



**Social Security Advisory Committee Occasional Paper No. 6**

# **Rights and Responsibilities in the Social Security System**

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# Executive Summary

This Occasional Paper was commissioned by the Social Security Advisory Committee (SSAC) to explore the concepts of rights and responsibilities in the UK social security system<sup>1</sup> and the way in which they have been increasingly linked in recent years. It discusses the issues that arise when a change in the balance of rights and responsibilities for benefit claimants (for example, via an extension of benefit conditionality) is proposed. The Paper draws on the results of a consultation exercise carried out with SSAC stakeholders, but provides an independent view.

The Paper aims to:

- Give an overview of the concepts of rights and responsibilities and what they mean in broad terms, with a focus on the UK;
- Explore the development of rights and responsibilities in the UK social security system, and the way in which they have been increasingly linked in the UK and elsewhere, especially in the context of ‘welfare to work’<sup>2</sup> or ‘activation’ policies;
- Describe current expectations of benefit claimants in the UK and proposed changes;
- Examine evidence about the efficacy and effects of conditionality and benefit sanctions;
- Discuss some of the issues which arise when a change in the balance of rights and responsibilities in the benefits system is proposed, especially via an extension of conditionality; and
- Reflect on some of the most significant of these issues.

## Background

Human rights and citizenship rights are two ways of thinking about basic entitlements, which can include economic, social and cultural rights. Human rights are accepted as universal and unconditional, whereas citizenship rights are more about membership of a particular community. In recent decades rights discourses have become increasingly prominent, with human rights enshrined in national and international law. These instruments (e.g. the International

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<sup>1</sup> ‘Social security’ and ‘benefits’ in this Paper include tax credits where applicable.

<sup>2</sup> ‘Work’ in this Paper means paid employment unless otherwise indicated. It is recognised that this does not include many forms of valuable unpaid work.

Covenant on Economic, Social and Cultural Rights) include the 'right to social security'.

Human rights are usually seen as placing responsibilities, or duties, on the duty bearer (typically the state) towards the rights holder (an individual). Citizenship rights may imply underlying duties for the rights holder. General citizenship responsibilities include upholding the law, paying taxes and (for parents) caring for children (e.g. taking financial responsibility for them). Responsibilities have become more prominent in UK policy and political thinking, for example in relation to immigrants' citizenship status and 'active citizenship'. More recently, the responsibilities of those with power have been emphasised more in public debate as a result of the recent financial crisis in particular.

In the UK today, rights and responsibilities are often seen as going hand in hand, with rights being earned, or balanced against the fulfilment of duties, as in the proposed Bill of Rights and Responsibilities. Some formulations of a just or fair society also give a central role to the balance of rights and responsibilities – for example, arguing that if society is fair, individuals have a duty to make a contribution; or that rights should be seen as affording reasonable rather than unconditional access.

### **Rights and responsibilities in the UK social security system and elsewhere**

All benefits have eligibility conditions; and claimants have responsibilities to report relevant changes in circumstances and not to defraud the system. So responsibilities have always been part of the social security system in the UK. But requirements related to the responsibility to work in particular have taken very different forms. The New Poor Law (1834), for example, imposed stringent behavioural conditions which able-bodied people of working age had to meet in order to receive assistance, and removed some of their citizenship rights. The pre-World War I unemployment insurance scheme introduced a different form of *quid pro quo* for claimants, with responsibilities to fellow contributors, which continued in an expanded form as part of the social security system proposed by Beveridge in 1942. From the 1960s, there was an active welfare rights movement in the UK which emphasised rights to benefits, including means-tested benefits, and the need to ensure that claimants obtained these rights.

There have been many changes to benefits in the post-War period, resulting in a mix which contains more means-testing and less emphasis on national insurance benefits for those of working age. A new focus on responsibilities for unemployed claimants was introduced in the 1980s and 1990s. Since Labour took office in

1997, there has been a growing emphasis on the idea of a 'contract' in the benefits system, with an increase in conditionality for existing claimants to whom this applied already and a broadening to previously 'inactive' groups (e.g. lone parents). There are a number of factors underlying this shift, which include: the importance of communitarianism to New Labour thinking; the centrality of paid work in New Labour policy-making (e.g. work as a route out of poverty); and the growing importance of a supply-side approach to employment. This focus on responsibilities has been accompanied by improvements in rights, in terms of support and training to help people into work; in-work income to 'make work pay' and smooth the transition into work; and employment protection. There have been generous increases in benefit levels for some, but not for others; and the decline of non-means-tested contributory benefits has continued.

The increasing emphasis on conditionality in the social security system has not been confined to the UK, but is in evidence through Europe, North America and elsewhere, with international and European bodies, such as the OECD and the European Union (EU), promoting activation policies (often conditionality-based). Some approaches also include the use of 'workfare' (working in return for benefit). The balance in terms of rights and responsibilities does, however, differ from country to country, with some countries (especially in Scandinavia) matching demanding conditions with generous rights (for example, in terms of benefit levels, parental leave and childcare) and higher spending on support.

### **Rights and responsibilities in the UK social security system today and proposals for the future**

Initial entitlement to benefits always involves meeting eligibility conditions; but different groups and claimants of different benefits are subject to different rules, in terms of both the initial claim and ongoing behavioural requirements (if any) to demonstrate that they are meeting their responsibilities. The highest level of ongoing conditionality applies to those aged between 18 and 49 claiming Jobseeker's Allowance (JSA); responsibilities do not now differ for the contributory versus the means-tested elements. Responsibilities attached to in-work benefits and tax credits and benefits for other out-of-work groups, although generally less demanding, vary a great deal, ranging from simple (and not so simple) reporting requirements, to regular Work Focused Interviews – which have now in many cases become part of the initial conditions of the benefit claim. Sanctions for breaches of conditions generally increase in severity.

For those with a health condition, the new Employment and Support Allowance which replaces Incapacity Benefits involves greater conditionality for those in the



work-related activity group. More lone parents are being moved on to JSA, depending on the age of their youngest child, with some flexibility in the rules, including around the hours for which they must be available for work. A review of conditionality carried out for the Government suggested that in the longer term responsibilities towards labour market activity should vary by personal characteristics rather than by benefit type (Gregg, 2008).

In the meantime, some claimants will be expected to actively seek work, with others expected to prepare for work; the groups who receive support without any work-related expectations will be smaller. Private and not for profit providers will run some of the welfare to work programmes. There will be a special compulsory programme for problem drug users and a 'work for your benefit' scheme for long-term claimants. Sanctions will be reformed. Concerns have been expressed about the balance between rights and responsibilities, and the timing of the plans, coming into effect in the current recession; ministers argue that these circumstances make it even more necessary to put the reforms into effect.

### **Evidence on the impact of conditionality in the benefits system**

Benefit conditionality and sanctions for non-compliance have received considerable evaluative attention, both in the UK and internationally. The general message presented by UK studies (many of them government sponsored or funded) is that conditionality 'works' (i.e. promotes job entry, as well as other exits from benefit), and is typically cost-effective. However, it is often not possible to separate the impact of conditionality from that of increased levels of support; and for some groups (e.g. partners of benefit claimants) imposing more conditions does not seem to have had much effect. Evidence about 'workfare' suggests that its impact is limited unless accompanied by other measures, and that it can have negative effects on child poverty.

Evidence on the impact of sanctions is mixed, with evaluations demonstrating that hardship, debt and stress are regular outcomes, with little corresponding benefit. SSAC's own study suggested there is some evidence that sanctions can reduce the time spent on benefit, but that there is a lack of awareness, and claimants themselves do not feel that sanctions influence their behaviour much.

### **Issues central to changes in the balance of rights and responsibilities in the benefits system**

There are a number of issues which arise in relation to any proposed change in the balance of rights and responsibilities for claimants (for example, by an

extension of conditionality). The relevant issues may be different, however, depending on whether conditionality is being increased for existing claimants or extended to others; whether the change concerns initial qualifying conditions or ongoing behavioural requirements; whether the proposal is for a potential incentive or a penalty; and whether the responsibility concerned is directly related to benefit receipt or not.

Ten issues for consideration were selected by the authors for discussion in the consultation exercise in which SSAC's stakeholders participated. These issues were looked at from the claimant's perspective, and are presented below in the form of questions posed to participants. They can be divided into two broad groups, concerned with claimants' rights on the one hand and their responsibilities on the other. Each issue is discussed in the report in the context of the current situation in the UK. The main focus is therefore any proposed change in the balance of rights and responsibilities in relation to labour market participation in particular.

Significant issues about claimants' rights concern:

- State support, both practical (e.g. training) and financial (i.e. benefit levels): increases in support, in terms of help to take work, are used to justify increasing responsibilities – but is this support sufficient? And are benefits adequate for claimants to live in dignity?
- Fair treatment in the labour market, in terms of regulation and remuneration: have governments got a responsibility to create jobs? Are improvements in minimum pay levels, anti-discrimination provisions and rights to request flexible working sufficient?
- In-work income and infrastructure to support employment: have problems of in-work poverty, and insecurity during the transition to work, been resolved? Is there adequate and affordable childcare, and who decides whether it is suitable? Is transport accessible?
- Information and communication, quality decision-making and redress: are claimants sufficiently well-informed about their rights? Is the benefits system well-delivered, with transparent and good quality decision-making? What happens if rights are not fulfilled? What is the right balance for claimants' interests between discretion and regulation?

- Choice and opportunities to shape the system: how much control does a choice of provider give claimants? Do claimants have a voice in shaping the benefits system more generally?

Issues about claimant responsibilities include the following:

- The appropriateness of responsibilities and the ability to fulfil them: are expectations of claimants clear or confusing? Should they take into account different patterns of behaviour shaped by cultural norms?
- Balance between different responsibilities (e.g. paid and unpaid work): how should responsibilities such as caring for children and/or adults, or volunteering in the community, be taken into account?
- The appropriateness and effectiveness of sanctions: are sanctions an appropriate way to try to influence behaviour which works, or are there other possible methods of doing this (if it is thought to be necessary)?
- Responsibilities to whom? Who should we think of claimants as being responsible to – and does this mean a primarily contractual relationship, or one of mutual obligation? Do these result in different ways of thinking about rights and responsibilities?
- The role and importance of public opinion: are additional responsibilities on claimants necessitated by the nature of public opinion? Or is public opinion itself shaped by policy?

## **Discussion and conclusions**

The recent growth in emphasis on responsibilities for many UK benefit claimants has been justified on four major grounds:

- additional support has been made available to claimants and/or those entering employment, so there is now no excuse not to take up job opportunities (though recently, more emphasis has instead been put on the idea of rewarding the fulfilment of responsibilities);
- there is a need to combat a 'dependency culture' among claimants;
- conditionality helps to steer people in a direction that is good for them and fulfils their own aspirations; and/or

- conditionality is necessary to legitimate benefit claims in the eyes of the general public.

