had their benefits stopped under sanction in 2014-15 compared to just 2,507 in 2011-12 – a 668 per cent rise (*The Independent*, 2017, p. 1).

According to figures collected by *Mind* (2015) under a "Freedom of Information Act" request, there were three times more benefit sanctions issued by the Department for Work and Pensions to people with mental health challenges than there were people supported into work: 20,000 people who were out of work because of their mental health challenges were sanctioned between April 2014 and March 2015 while only 6,340 of this group were supported into a job.

The Department for Work and Pensions "In-Work Progression Trial" is due to report in 2019. At the moment, in-work progression requirements under Universal Credit only apply for new claimants. The intention is to begin "migrating" those currently receiving Working Tax Credits to the Universal Credit system in 2019.

What impact will this have on those people living with mental health challenges who have gained work? The trial being conducted will not provide answers to this question, but there are reasons to be very worried.

Most people with mental health problems say they want to work (see e.g. NHS Confederation Mental Health Network, 2010), yet the assumption of conditionality and sanctions in the benefits system for those who are out of work assumes that people are unwilling to engage with support and need the threat of benefit cuts to motivate them to take steps to prepare themselves for work and find a job. Those who are in work, albeit low paid work, have demonstrated their motivation to work. Extending mandatory requirements, conditionality and sanctions to people who have already demonstrated their willingness to work in order to "encourage" them to increase their earnings is perverse (is there anyone who actively wants to be low paid?) and could have the paradoxical effect of worsening mental health and/or forcing people to take on extra hours or move into more stressful, higher paid jobs that might make their condition worse.

At the very least we need to insist that the reasons for low pay among people with mental health challenges (and, indeed, other health conditions and impairments) are properly explored before in-work benefit conditionality is rolled out. We also need to attend properly to the other side of the equation: working with employers who pay low wages. It is, quite simply, wrong to put all the onus (and sanctions) on low paid employees rather than the employers who pay low wages.

References

- Baumberg Geiger, B. (2018), *Legitimacy is a Balancing Act, But We Can Achieve a Much Better Balance Than the WCA, A Better WCA is Possible*, Demos, London.
- Butler, P. (2016), "DWP 'punishing' low-paid full-time workers under new benefits rule", *The Guardian (Society)*, 14 April, available at: <https://theguardian.com/society/2016/apr/14/dwp-punishing-low-paid-full-time-workers-under-new-benefits-rule> (accessed 22 February 2018).
- Department for Work and Pensions (2015), *Universal Credit. In-Work Progression Randomised Control Trials*, Department for Work and Pensions, London.
- Department for Work and Pensions (2017), *In Work Progression Trial Progress Update*, Department for Work and Pensions, London, available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/601741/in-work-progression-trial-update-april-2015-to-october-2016.pdf
- Mind (2014), *We've Got Work to Do. Transforming Employment and Back-to-Work Support for People with Mental Health Problems*, Mind, London.
- Mind (2015), "People receiving ESA due to their mental health more likely to be punished than helped into work", posted by Mind, 28 October, available at: www.mind.org.uk/news-campaigns/news/people-receiving-esa-due-to-their-mental-health-more-likely-to-be-punished-than-helped-into-work/#.Wp0mhOdpGUk (accessed 5 March 2018).
- NHS Confederation Mental Health Network (2010), *Working it Out: Employment for People with Mental Health Problems*, NHS Confederation, London.
- Social Security Advisory Committee (2017), "In work progression and universal credit, a study by the social security advisory committee", Occasional Paper No. 19, Social Security Advisory Committee, London, November.
- The Independent* (2017), "Benefit sanctions against people with mental health problems up by 600 per cent. Charities have warned that sanctions are making mental health problems worse", 12 November, available at: www.independent.co.uk/news/uk/politics/benefit-sanctions-against-people-with-mental-health-problems-up-by-600-per-cent-a6731971.html (accessed 5 March 2018).