But counter-arguments to each of these have also been put forward. Whilst additional support has been made available, the labour market in the UK is still very unequal; the level of benefits relative to the living standards of the population as a whole has declined for many; and spending on active labour market policies was lower in 2005 than in some countries with which the UK compares itself. Claimants do not necessarily think of benefit receipt as an inalienable right, and can feel treated with disrespect. Some claimants' partners have been given additional responsibilities, but do not have a right to their own benefit.

The existence of a 'dependency culture' as a significant problem is contested. The argument that conditionality only supports claimants to act in their own best interests is more positive, but arguably is more applicable at a high level of generality than when assessing the merits of specific changes; and some recent evaluations show positive results from targeted voluntary programmes. Policies to promote and support desirable patterns of behaviour through benefits have had mixed fortunes. Both behavioural economics and (in welfare reform) supply-side economics tend to emphasise individual rather than structural factors; for this reason, both may be seen as less important in the current economic recession.

The argument that more public support can be generated for the benefits system by giving claimants additional responsibilities and clear conditionality with sanctions may sound attractive. And there is some evidence that the public is in favour of greater conditionality, especially for some claimant groups. But there is also a suggestion that public opinion has grown more negative in parallel with the growth in emphasis on responsibilities. And to try to fit in with public opinion in this way is arguably double-edged, because it can risk reinforcing negative stereotypes of claimants. In the current recession, it is also possible that public sympathy for those on benefits will increase.

Beyond the practical questions about benefit conditionality, however, there are also wider issues around rights and responsibilities and the nature of the society which frames the 'contract' between citizen and state. The first is the degree of emphasis given to claimants' own priorities and rights and their opportunities to shape the social security system. The introduction of a claimant's charter, based on firm principles of fair treatment and enforced by an independent ombudsman,

would introduce more transparency and help to redress the power balance for individual claimants; and arrangements for regular engagement with claimants as a group would give them a voice in the design, implementation and monitoring of the benefits system (though this is arguably more difficult to achieve when there is a range of providers).

Beyond this, however, White and Cooke (2007) argue that requirements for a 'fair welfare contract' include fair opportunity (including social mobility), fair reward for labour, universality of expectation and valuing the diversity of contributions to society. These requirements do not seem to be met in full in the UK today. Aspirations towards a Scandinavian-style welfare state require improvements in childcare, gender equality and family-friendly work - and a more generous social security system, based more on contribution and/or citizenship. In particular, there are arguments for higher benefit levels in the UK, to provide a fiscal stimulus; give a more adequate return for contributions; and help all benefit claimants to fulfil their responsibilities and achieve their rights. This would also be in line with the recent EU focus on 'active inclusion'.

Arguments about rights and responsibilities are usually framed within a contract model. But in the benefits system, the contract is rather one-sided. If a contract model is considered appropriate for some benefits, responsibilities could be thought of as being discharged over a lifetime, rather than at one point in time. In addition, moving further towards a fairer society should now take priority over further extensions of conditionality. The current economic and political climate may help in shifting the focus away from 'rights and responsibilities' towards issues of the adequacy of resources and the creation of a sustainable social security system supported by all.

# Introduction

## Background

The Social Security Advisory Committee (SSAC) has long taken an interest in the development of the 'rights and responsibilities' agenda as applied to the UK's social security system,<sup>3</sup> and in particular in the conditions which claimants must fulfil. Both the groups of claimants to whom conditionality (in the sense of behavioural requirements) applies and the extent of the conditions which must be fulfilled have tended to expand in recent years. Proposals to increase further the expectations placed on many benefit claimants of working age have been published in the form of a White Paper, *Raising Expectations, Increasing Support* (December 2008), which drew on a review of benefit conditionality by Gregg (2008), published by the Department for Work and Pensions (DWP) in the same month. These proposals were carried forward into a Welfare Reform Bill.

This expansion of conditionality, together with the publication in 2007 by the Institute for Public Policy Research<sup>4</sup> of a report exploring what a 'fair welfare contract' for the UK might look like in practice, prompted SSAC to commission this independent study of rights and responsibilities in the benefits system, for publication in the SSAC Occasional Paper series.

Between the commissioning of this paper and its publication, the credit crunch has deepened to become a financial crisis and economic recession. This changed context has in turn already had an impact on unemployment rates and the job market, making the discussion of rights and responsibilities in general and the expansion of claimant responsibilities in particular increasingly important.

## Aims, content and structure

This paper aims to provide an overview of the development of rights and responsibilities in the UK social security system, including the evolution of benefit conditionality and a consideration of the importance of these concepts in the

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<sup>3</sup> SSAC does not have formal responsibility for the tax credits system in the same way as it does for social security benefits, though it does have a memorandum of understanding with HM Revenue and Customs (HMRC). This study will focus primarily on the social security system, but will also include tax credits, as it is difficult to consider the issues involved without taking them into account. 'Social security'/'benefits' when used in this document will therefore include tax credits where appropriate.

<sup>4</sup> Bennett, J. and Cooke, G. (eds.) (2007) *It's All About You: Citizen-centred Welfare*, London: Institute for Public Policy Research.

current policy context. This background provides a starting point for thinking about key issues involved in debates about both benefit conditionality and rights and responsibilities more generally. Thus, the paper moves from the broader concept of 'rights and responsibilities' (applicable to a range of different policy contexts, the benefits system being just one of these) to rights and responsibilities as they apply to the social security system, and more specifically conditionality (the obligations which claimants must fulfil in order to (continue to) receive benefits).<sup>5</sup> It returns to broader issues of rights and responsibilities towards the end.

The remainder of this Occasional Paper is divided into six main parts:

- The first section attempts to unpack and define what rights and responsibilities mean, especially in the UK.
- Section 2 explores the historical development of the concepts, in particular as they apply to the social security system, including a brief overview of recent international experience.
- The third section shifts to a more applied consideration of rights and responsibilities, specifically the current benefits system operating in the UK, and outlines the expectations placed on claimants of various social security benefits, as well as introducing the key changes proposed in the most recent welfare reform Green and White Papers (DWP, 2008a; 2008c) and Bill.
- Section 4 briefly considers empirical evidence about the effectiveness of conditionality and benefit sanctions. Again, emphasis is placed on conditionality rather than on the broader concept of rights and responsibilities, as this is the focus of much of the available evaluative evidence and also of topical policy debates.
- The penultimate section (5) comprises a summary of ten key issues relevant to discussion of proposed changes in the balance of rights and responsibilities in the benefits system, and in particular to any proposed extension of conditionality.
- The final 'discussion' section explores the most significant issues in more depth, dissecting several possible justifications for more focus on claimants' responsibilities, as well as returning to a broader consideration of rights and responsibilities in the social security system.

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<sup>5</sup> Gregg includes initial application requirements ('fill out forms and provide accurate and up-to-date information') in his definition of conditionality (2008: 21).

# 1. Rights and responsibilities: background

## 1.1 Introduction

The purpose of this first section is to clarify what is meant by rights and responsibilities (both independently in their own right and, as they are often used in political rhetoric today, as a single phrase). We first examine the concept of rights and how it has been applied specifically to benefits. We then do the same for responsibilities. Finally, we discuss how 'rights and responsibilities' has more recently become a key element of thinking about the social security system, especially in the UK.

## 1.2 What are rights?

Rights can be seen as both positive (such as the right to legal counsel, or to health care) and negative (such as the right to freedom from interference with one's own property). It is sometimes argued that negative rights are more legitimate than positive rights, because the former do not involve an outlay of resources in order to realise them. However, other commentators have argued that this division is artificial, since the enforcement of negative rights does involve resources – for example, to set up and run a justice system to enforce them.

Human rights and rights of (social) citizenship represent two of the various ways of thinking about entitlements. Both these approaches have been used as arguments for economic rights (such as the right to a minimum income, or enough to lead a dignified life) and social rights (e.g. to healthcare, education etc.), as well as cultural rights. However, they differ, in that human rights are accepted as universal (although different rights may be written into domestic legislation), whilst citizenship rights are seen as dependent on 'belonging' in some sense to a specific community (or country), and are thus restricted to members of that community. Human rights are also accepted as unconditional, in part because they are universal, whereas the same is not always true of citizenship rights.

Social rights were seen by Marshall (1950) as the third element of a trinity of citizens' rights, the earliest to be introduced being civil rights (those relating to the law, such as a fair trial), followed by political rights and finally by social rights.



This paper is concerned with positive rights, and in particular, in terms of human rights, what have become known as ‘second generation’ rights (Vasak, 1977, 1979) - that is, economic, social, and cultural rights (which can include rights to employment, healthcare, social security and unemployment benefits). These second generation rights are enshrined, alongside first generation civil and political rights, in the Universal Declaration of Human Rights (1948) (articles 22-27), the International Covenant on Economic, Social and Cultural Rights (1966) (ICESCR)<sup>6</sup> and, for children, in the United Nations Convention on the Rights of the Child (1989) (UNCRC).

Human rights instruments uphold access to paid employment as a right. This right usually extends to conditions of work, ‘the free choice of employment’ and ‘protection against unemployment’ (UDHR, article 23). There are also stipulations about payment for work: ‘everyone, without discrimination, has the right to equal pay for equal work’, and the ‘right to just and favourable remuneration ensuring for himself and his [*sic*] family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection’.

Importantly, Article 9 of the International Covenant recognises ‘the right of everyone to [adequate] *social security*, including social insurance’ (Office of the High Commissioner for Human Rights, 1966, our emphasis).

*‘The right to social security encompasses the right to access and maintain benefits, whether in cash or in kind, without discrimination in order to secure protection, inter alia, from (a) lack of work-related income caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member; (b) unaffordable access to health care; (c) insufficient family support, particularly for children and adult dependents.’* (CESCR, 2008: 2).

The Committee on Economic, Social and Cultural Rights (CESCR) (2008) attaches three kinds of duties for the state in reference to these particular rights: to respect (refrain from interfering directly or indirectly with the enjoyment of the right); protect (prevent third parties from interfering in any way with the enjoyment of the right); and fulfil (implementation of a social security scheme, as well as the facilitation, promotion and provision of social security) (CESCR, 2008: 14-15). The scheme should provide benefits that are ‘adequate in amount and duration’

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<sup>6</sup> The ICESCR commits state parties (i.e. those countries committed to it) to work towards the progressive realisation of rights such as labour rights, and rights to health care and an adequate standard of living.

(ibid: 7) and can be accessed equally by all. ‘Qualifying conditions for benefits must be reasonable, proportionate and transparent’ (ibid: 8).

Furthermore, there are obligations to ensure that beneficiaries are able to participate in the administration of social security schemes, and that individuals and organisations ‘impart information on all social security entitlements in a clear and transparent manner’ (ibid: 8). In a recent document discussing the application of human rights to the provision of services in the UK, the Ministry of Justice (2008a) argued that these obligations can be seen as upholding rights to information and respectful treatment for claimants. We come back to these arguments in section 6 (Discussion and conclusions) below.

Human rights have also been invoked in debates around poverty and the right to an adequate income, the core argument being that ‘having enough money to make ends meet is about maintaining human dignity’ (Lister, 2004); and efforts are under way to strengthen and develop this argument further (see British Institute of Human Rights *et al.*, 2008). Such rights have been enshrined in human rights treaties (for example, the UNCRC (1989) asserts ‘the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development’).

As is clear from the above, human rights have increasingly been set down in international instruments and treaties and in national law (sometimes in the form of a Bill of Rights, such as in South Africa).<sup>7</sup> In the UK, there has recently been some debate about the possibility of developing a Bill of Rights, leading to further formalisation.<sup>8</sup> The Joint Committee on Human Rights (2008) recommended that this should include social rights (to health, education, housing and an adequate standard of living) (JRF, 2008). The Government has now produced a Green Paper consulting on such a Bill (Ministry of Justice, 2009) – but has proposed that it should include responsibilities as well as rights.

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<sup>7</sup> The South African Bill of Rights (1996), part of the constitution, states that everyone has the right to have access to a) health care services...; b) sufficient food and water; c) social security, including, if they are unable to support themselves and their dependants, appropriate social assistance.

<sup>8</sup> The UK’s (1998) Human Rights Act (HRA), which came into force in October 2000, made the rights set out in the European Convention of Human Rights (ECHR) enforceable in British courts; this means that there is now a right to take a public authority to court to seek redress and compensation (DCA, 2006). The HRA covers civil and political rights, although it can be argued that it is relevant to economic and social rights in some cases.

### 1.3 What are responsibilities?

Whereas rights are often enshrined in international treaties and instruments such as the UDHR, this is not usually the case for any responsibilities which rights holders might be thought to have. In fact, as noted above, human rights are often seen as unconditional, and much of the language of human rights implies a rights holder on the one hand and a different 'duty bearer', with responsibilities towards that rights holder, on the other. Rights holders are usually thought of as individuals or families, whilst those with responsibilities for granting these rights are usually seen as institutions (often nation states), which are assumed intrinsically to be in a more powerful position.

In some respects, however, rights can be seen as determining responsibilities. For example, political rights, such as the right to vote, could be seen as bringing a responsibility to exercise that right; in some countries, such as Australia, this 'right' is indeed made a compulsory responsibility. Likewise paid work can be, and often is, construed as a right; however, it can also be seen as a responsibility, not only to oneself and any dependants, but also to other people and/or to the state.

There are other areas where responsibilities are both clear and enforceable, for example, the responsibilities of parents, both resident and non-resident, to care/provide for their children. There are also civic responsibilities: to be part of a jury when called, to give evidence in court, to abide by the law etc. Additionally, financial responsibilities can include making contributions through taxes (income tax, council tax, VAT etc.), and through National Insurance contributions when employed.

The concept of social citizenship has historically been concerned with what membership of society means in terms of entitlements. Marshall (1950: 43) did argue that what he described as 'the general duties of citizenship' underlay citizenship rights. However, he saw social rights as entailing (at the very least) 'a modicum of economic security and welfare' (1950: 11), which he argued should be 'conditional only on the discharge of these general duties<sup>9</sup> of citizenship' (Marshall, 1950: 43) (cited in Lister, 2008).

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<sup>9</sup> Although we are more likely to talk about 'responsibilities' or 'expectations' (or 'conditions') in reference to benefit claimants, when talking about citizenship it is far more common to find a discussion of 'duties'. This report uses both 'responsibilities' and 'duties'.

New (citizenship) responsibilities for immigrants to the UK have recently been set out in the Home Office report, *The Path to Citizenship* (2008). This report describes the new immigration system as 'one in which rights are matched by responsibilities... [Probationary citizens] "earn" the right to progress between stages' (ibid: 6) (labelled 'earned citizenship'). Guidelines were developed following consultation:

*'We are strengthening measures to ensure those who want to make the UK their home will speak English, work hard, pay tax, and support themselves without access to benefits or social housing until citizenship or permanent residence'* (ibid: 6).

Four overarching responsibilities are set out: to speak English; to make a contribution through the payment of taxes; to obey the law; and to demonstrate 'active citizenship'. Other duties include sending children to school, and making a financial contribution to the transitional impacts of migration through increased immigration fees (ibid). The right to social security will not apply to migrants in the temporary residence and probationary citizenship categories. Indeed, they will have 'no access to mainstream benefits, social assistance, local authority housing or homelessness assistance' (ibid: 19). (See also Cabinet Office, 2008.)

An emphasis on responsibilities can also be seen in the concept of 'active citizenship', which the Conservative Government embraced in the 1980s and which has continued to have some currency in the past two decades. Active citizenship usually involves the idea of giving something (back) to the community. Examples of the duties of active citizenship could include such activities as volunteering and recycling. Active citizenship is also an important element of communitarianism, which emphasises responsibilities to the community (though the meaning of 'community' is not always clear). Communitarianism was founded on the premise that people were 'claiming more rights but recognising fewer obligations to the community' (Deacon, 2002: 69), and that this 'violates a profound moral precept: that it is unfair to take and not to give', as one of its foremost proponents, Etzioni (1998: xvi), wrote. Strengthening social responsibility is said to help maintain social order and strengthen communities (Deacon, 2002). There is a clear echo of this argument in a recent broad-ranging Cabinet Office document, *Fair Rules for Strong Communities* (2008). Communitarianism was very influential in the early years of New Labour in particular. Its ideas could be interpreted as part of a backlash against an emphasis on rights, of which the welfare rights movement from the 1960s/1970s (see below) was part. Whilst the recent debates on rights on the one hand and

responsibilities on the other have not been limited to social security, issues around benefits have been central.

Those with greater power and influence can also be seen as having responsibilities, however – for example, to pay ‘the right amount of tax’ (Gordon Brown MP, Prime Minister, cited in *Financial Times*, 2 April 2009), and to moderate their demands for financial rewards to what is socially just and acceptable. In recent public debate, following the financial crisis and in the context of the current economic recession, the responsibilities of those with power and wealth have been increasingly emphasised, not least by the general public.

#### **1.4 ‘Rights and responsibilities’**

Tony Blair said that ‘the rights we enjoy reflect the duties we owe’ (cited in Powell, 1999, p. 220). The twinning of rights and responsibilities is a key element of the current Government’s rhetoric and an increasingly common concept in political debates. Although not described in detail here, it has become integral to the UK’s welfare-to-work, family and immigration policies. It has even been proposed that, rather than a Bill of Rights, the UK should introduce a Bill of Rights and Responsibilities (see Ministry of Justice, 2008b). A Green Paper has recently been published which sets out this proposal in more detail (Ministry of Justice, 2009). This Bill would set out both people’s rights (guaranteed to the individual by the state) and their civic responsibilities (the duties owed to one another and to wider communities).<sup>10</sup>

*‘The British people can help to foster a stronger sense of shared citizenship. It can do so by establishing and articulating the balance between the rights to which we are all entitled and the obligations we all owe to each other.’*  
(Ministry of Justice, 2008b)

This proposal has been criticised on a number of fronts. Within government, there are concerns that a Bill of Rights and Responsibilities would strengthen the powers of the judiciary over parliament and further alienate the public from the concept of human rights (Wintour, 2008). Outside it, there is anxiety that it would codify government expectations of individuals’ behaviour.

This drive to incorporate responsibility into human rights frameworks/instruments is not unique. In the 1980s, Vasak launched a proposal for a *Universal*

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<sup>10</sup> <http://www.justice.gov.uk/news/sp210108a.htm>

*Declaration of Human Duties.* According to Brems (2001: 439), 'he wanted to give rights a more realistic basis and to emphasise the responsibility of all individuals in a context of solidarity'.

Similarly, it is possible to argue that exercising a right to personal development requires a certain level of resources – but that exercising it is conditional on a duty to use one's talents in social functions, in a form of 'fair reciprocity', with society seen as a 'co-operative process' (Moreira, 2008: 44). And White (2005: 510) argues that a right to a minimum income means a right to 'reasonable access' to such a minimum income, rather than a right to it without any conditions attached: if there is basic fairness in society, citizens have a duty to reciprocate by making a contribution (which he defines as paid work or care). But he sees this as a general duty, i.e. on all those who benefit from social co-operation, not just on benefit claimants. We explore some of these ideas in more detail in later sections of this Paper.

## **1.5 Summary**

This section has provided a general background about the concepts of rights and responsibilities, and about the linking of the two in some formulations of justice or models of a fair society. It is also important to understand the historical development of rights and responsibilities in the UK social security system, particularly in relation to benefit conditionality, in order to understand the current position and the direction of change. This is described in the next section.

## **2. Rights and responsibilities in the UK social security system and elsewhere**

### **2.1 Introduction**

It is clear from the background section above that the balance between ‘rights and responsibilities’ is integral to some conceptions of citizenship, and also to some political approaches such as communitarianism. This section is more specific, and examines the function of rights and responsibilities in the development of the social security system in the UK – from the New Poor Law to the system in operation today.<sup>11</sup>

### **2.2 Foundations and history to 1997**

The juxtaposition of rights and responsibilities is not new within the UK social security system (Stanley *et al.*, 2004) - though this has taken different forms, as noted above. Similarly, assertions that prior to the 1997 Labour Government benefits were ‘passive’ have been contested by various commentators. Sinfield (2001), for example, argued that benefits can be ‘active’ in the sense of ensuring that someone out of work has enough to live on whilst selecting the job which is the best match for them; and that active labour market policies can be ‘passive’ if they are used to cream off those claimants who would have found work without them. (In addition, he argued that to call social security benefits ‘passive’ is to accord them second-class status.)

To claim a benefit – whether contributory or non-contributory, non-means-tested or means-tested - implies the existence of a right; and all benefits have some kind of eligibility condition(s). All claimants have responsibilities to report their situation accurately, to notify the authorities of any relevant changes in circumstances, not to commit fraud and so on. Some also have to meet other conditions attached to benefit receipt (such as, for example, giving proof of incapacity for work or availability for work).

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<sup>11</sup> The focus of this and other sections of this Paper is on people of working age, rather than children or pensioners. This is because debates about rights and responsibilities in the benefits system have been concentrated on this age group.

Moreover, contemporary activation policies, which often link rights and responsibilities most explicitly, are the latest in a long history of endeavours to link 'welfare' to work (Goodin, 2002).<sup>12</sup> These attempts have differed greatly, however, The New Poor Law of 1834, for example, aimed to make the receipt of assistance by able-bodied people of working age conditional on entering a work-house, banning most forms of 'outdoor relief' (thereby ensuring that labour was undertaken in a controlled environment by all those capable of doing so). It also required that those of working age forfeited their citizenship rights, and other rights such as free movement, in return for assistance:

*'The express or implied ground of his application is that he is in danger of perishing from want. Requesting to be rescued from that danger out of the property of others, he must accept assistance on the terms, whatever they may be, which the common welfare requires'* (*Poor Law Commissioners' Report of 1834*, prepared by Senior, N. (1905); see also Jordan, 1978: 128).

However, the period leading up to the foundation of the UK's welfare state saw an increasing focus on the problem of poverty (for example, the studies by Charles Booth in 1889 and Seebohm Rowntree in 1901), and a 'growing belief in the necessity of communal action to deal with poor social conditions' (DHSS, 1985). This led to a very different social security system from the Poor Law. In 1909, the foundations of the UK social insurance system were being laid,<sup>13</sup> and labour exchanges were being set up, providing the administrative base necessary for the introduction of unemployment insurance, which followed in 1911. This scheme involved contributions from employees, employers and the state, and provided a fixed, time-limited payment for those meeting the contribution requirements. In addition, however, claimants could be disqualified if they had left employment 'without just cause', or as a result of misconduct or a trade dispute, or if, once unemployed, they refused an offer of suitable employment (see National Insurance Act, 1911). Unlike the Poor Law strictures - which invoked 'them and us', and involved the forfeiture of rights enjoyed by other people (such as free movement) and an emphasis on the 'property of

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<sup>12</sup> In this Paper, we refer to 'benefits' or the 'social security system' (including tax credits, as explained above), rather than 'welfare', which often carries connotations of residual payments to which there is less than clear entitlement. This was of course the case with the Poor Law relief which Goodin is describing, and some would argue also applies to US 'welfare'.

<sup>13</sup> The Government was influenced by the success of the German (Bismarckian) social insurance system, which provided contributory pensions and benefits for those with disabilities, widows etc., but not for unemployed people. Britain was the first country to implement a social insurance system to cover periods of unemployment (DHSS, 1985).



others' - the insurance rules embodied penalties for claimants related to their right to benefit, based on responsibilities to the other co-contributors to the National Insurance Fund.

The welfare state which took shape in the UK after the Second World War, following Beveridge's report of 1942, was based on the principle of full employment, and the assumption that all able-bodied men and single women would contribute through the National Insurance system, entitling them to benefits in periods of unemployment and illness as well as during retirement (Timmins, 1995). These benefits were not citizenship rights as such, the obligation to contribute being inherent in their design (Glennerster, 2000; Timmins, 1995); but the contributory principle meant that receipt was based on entitlement through payment, rather than on need (Carmel and Papadopoulos, 2003). Married women in employment could choose to pay a voluntary, lower rate of contributions, which entitled them to industrial injuries benefits but not to other benefits. Working women were also entitled to maternity benefit. Married women outside the labour market were not entitled in their own right but as dependants (though Beveridge opposed this terminology), on the basis of their husbands' contributions (Glennerster, 2000).

The last of the three guiding principles behind Beveridge's recommendations was:

*'... that social security must be achieved by co-operation between the State and the individual. The State should offer security for service and contribution'* (Beveridge, 1942: part I, para. 9, emphasis added).

Beveridge suggested that people should have to attend a work or training centre after a certain period of unemployment; but he also wanted non-means-tested unemployment benefit to be available without any time limit.

In the course of the 1960s, the 'welfare rights' movement, which had begun in the United States, and which was related to the civil rights and other movements, inspired similar action in the UK. 'Welfare rights' in a practical sense refers to the activity of ensuring that individuals are aware of and claiming all benefits they are entitled to. More broadly, it can be seen as embodying the principle of entitlement to benefits itself - rights of citizenship embodied in and delivered through the social security system, whatever the basis of benefits (contributory, non-contributory and means-tested or not). The Child Poverty Action Group, for example, founded in 1965, set up its Citizens' Rights Office in the late 1960s. This choice of name deliberately associated rights to 'welfare' - a word borrowed

from the US, but in the UK used in a broader sense - to citizenship, and the rights belonging to it. Some of the changes in benefits over recent decades can perhaps be seen partly as a response to the growth of the welfare rights movement in the 1970s and 1980s.

In the post-War years, changes to social security provision have included the increased spread of means-tested benefits and (after 1979) both tighter contribution rules for benefits in some cases and the steady erosion of the link between contributions and benefit receipt in others (Hills, 2003). In the 1970s, as well as new means-tested benefits, some 'categorical' benefits were introduced, both for income replacement (such as Carer's Allowance) and to help meet additional costs (such as Disability Living Allowance), which did not depend on contributions but which were not means-tested either; and child benefit replaced family allowances (thus extending support to the first child as well) and child tax allowances. Earnings-related National Insurance contributions replaced flat-rate payments; but in the 1980s, earnings-related additions to short-term National Insurance benefits were abolished, and rights to dependants' benefits have been significantly reduced. The linking of long-term benefits uprating to earnings or price increases, whichever was higher, was replaced by price-linking only from the early 1980s. More recently, Tax Credits have provided increased incomes for many claimants, but have also increased the scope of means testing.

Although there is still a mix of non-means-tested and means-tested<sup>14</sup> benefits within the social security system, the emphasis has increasingly changed, especially for those of working age, from insurance-based protection with responsibilities to fellow contributors to tax-funded support, largely based on need and obligations to tax-payers (Carmel and Papadopoulos, 2003).<sup>15</sup> For example, in August 2008, 151,300 JSA claimants received contributory JSA; 14,800 received a combination of contributory and means-tested JSA; but 622,800 men and women were on means-tested JSA only.<sup>16</sup> Frank Field MP (2009) has criticised the current system because both types of benefit are paid at the same level (e.g. £64.30 per week as the basic benefit for unemployed people

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<sup>14</sup> The government tends to prefer the term 'income-based' for some benefits but we have used the better-known term 'means-tested' in this Paper.

<sup>15</sup> It is important to note, however, that in fact many means-tested benefit claimants are also taxpayers, through their payment of indirect taxes etc.; and that, unlike some continental European social assistance schemes, the vast bulk of means-tested benefits in the UK are statutory entitlements, paid as of right if the conditions are satisfied, rather than being discretionary payments.

<sup>16</sup> House of Commons *Hansard*, Written Answers 25.3.09, cols. 461W-462W.

aged 25 or more in 2009-10). What is clear is that successive UK governments have altered the amounts and the nature of social security benefits, and in the process have significantly changed claimants' rights, either positively or negatively.

A new focus on responsibilities for unemployed claimants during the 1980s and 1990s was embodied in: the introduction of Restart interviews (six-monthly work-focused meetings with advisers) in 1986; the new expectations placed on benefit recipients to explicitly 'actively seek work' – in addition to being available for work – in 1990; and the introduction of Jobseeker's Allowance (JSA) in 1996 (see table 1 below) (de Koning *et al.*, 2004). However, prior to the advent of the Labour government in 1997 there was no extension of employment-related conditionality to either those on Incapacity Benefits or lone parents with children under 16.<sup>17</sup> Equally, the Government argued that there was little state-provided support available for jobseekers or assistance available to enable a lone mother or Incapacity Benefit claimant to enter the workforce; indeed, the latter groups had very little contact with the Department of (Health and) Social Security. Outside the social security system (but intimately linked with it), the 1991 Child Support Act heralded new legal responsibilities for non-resident parents – specifically the requirement to provide financial child support or 'maintenance' payments; the same legislation imposed benefit penalties on lone parents with care who refused to name the non-resident parent without what was considered 'good cause'.

### **2.3 Developments in responsibilities from 1997**

This was the legacy that the 1997 Labour Government inherited. Labour pledged to reform and modernise what it called 'welfare' (following the US example), making (re)employment central to provision. It was said to have rejected the recommendation of Frank Field MP, as Minister for Welfare Reform, to re-establish contribution-based benefits as the foundation of the system<sup>18</sup> (to counter the problems of (lack of) personal responsibility which he argued were created by an emphasis on means-tested benefits) – despite the fact that, on the surface at least, contributory benefits could be seen as embodying the kind of combination of rights and responsibilities that the Labour Government appeared to favour. In other words, contributory benefits can be argued to create a work incentive, and to increase independence and responsibility, as well as reducing

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<sup>17</sup> Income Support was available to lone parents with a youngest child under 16, or under 19 if in full-time education, without having to be available for or actively seek paid work.

<sup>18</sup> See Carmel and Papadopoulos (2003) for a more detailed discussion of these developments.

stigma for claimants and reinforcing the idea of benefits as a right (for those who have paid contributions and/or got credits) (Hills, 2004; see also Bennett, 1993).

Instead, the Government adopted an 'American-style' policy model, based on strengthening claimant responsibilities and incentivising paid work (Evans and Williams, forthcoming). Whilst it drew on models from elsewhere, including continental Europe and other English-speaking countries, Labour was at least initially probably influenced most by the US. This model embraced the principle of 'managing' and monitoring workless populations and individual behaviours - a combination of persuasion (carrots) and compulsion (sticks) - drawing heavily on the language and ideas of Mead and Etzioni. Mead's 'new paternalism' sees work (or workfare) as a necessary condition of citizenship.<sup>19</sup> As described above, Etzioni's 'communitarian' principles, with their 'emphasis on obligations and duties' (Deacon, 2002), also carried weight with the Government.

The Labour Government's first period of office from 1997 witnessed a growing use of the terminology of the contract with reference to balancing rights and responsibilities. This was evident, for example, in the first Green Paper on welfare reform, *New Ambitions for our Country: A new contract for welfare* (DSS, 1998). The welfare 'contract' - a word that Deacon (2002) argues has increasingly become associated with Labour's benefits system - has gradually been renegotiated on the basis of increased or new work responsibilities for growing numbers of working age claimants. More broadly, the relationship between rights and responsibilities has increasingly been conceptualised by the Government as a 'contract' between providers and recipients of support (for example, 'contracts of inclusion', a 'contract out of poverty', 'commitment contracts' etc.). This contractual arrangement is then held to legitimate the state's right to withhold benefits from (or reduce the benefits of) those who do not satisfy the conditions put forward as fulfilling their side of the 'contract'.

The Labour Government's first Green Paper on 'welfare reform' (DSS, 1998) described its key principles as 'work for those who can, security for those who cannot'. Paid work has become increasingly central to both the social security and the anti-poverty policies of recent Labour governments, being portrayed as both a right and a responsibility. There has also been an emphasis on the responsibilities of claimants to report changes of circumstances in a timely way,

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<sup>19</sup> Those receiving what is called 'unconditional' welfare are seen as forming part of an excluded 'underclass' (see Dwyer, 2004b); claimants can thus, argues Mead, regain citizenship status via the imposition of conditionality.

and not to defraud the benefits system. Arguably, however, to approach or engage in paid work has been seen as their key responsibility.

The growing emphasis on paid work is justified by the advantages which it is argued to bring in terms of better health etc, and also because it is seen as the best route out of poverty. This is reflected in the growth of activation policies, especially the ‘work first’ approach and the broadening of work-related obligations to traditionally ‘inactive’<sup>20</sup> groups. More recently, there has been more focus on employment-related skills and the duty to develop these skills, including the review of skills for the Government conducted by Lord Leitch (2006). Another sign of the change in focus was the reorganisation and renaming of government departments. In 2001, the Department of Social Security and the section of the Department for Education and Employment dealing with employment services were merged (along with their executive agencies – the Employment Service and the Benefits Agency) to become the Department for Work and Pensions.

This growing emphasis on paid work as a responsibility can be seen quite clearly in the ‘welfare reforms’ that have been introduced since Labour came to power. As noted above, however, the first measure – the introduction of Jobseeker’s Allowance (JSA) – was implemented by the Conservatives (with many commentators seeing a growing convergence between the way in which the political Left and Right now see social security (Dwyer, 2004a; Lister, 2008)). The most far-reaching benefit reforms introduced under recent Labour governments were not immediate - rather, there has been a continuous ‘ratcheting up’ of requirements over Labour’s periods in office (see Table 1). The group seen as ‘those who cannot (work)’ in the Government’s initial Green Paper on welfare reform (DSS, 1998) has appeared to diminish in size over the period since then.

**Table 1: The development of conditionality policy in UK welfare (1996-2008)**

Date	Policy
October 1996	<b>Jobseeker’s Allowance introduced:</b> unemployed people required to actively seek work, sign a jobseeker’s agreement, and attend fortnightly interviews. New power to sanction claimants for 2 weeks and subsequently 4 weeks for any further offences.
1998	<b>New Deal for Young People introduced:</b> fixed, but escalating, sanctions for participants who fail to attend regular interviews or take part in one of four mandatory programmes. The Government said there was ‘no fifth option’.
July 2000	Two week full-time ‘ <b>Gateway to Work</b> ’ course for <b>New Deal for Young People</b> participants.
2001	<b>New Deal for 25 Plus (formerly New Deal for the Long-term Unemployed) strengthened:</b> participants up to the age of 49 must start a more intensive regime of help and support 22 months into a claim.

<sup>20</sup> A word from traditional economics which appears to ignore unpaid work obligations.

2001	<b>Jobseeker's Allowance Joint Claims introduced:</b> both members of childless couples must meet the requirements of the benefit. Where the claim includes benefit for another adult in a couple, benefit continues to be paid to one of them for both.
April 2001	<b>Initial Work Focused Interview introduced for lone parents:</b> for new and repeat clients with youngest child aged at least 5 years and 3 months, and existing customers with a youngest child aged 13 –15.
October 2001	<b>Initial Work Focused Interview introduced for new Incapacity Benefit customers.</b>
April 2002 and April 2003	<b>Additional groups of lone parents eligible for initial Work Focused Interview:</b> in 2003, all new and repeat customers, and existing customers with a youngest child aged at least 5 years and 3 months.
2003	<b>Pathways to Work for new Incapacity Benefit customers introduced to 10 per cent of the UK:</b> all participants are required to attend an initial Work Focused Interview (WFI); most are then required to attend another 5 interviews.
April 2004	<b>Partners of benefit claimants required to attend a Work Focused Interview:</b> partners of customers claiming Income Support and Incapacity Benefit (with and without children) and Jobseeker's Allowance (with children).
April 2004	<b>All groups of lone parents to have an initial Work Focused Interview.</b>
February 2005 to July 2007	<b>Pathways to Work for existing Incapacity Benefit customers introduced to 10 per cent of the UK:</b> customers receiving Incapacity Benefit for up to 6 years required to attend 3 Work Focused Interviews (some claimants are exempt).
April 2005	<b>Quarterly Work Focused Interviews introduced</b> for lone parents with older children (youngest child aged 14-16).
October 2005	<b>Lone parents required to agree a mandatory action plan</b> as part of their Work Focused Interview.
October 2005 to December 2006	<b>Pathways to Work for new Incapacity Benefit customers extended</b> to 40 per cent of the UK.
April 2007	<b>Six-monthly Work Focused Interviews introduced for some lone parents</b> (youngest child aged 5-13). In New Deal Plus for Lone Parents pilot areas only, <b>quarterly Work Focused Interviews introduced for some lone parents</b> (youngest child aged 11-13).
July 2007	<b>Requirements for claimants aged over 50 years strengthened:</b> participants aged 50 and over must start a more intensive regime of help and support, lasting for up to 13 weeks, 22 months into a claim.
April 2008	<b>Lone parent review meetings introduced for additional groups:</b> lone parents with a youngest child aged 0 – 4 have an initial Work Focused Interview and then a review every 6 months. This completed the roll-out of 6-monthly Work Focused Interviews for lone parents with children aged 13 and below.
April 2008	<b>Repeat Work Focused Interviews introduced</b> every 6 months for partners of parents on Jobseeker's Allowance.
April 2008	<b>National roll-out of Pathways to Work completed</b> for new Incapacity Benefit customers.
2008	<b>IB replaced by Employment and Support Allowance*</b> (contributory and income-related). New claimants required to undergo a Work Capability Assessment: <sup>21</sup> claimants assigned to the support group (no compulsion to undertake work-related activity) or the work-related activity group (required to attend WFIs and participate in work-related activities, including drawing up an action plan). Certain behaviours may lead to disqualification for up to 6 weeks (see CPAG, 2008a).
November 2008	<b>Lone parents with youngest child aged 12+ moved to JSA*</b> with its corresponding conditions for job-search etc (introduced for existing claimants from March 2009).

**Source:** adapted from DWP (2008b), Annex B

**Note:** \* Added by the authors

<sup>21</sup> Some claimants (such as those with a terminal illness) are not required to undergo a WCA. These same claimants are also exempted from fulfilling further conditions, such as attending WFIs.

This ‘ratcheting up’ has been particularly pronounced for some groups. For example, lone parents with older children have gradually experienced an increase in the conditions they are expected to fulfil, from attendance at mandatory Work Focused Interviews (WFIs), with the New Deal for Lone Parents (NDLP) scheme remaining voluntary, to the Jobseeker’s Allowance (JSA) regime with its considerable work-search requirements. Similarly, for new claimants, Incapacity Benefit has now been replaced by the Employment and Support Allowance, which requires new claimants to undergo a ‘work capability assessment’. Those placed in the work-related activity group then have to take active steps towards (re)entering the labour market, a dramatic departure from the former Incapacity Benefits rules.<sup>22</sup>

It is not only responsibilities related to the labour market that have been increased since 1997, however. As noted in the previous section, the ‘rights and responsibilities’ approach has become part of political rhetoric, and is used in policy areas other than social security. But in relation to benefits more specifically, some cash or in-kind transfers have been made conditional – such as the Sure Start maternity payment (part of the Social Fund), and Healthy Start vouchers, which both require contact with a health professional by the claimant in order to gain entitlement, in addition to fulfilment of the low income conditions. A new ‘contract out of poverty’ will also in future give some very disadvantaged families additional resources if they undertake to ensure that their children fulfil various requirements related to health, education etc.

## **2.4 Developments in rights since 1997**

Here we discuss several different areas in which recent Labour governments have introduced improvements to rights – in relation to support and training for moving into work; in-work income and employment protection; and the amounts and delivery of benefits themselves. It should be noted that it is often only the former two categories which are considered when ‘rights and responsibilities’ are debated; we believe that all three are important, and that whilst the groups to whom the responsibility of seeking work is applied are increasing, the rubric of ‘rights and responsibilities’ is also applied to other areas of social security policy and so should also be examined in relation to them.

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<sup>22</sup> Though note that under Incapacity Benefit rules if a claimant was deemed by a medical assessment to be fit for work they would no longer be entitled to IB and if appropriate would have to be available for and actively seeking work to claim JSA.

First, there has been a development of assistance and support from the employment services (formerly the Employment Service, now Jobcentre Plus), for people seeking work, including benefit claimants but not limited to them. Targeted advice and support were made available to different groups of claimants from Personal Advisers, who have become an increasingly important group of frontline workers. Relationships with Personal Advisers have been shown to be crucial in terms of determining different claimant groups' experiences and outcomes, and it is clear that for some claimants this is probably the first time that someone in officialdom has appeared to be taking their situation and plans seriously. Recent Labour governments have, by and large, taken a 'work first' approach, believing that getting claimants into the labour market as fast as possible was the best way to ensure that they remained there and progressed. However, they have also provided various forms of assistance with training, especially for more basic qualifications and forms of learning (though sometimes also going beyond these, in particular for lone parents).

Most recently, the 2009 White Paper *New Opportunities: Fair Chances for the future* contains a reference to a pilot programme (starting in September 2009) of new 'earned rights' to support/training for those who have spent a period of time outside the labour market caring for children or adults, in order to help them with training to re-enter the labour market:

*'One particular group that may need additional support are those who take time out of work to make a contribution to their family or community by caring for an adult or bringing up children. Many are at a disadvantage when they re-enter the labour market, and often find themselves taking jobs below their skill level. For parents, this in turn could then affect the aspirations of their children.'* (HM Government, 2009: 71).

*'We will pilot new earned rights to training, offering an entitlement of up to £500 for those returning to work from caring to encourage them to update or refresh their skills...'* (HM Government, 2009: 9).

Secondly, a significant number of measures have been introduced by recent Labour governments to increase the financial appeal and viability of paid work (Bennett and Millar, 2005).<sup>23</sup> Perhaps the most significant of these were the National Minimum Wage, introduced in 1999, and Tax Credits – first, Working Families Tax Credit (WFTC), also introduced in 1999, and then Working Tax Credit (WTC) (which, with Child Tax Credit, replaced WFTC in 2003). But there

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<sup>23</sup> Hills *et al.* (2009) includes several chapters which bring this analysis up to date.



have also been changes to income tax and national insurance payments for those with low earnings, and a range of other policy changes. These measures are part of the support offered by the Government designed to 'make work pay' for those at the lower end of the earnings scale. A 'better off calculation' has also become a regular part of Work Focused Interviews for many claimants, to try to ensure that they are aware of these improvements in income in work.

Various policies have also been introduced to try to make the transition from out-of-work benefits into work easier. These include allowing some benefits to continue in work for some time (benefit run-ons), and the speeding up of benefit and Tax Credit claims for those entering employment. A temporary In Work Credit has been brought in (on top of the ongoing Tax Credits already described) to boost income in the first year of paid employment for some groups.

Employment protection has been improved in some ways via legislation, in particular for part-time and temporary workers, following European Union (EU) directives. Maternity leave and pay have been significantly improved, and paid paternity leave has been introduced for the first time (HM Government, 2009: 9). A range of workers are now allowed to request flexible working and employers cannot unreasonably refuse such requests. Childcare provision has also been increased, and treated as a public policy rather than a private family issue. Free early-years education provision has been made available on a part-time basis for all 3- and 4-year-olds whose parents want it. For parents in paid employment, the financial provision through the childcare element of the Working Tax Credit is also significant. Anti-discrimination legislation is being extended, to cover a wider range of equalities, following on from sex and race equality legislation, and the Disability Discrimination Act (passed by the previous Conservative government); and Access to Work funds have been introduced to help employers make 'reasonable adjustments' to workplaces to accommodate the special needs of disabled workers.

'Rights and responsibilities' can be interpreted in a limited way, in relation to the 'welfare to work' policy context in which they are often applied; this would suggest that the relevant rights are those to support in entering a job, and to help and protection once in employment. But, on the one hand, it can be interpreted more broadly, to include rights to adequate levels of social security benefits and to coherent, transparent delivery of benefits for claimants expected to fulfil responsibilities in relation to work. And, on the other hand, there are still many benefits, and many groups of claimants, for whom the responsibilities to be

available for and actively seeking work are not relevant; but they should also be considered in terms of what range and quality of rights they are able to claim.

Thus, for example, it is also important to consider how claimants' rights have been upheld in relation to the amounts of benefit they receive. There have been some generous increases since 1997 for children in particular. For children, increases have been implemented not only for those with parents in work via Tax Credits but also for those in families on Income Support and Jobseeker's Allowance, who have seen their weekly benefit allowances or Child Tax Credit for under- 11-year-old children more than double in real terms. Child Benefit has been increased by more than inflation for the first or eldest eligible child. Maternity payments have been increased and more low-paid workers have been included in the National Insurance system.

However, for many claimants on out-of-work benefits, the value of the payments they receive has continued to decline in relation to the living standards of the rest of the population, because most benefits are uprated in line with price increases rather than with improvements in these living standards (Sutherland *et al.*, 2008). This, together with some more recent changes in benefits, suggests that there have continued to be some reductions in rights in this sense since 1997, especially in relation to insurance benefits.<sup>24</sup>

## **2.5 International experience**

The growth in conditionality in recent years outlined above is not unique to the UK experience; there is an international trend towards welfare-to-work style policies, under which benefits (or benefit premia) are conditional on certain behaviours or actions, with sanctions applied for 'non-compliance' (Daguerre with Etherington, 2009). Likewise, there is an international trend towards broadening benefit conditionality to groups previously considered 'inactive' (Lødemel and Trickey, 2000). The European Union (EU), via the European Employment Strategy, and the Organisation for Economic Co-operation and Development (OECD), have voiced their support for activation policies (including job search and skills) throughout their member countries (see, for example, OECD, 1996).

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<sup>24</sup> E.g. tightening of contribution conditions for some contributory benefits and abolition of some dependants' additions to non-means-tested benefits. (Many changes are implemented for new claimants, with existing claimants retaining their rights under arrangements for 'transitional protection'.)

It has been argued that the UK has laid the foundations for a similar ‘bargain’ to that struck in Scandinavian countries (Purnell, 2008-09); and the Government argues (DWP, 2008b) that the UK system draws on both the Danish and Dutch models, which emphasise the importance of human capital (supply-side rather than demand-side economics) and the responsibilities of jobseekers and other claimants. Denmark operates the tri-partite ‘flexicurity’ model, which combines a flexible labour market (easy hiring and firing) with generous unemployment benefits (security for workers) and a proactive labour market policy, which includes the requirement for unemployed people to seek work and sanctions for those who fail to meet their responsibilities (DWP, 2008b). The Netherlands operates a system of temporary, subsidised employment, training or unpaid voluntary work (‘activity fare’), designed to provide unemployed benefit claimants with work experience or to act as a step towards employment by promoting social networks and inclusion (Spies and van Berkel, 2000; van Berkel and Møller, 2002).

Key elements of the rights and responsibilities balance in these two countries, however, appear to be the provision of generous benefits and the proactive promotion of social inclusion. Layard and Gregg (2009) note that Denmark and The Netherlands prevent long-term unemployment by offering work or training to every unemployed person within a year of their becoming unemployed. Scandinavian countries in particular have had a long-standing emphasis on activation policies. But the percentage of national GDP spent on these, and the benefits which accompany them, have been described as much higher than in the UK (Lindsey and Mailand, 2004). OECD figures show that in 2005, Denmark spent 1.74 per cent of GDP on active labour market measures, and The Netherlands spent 1.35 per cent, whilst the UK spent 0.32 per cent (OECD, 2007, cited in Daguerre with Etherington, 2009: 6). In 2006, the net replacement rate for a single person on benefit previously earning the average wage in their first month of unemployment, according to the OECD, was 40 per cent in the UK, compared with 69 per cent in the Netherlands and 62 per cent in Denmark.<sup>25</sup>

Although childcare provision has increased significantly in the UK in the past decade, as has the level of financial support to help with childcare costs, both provision and affordability still lag behind northern European countries in particular. In addition, in The Netherlands, when lone parents with younger children (over the age of 4) were expected from 1996 to look for work in order to

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<sup>25</sup> OECD tax benefit calculator ([www.oecd.org](http://www.oecd.org)). The ‘replacement rate’ refers to the proportion of wages represented by benefits.

retain their benefit, this was not always rigidly enforced, in part because of local social workers, who had considerable discretion in administering social assistance, and who were not sympathetic to this extension of conditionality (Knijn, 2004). In their overview of active labour market policies for the Department for Work and Pensions, Daguerre and Etherington (2009) argue that ‘the UK is at the vanguard of radical activation policies. Only Australia and certain US states have gone even further in terms of pushing people back into work in order to decrease the welfare rolls’ (p. 7).

There is sometimes confusion between activation policies and ‘workfare’ – essentially working in exchange for benefits – because the term ‘workfare’ is sometimes used more broadly to denote any programme in which claimants are obliged to undertake employment-related activities in return for their benefit. Although workfare programmes operate in Europe, Australia and Canada, they are more commonly associated with the United States (US). US welfare reform during the mid- to late 1990s was particularly influential in the shaping of New Labour policies (Cebulla, 2005). The introduction of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) 1996 spelled the end of the Aid to Families with Dependent Children (AFDC) scheme (largely for lone-parent families), replacing it with Temporary Assistance to Needy Families (TANF), with time limits in some states and an emphasis on paid work (Waddan, 2003). For some states, these changes (specifically their new obligations under PRWORA) included the introduction of ‘workfare’<sup>26</sup> schemes. These programmes vary in their nature, coverage and impact. ‘Welfare’ caseloads have been reduced, in part through increasing entries to work. But some argue (for example, Deacon, 2002, and Ziliak, 2002) that the benign economic conditions in which the reforms took place were probably responsible for this success, at least in part. And others have drawn attention to the fact that not all the reductions in benefit claims have been due to entries into work - and that in any case reducing benefit caseload should not be an aim in and of itself.

## 2.6 Summary

We have argued in this section of the Paper that debates about the UK social security system have always involved issues of rights and responsibilities, and that there is no benefit without some form of eligibility condition(s) attached. However, rights and responsibilities have been interpreted and applied in very

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<sup>26</sup> ‘Receipt of social assistance was made conditional on either working or engaging in employment-related activity after two years of claiming benefit (and sometimes less)’ (Walker and Wiseman, 2003: 109).

different ways over time, and eligibility conditions are different from conditionality involving behavioural requirements. We have traced the history of the benefits system in the UK prior to 1997 in brief outline and then examined the development of both responsibilities and rights in more detail since then.

We have also noted that the recent emphasis on responsibilities, and in particular on 'activation', is not unique to the UK, but is shared by many developed countries. Indeed, Scandinavian countries in particular emphasised active labour market policies much earlier than was the case in the UK. However, the impact of such conditionality, we would argue, depends crucially not only on the appropriateness of those expectations but also on the quality and quantity of the rights available (in relation to both the labour market and the benefits system) and the nature of the welfare state, labour market and society as a whole in different countries.

We pick up some of these themes in the Discussion and Conclusions section later (below). But we first examine the current rights and responsibilities in the UK social security system and proposals for the future.

## **3. Rights and responsibilities in the UK social security system today and proposals for the future**

### **3.1 Introduction**

The current system of claimant responsibilities in the UK is complex, with different groups and claimants of different benefits being subject to a range of rules, entitling them to varying 'rewards' through reference to differing rights (Bennett and Cooke, 2007). In this section, we describe the current system and discuss recent proposals which are now being implemented.

### **3.2 Current responsibilities**

All initial entitlement to benefits involves meeting eligibility conditions, as noted above; and benefit must not be claimed fraudulently, of course. There is a (sometimes quite complex) application procedure, which often requires the claimant to monitor the claim as well as to report 'changes in circumstances'.

For example, although specific obligations for Tax Credits claimants are fairly low, monitoring and reporting responsibilities can be significant, and failure to fulfil obligations successfully can be very costly in terms of overpayments (Griggs *et al.* 2005). Deadlines for reporting certain changes of circumstances have been tightened recently, in return for a ten-fold increase in the amount of income growth disregarded in any one year. The onerous nature of the requirements to report changes in childcare costs has led the Government to consider reforms. (It has also recently reduced both the complexity of claiming Pension Credit and the reporting requirements.)

Working Tax Credit (a means-tested in-work payment) is also conditional on working a minimum number of hours each week (at least 16 for parents and disabled people, and 30 for those without children); on being aged 25 or over, for non-disabled and childless people; and on having a low income. Carer's Allowance has strict conditions of entitlement involving the nature and extent of caring responsibilities, and continuing entitlement depends on the person who is being cared for continuing to receive the appropriate benefit (certain levels of Disability Living Allowance, or Attendance Allowance). Benefits designed to meet additional costs, rather than to replace income, tend to have only eligibility conditions; they may be awarded for a certain time before having to be reclaimed (such as Disability Living Allowance in many cases), or once awarded can

continue unless/until the initial qualifying conditions are no longer met (Child Benefit).

Benefits such as JSA also have initial qualifying conditions, such as a record of sufficient national insurance contributions for the contributory element, or living in a low-income family for the means-tested element, as well as having to show availability for work (for example, not being in full-time education); but once awarded, the conditions of continued receipt are significant, and remain so. Failure to meet these ongoing behavioural obligations can result in sanctions, of either varied or fixed length, and eventually in total loss of benefit.<sup>27</sup>

Those who have the highest levels of conditionality (ongoing behavioural responsibilities necessary for continued benefit receipt) and have the most contact with advisers are typically those who are workless, but not excluded from conditionality on the basis of incapacity for work. Within this group, there are currently 'two broad conditionality regimes'. The first, for unemployed claimants, is the more demanding; the second, for lone parents with young children and those with a health condition, consists primarily of a Work Focused Interviews regime (Gregg, 2008). Boxes 1 and 2 contain an overview of current conditions for claimant groups on some major benefits (JSA, ESA and IS) (see CPAG, 2008a for further information).

The rules of the main benefits for workless people (JSA, ESA and IS) are extensive and complex (Bennett and Cooke, 2007). Responsibilities, as in the remainder of the social security system, may vary according to benefit,<sup>28</sup> the claimant's age and the length of the claim; likewise, the 'right' earned by fulfilling expectations, in terms of the amount of money, varies according to the type of benefit, need/number of dependants and age. Work-related conditions do not now differ – as they used to - according to whether an individual is claiming contributory or income-based (means-tested) JSA or ESA. Often someone will be claiming both kinds of benefit simultaneously, with the means-tested element topping up the contributory element; and of course they may also be on other benefits/Tax Credits at the same time, including Housing Benefit, Council Tax Benefit and Child Tax Credit.

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<sup>27</sup> In some limited circumstances, it is possible to receive hardship payments if you have been sanctioned.

<sup>28</sup> Obligations are lower for claimants of benefits such as IS and ESA, as it is generally accepted that these claimants are moving towards work rather than actively seeking it. Under the proposals put forward by Gregg (2008), in the longer term this distinction would depend more on someone's personal situation than on the benefit which they were claiming.

To maintain a claim to means-tested benefits in particular may therefore mean that claimants have responsibilities in terms of reporting changes of circumstances – including pay, hours of work, cohabitation, births and deaths, housing costs etc. – to three or more authorities. Benefits based on weekly income require more frequent reporting of changes in income than Tax Credits, which are based on annual income. In response to the impact of such burdens on citizens, the government is exploring ways of streamlining this process, in part through a pilot project known as Tell Us Once (see DWP, 2008d); but there are tensions between this goal and the concern about sharing key data about individuals between authorities (which is already common practice in The Netherlands, for example – see <http://www.whatarelief.eu>) (Bennett, Brewer and Shaw, 2009).

**Box 1: Conditionality regime for jobseekers claiming JSA**

**Basic requirements that apply to jobseekers on JSA** are that they should be:

- **Available for work:** normally for at least 40 hours per week; they must attend any job interviews and be ready to move into work immediately;
- **Actively seeking work:** in practice, this means demonstrating that they are doing at least three work-related activities every week. These could include, for example, writing a CV or speaking to employers;
- **Entered into a Jobseeker's Agreement;** and
- **Attending a Jobcentre Plus office,** typically, every fortnight.

The primary focus of the JSA regime is **independent job-search and a speedy return to employment for the majority of claimants**. During the first six months of a claim, Fortnightly Jobsearch Reviews form the key part of the JSA intervention regime. There are roughly 22 million of these short, focused reviews conducted each year, with jobseekers expected to demonstrate that they are available for and actively looking for work.

As their claim progresses, conditionality escalates in a series of stages and a Personal Adviser (PA) is allocated who can provide more intensive support and refer them to appropriate provision. PAs can also direct them to complete specific activities that will improve their employment prospects, through a Jobseeker's Direction. All of these actions are mandatory, and so failure to comply can result in a benefit sanction or disqualification.

Some easements to these rules can apply, for instance to lone parents with older children and people with a health problem who are subject to the JSA regime.

**Source:** Edited version of Gregg (2008): 30.



**Box 2: Conditionality regime for lone parents claiming IS and those claiming ESA**

**Basic requirements that apply to all lone parents on Income Support are to:**

- Attend and participate in a mandatory WFI when the initial claim is made and a further one every six months (for as long as the claim continues);
- Agree an Action Plan with their Personal Adviser (though there is no obligation to follow the contents of the plan); and
- Attend quarterly WFIs in their last year of eligibility for Income Support before they move across to become jobseekers (assuming they are capable of work).

**Basic requirements that apply to new ESA claimants are to:**

- Attend a Work Capability Assessment (WCA) and Work Focused Health Related Assessment (WFHRA) at the start of their claim and at further points during the lifetime of the claim;
- Attend and participate in a mandatory WFI at week 8 of their claim, a further five WFIs at broadly monthly intervals and further irregular WFIs on the occurrence of certain trigger events; and
- Agree an Action Plan with their Personal Adviser (again there is no obligation to follow the contents of the plan).

**There is no requirement to be actively seeking or available for work.** Instead, the primary focus is to encourage movements into voluntary support initiatives (for lone parents, the NDLP and provision delivered as part of Pathways to Work for those on ESA) to help move the claimant closer to employment.

Benefit sanctions can be applied if any claimant fails to attend the WFI without good cause, but advisers have the ability to postpone the meetings or waive them where this is deemed appropriate. Protective measures (e.g. home visits, reminder contacts) are also in place to ensure that people who for good reason cannot comply are not sanctioned.

**Source:** Edited version of Gregg (2008): 35.

Although the claimant must continue to satisfy all initial qualifying conditions, it is compliance with the labour market conditions for JSA which must be continually demonstrated over the course of the claim. Typically, 'availability for work' means being willing and able to take up any reasonable offers of employment with little notice (although there are exceptions - see CPAG, 2008a). Whilst it is possible to restrict availability, type of work, rate of pay, location of work or hours of work (for example, if the claimant has caring responsibilities), this must not impinge upon the 'reasonable prospect' of getting work (CPAG, 2008a: 352-4), and must be approved by advisers. If the jobseeker is not successful in finding work, they may need to modify any restrictions placed on the work they are prepared to do. Conditions are reported to be less stringent for lone parents on JSA than for other jobseekers (Gregg, 2008). This is largely to take account of restrictions which parents might have to place on time needed to participate in activities, or the suitability of jobs in the light of the availability of appropriate childcare.

'Actively seeking work' involves being able to demonstrate that steps have been taken to secure employment during each benefit week. In most cases, this means performing three or more job-search tasks; it is necessary to keep a

record of these activities to present to Personal Advisers (PAs) when signing on. If there is evidence that the prospect of getting a job has been undermined by the behaviour and/or appearance of the claimant, the DWP can issue a jobseeker's direction; failure to comply with this may result in a sanction (CPAG, 2008a: 358). Again, there is some discretion when deciding whether this particular condition has been fulfilled, and what steps are reasonable for each claimant; for example, exceptions can be made for claimants with severe barriers to work, such as homelessness.

The jobseeker's agreement sets down the type of job which claimants are looking for, the steps that they will take to seek work and any restrictions on their availability for work, thus allowing the DWP (i.e. the PA) to monitor and direct job-search. Claimants must agree and sign their agreement, to validate it.

The use of sanctions (SSAC, 2006a) is implicit within this conditionality system - but not applicable outside it, for example, for claimants of Carer's Allowance, Tax Credits etc. The use of sanctions is justified by governments on the grounds that they have public support and act as a deterrent to fraud and deliberate non-compliance (SSAC, 2006a), an issue that is discussed below in section 6 (Discussion and Conclusions). We do not describe the current sanctions regime in detail here. But broadly speaking, sanctions are designed to increase in severity with the number of times compliance conditions are not met, in order to deter repeated non-compliance. Proposed changes to the system include the introduction of non-financial sanctions for 'repeat offenders' (Gregg, 2008: 8).

### **3.3 Future changes and proposals for the longer term**

Freud (2007), in a review of welfare-to-work policies for the current Government, originally proposed the extension of conditionality to lone parents with children younger than 16, although this had already been raised as a possibility by Harker (2006), amongst others.<sup>29</sup> New lone parent claimants with a youngest child aged 12 or more had to claim JSA from November 2008, and existing claimants were moved on to it in early 2009. The Government announced that it would implement in full the proposals in the Freud review, which involved planned stages for lone parents with even younger children to be moved on to JSA in future. In addition, it was planning to replace incapacity benefits (IB and IS for incapacity) with Employment and Support Allowance (ESA). But it also commissioned a review of conditionality from Professor Paul Gregg.

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<sup>29</sup> Joan C. Brown wrote about availability for work conditions for lone and partnered mothers for SSAC (Brown, 1989).

The personalised conditionality regime that Gregg proposed in his review (2008) involves a move away from client/claimant characteristics and towards personal characteristics. Gregg proposes a screening tool which would be used to allocate claimants to one of the three groups he suggests (the work-ready group, the progression to work group or the no conditionality group). The introduction of a 'single working age benefit' in the longer term would mean that conditionality would no longer depend on the kind of benefit a claimant was receiving.

The White Paper (DWP, 2008c), published in December 2008 and based on the recent Green Paper (DWP, 2008a) as well as on the Gregg review, moves in this direction, but has been bound by the practicalities of the current system, including the continued existence of a range of different benefits for people of working age. The plans set out in the White Paper were carried forward into the Welfare Reform Bill. A document published in January 2009 discussed a range of issues raised by the proposals affecting the 'progression to work' group (DWP, 2009). The key change compared with the current arrangements appears to be in the flexibility of support for those in this 'progression to work' group (which will be piloted from late 2010 in 'pathfinders' for some 10 to 15 per cent of new Employment and Support Allowance (ESA) claimants and parents of younger children);<sup>30</sup> but claimants are still assigned to one of three groups on the basis of their client group and the age of their child/ren. JSA claimants will belong to the 'work-ready' group; lone parents and partners with young children, as well as ESA claimants in the work-related activity group, will belong to the 'progression to work group'; and those in the ESA support group, lone parents with very young children and people who qualify for Carer's Allowance will be exempt from conditionality (i.e. not obliged to undertake any work-related activity).

Alongside this tiered conditionality regime are increased responsibilities for 'problem drug-users' (DWP, 2008c: 118), involving compulsion to declare a drug problem and follow a personal rehabilitation plan.<sup>31</sup> Progress will be monitored, and those who 'engage properly' (DWP, 2008c: 118) will receive a Treatment Allowance; those who do not will be subject to sanctions.

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<sup>30</sup> House of Commons *Hansard*, Written Answers 20 April 2009, cols. 115W-116W.

<sup>31</sup> It has been suggested that this might apply to alcoholics in a similar manner (*The Guardian*, 15 April 2009).

The reforms also include a 'clearer, quicker and more effective sanctions regime' (ibid: 113). Again, this is based on the Gregg review (2008), which described 'inefficiencies' in the current sanctions system (i.e. that they are administratively costly but have little deterrent effect, usually amounting to only one or two days' loss of benefit); Gregg therefore recommended refinements (to be implemented through Pathfinders). Claimants guilty of 'serious non-compliance' (such as missing a mandatory appointment) will lose one week's benefit, and those failing to attend a subsequent appointment will lose two. These sanctions will be automatic, and will apply to all those without 'a very good reason' for non-compliance (DWP 2008c: 113). New sanctions (loss of benefit) will also be introduced for violent behaviour towards Jobcentre Plus staff.

The Welfare Reform Bill also includes the introduction, for the first time in the UK, of a 'work for your benefit' scheme (affecting only long-term JSA claimants, and lasting for several weeks). This proposal has been criticised on the basis of both its impact (with mixed evidence on the potential effectiveness of such schemes) and its key characteristic (paying claimants far less for their labour than the national minimum wage) (CPAG, 2008b; TUC, 2008). The Government describes the scheme as 'work experience' (House of Commons *Hansard*, Written Answers 20 April 2009, col. 137W), and as removing the option for people to claim benefits while working 'on the side' (Purnell, 2008-09: 202) (which ironically suggests that work-shy claimants are not the target of this measure). However, discussion groups of claimants organised by ATD Fourth World and Community Links (2009) suggest reasons why claimants may feel forced to engage in informal work, and areas of policy which could fruitfully be addressed to try to prevent this.

### **3.4 Summary**

Recent and proposed reforms (particularly for lone parents and claimants of incapacity benefits) have attracted considerable critical attention from pressure groups and government advisory bodies (including SSAC) (BBC Radio 4, 2008; CPAG, 2008a; CPAG, 2008b; Sparrow, 2008a), as well as from some commentators (for example, Bunting, *The Guardian*, 23 February 2009). There have been specific arguments about the balance between support and conditionality – for example, that affordable wraparound childcare for older children is not yet sufficient to support the level of jobseeking/employment the Government wants from lone parents (though the Government argues that JSA will be more flexible for lone parents). The clear emphasis on the claimant's input to their own action plan, and the creation of constructive relationships between claimants and advisers, evident in the sections about the 'progression to work'

groups in the Government's discussion document about the Gregg review (DWP, 2009), seems at odds with the imposition of sanctions.

More general arguments include the inappropriateness of tightening and extending claimants' responsibilities to seek work given the UK's current economic difficulties and rising unemployment rates; indeed, SSAC's recommendation was that the reforms should be postponed, or at least slowed down, until the economy stabilised (BBC Radio 4, 2008; Sparrow, 2008a).

Ministers have argued instead that it is even more necessary to give claimants support to find employment in the current economic climate (BBC Radio 4, 2008; Purnell, 2008); and the 2008 Pre-Budget Report and the 2009 Budget included announcements of additional resources for Jobcentres to cope with the increased numbers of claimants expected (HM Treasury, 2008, 2009). Gregg (2008) argues that the reforms will leave claimants in the right position to take advantage of jobs when the economic upturn comes along.

## **4. Evidence on the impact of conditionality and sanctions**

### **4.1 Introduction**

Labour governments since 1997 have been explicitly committed to evidence-based policy making. This section reviews the evidence on the impact of conditionality in the social security system. The efficacy, efficiency and impact of conditionality and sanctions have all been subject to some form of evaluation (in the UK and/or internationally). However, evidence on the effectiveness of conditions within specific programmes remains rather limited. The large majority of UK studies (and most of those included here) have been commissioned by the Government, or are government-funded reviews of international evidence. Where possible, other sources have also been drawn on below.

### **4.2 Evidence on the impact of conditionality**

In its summary review, the DWP (2008b) cites UK and international evidence which demonstrates a consistent positive impact of conditionality and sanctions on benefit exit rates in welfare-to-work programmes. For example, evaluative evidence shows conditionality in the JSA system to have reduced the claimant count by 8 percentage points. However, as with 'welfare reform' in the US, exits from benefit include entries not only to work but also to other benefits, or out of the social security system altogether. Gregg (2008) points to 'a wealth of evidence on how successful increased conditionality has been in raising employment and allowing more people to enjoy the benefits of paid work' (p. 29). His review of conditionality includes evidence from: a pilot of the mandatory Intensive Activity Period for jobseekers aged over 50, which increased employment entry rates by 25 per cent; the introduction of the New Deal for Young People Gateway, which radically increased benefit exit rates for young people; and the Pathways to Work pilot (with mandatory Work Focused Interviews), which increased work-related activity by those on Incapacity Benefits by around 21 per cent. Furthermore, he argues that what evidence there is on costs suggests that programmes involving conditionality are typically cost-effective (Gregg, 2008). However, with these results it is not possible to isolate the impact of increased conditions from those of increased support (i.e. we cannot say whether it is the 'stick' or the 'carrot' that is having the greatest impact) (DWP, 2008b).

Moreover, not all the evidence on conditionality is so positive. The evaluation of mandatory Work Focused Interviews (WFIs) for partners, for example, showed no overall detectable increase in employment. Whilst benefit claims amongst 'stock' (longer-term) claimants fell by 1.6 percentage points, these effects appear to have been driven by a deterrent effect (i.e. those entitled to claim left the benefit seemingly as a result of the introduction of compulsory WFIs) (Dorsett *et al.*, 2006). Results suggest that, rather than having a positive impact on claimants' experiences, the introduction of WFIs simply lowered take-up levels (and possibly made some claimants more vulnerable to hardship). In addition, a recent qualitative study of lone parents in the UK found that incurring sanctions caused some lone parents stress, but had negligible effects on their labour market behaviour (Goodwin, 2008).

### **4.3 Evidence on the impact of 'workfare'**

Evidence of 'workfare' programmes shows limited effectiveness, unless work-related activity is coupled with skills development and effective targeting (DWP, 2008b). There is also some evidence (for example, from the Wisconsin workfare programme in the US) that workfare can have a negative impact on child poverty levels (*ibid*).

Another review exploring the effectiveness of workfare programmes internationally (funded by the DWP) (Crisp and Fletcher, 2008) showed that reductions in welfare caseloads in the US and Canada<sup>32</sup> cannot be attributed to workfare alone. Indeed, lower claimant counts obscure lower take-up and drop-out rates, which mean that many are not getting the help to which they are entitled. The authors argue that there is little evidence that workfare actually increases the likelihood of finding work; transitional job schemes have been shown to be more effective. Furthermore, workfare programmes are least effective in a weak labour market, and favour those who have the fewest barriers to work (relatively disadvantaging the most vulnerable further).<sup>33</sup> Those with multiple barriers to work often struggle to meet their responsibilities (Crisp and Fletcher, 2008: 1-2).

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<sup>32</sup> Australia's 'Work for the Dole' policy has been more successful (DWP, 2008a).

<sup>33</sup> This same 'creaming' effect has also been linked to wider welfare to work programmes (Gregg, 2008).

#### **4.4 Evidence on the impact of sanctions**

Crisp and Fletcher (2008) also find that those with multiple barriers are placed in extreme hardship by subsequent sanctions. These findings around sanctions are not unique to workfare. Indeed, the evaluation of Pathways to Work (see Dorsett, 2008) demonstrated similar negative impacts for some claimants (most frequently the more vulnerable). Claimants reported experiencing hardship as a direct result of sanctions, which in turn necessitated borrowing, in some cases causing conflict with family members. Some claimants with mental health conditions reported a deterioration in their health as a consequence of the sanction; and amongst all those who had been sanctioned, there were feelings of victimisation (although few took up the right to appeal). These findings suggest that some of the effects of sanctions may conflict with other important government goals, such as the reduction of poverty.

This same study indicated that the threat of sanctions (i.e. a warning letter) prompted some participants to make contact and attend WFIs (although they did not encourage engagement or, in the case of those 'forced' to attend, appear to change the claimant's attitude to work) (Dorsett, 2008). It also highlighted serious problems around awareness and communication. For example, some claimants went for long periods of time without knowing that they were being sanctioned (perhaps because they also had deductions to pay off debts or Social Fund loans). Sometimes the non-attendance thought by staff to be a result of 'playing the system' was actually because the provider had incorrect contact information. In these instances, the claimant would not be aware of the sanction until after their benefits had been reduced. This is problematic because it means that sanctions cannot fulfil their intended function of encouraging attendance (Dorsett, 2008).

Many of these same issues (particularly around hardship) are raised in a review of sanctions conducted by the Social Security Advisory Committee in 2006. This synthesis of international evidence indicates that 'there is some evidence ... to suggest that both the threat of a sanction... and the imposition of the sanction itself ... coupled with a tightly monitored benefits system can reduce the overall time claimants spend on benefits' (SSAC, 2006a: 60). However, it also indicates that claimants do not feel that sanctions strongly influence their behaviour, especially in terms of jobsearch, and highlights a body of evidence demonstrating low claimant awareness around the UK sanctions regime, a regime that is



'complex and difficult to understand, both for claimants and Personal Advisers' (SSAC, 2006a: 62; see also Finn *et al.*, 2008).<sup>34</sup>

#### **4.5 Summary**

The evidence about the effects of conditionality and sanctions considered above is limited to the impact on the claimant him/herself, in terms of both the likelihood of entering employment and/or leaving benefit and other possible effects. What it does not include is evidence about any potential effect on public opinion. This is discussed, alongside other possible justifications for conditionality and sanctions, in section 6 (Discussion and Conclusions) below.

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<sup>34</sup> See above for proposals on changes to the sanctions regime suggested by Gregg (2008) and being implemented by the Government.

## **5. Issues central to changes in the balance of rights and responsibilities in the benefits system**

### **5.1 Introduction**

This section discusses some of the issues that are raised when proposals are put forward to change the balance of rights and responsibilities in the social security system, especially by deepening or widening the responsibilities of claimants through an extension of conditionality. It focuses, like much of this Occasional Paper, on benefit claimants of working age. The current expectations of claimants in the UK social security system, described in section 3 above, are taken as the starting point for more wide-ranging discussions about the balance of rights and responsibilities in the benefits system.

The summary below draws on both a discussion guide (see Appendix 2) compiled by the authors for a consultation meeting in November 2008 with SSAC's stakeholders about rights and responsibilities in the social security system, as part of the preparation of this Occasional Paper, and on the responses made at that consultation meeting.

The discussion guide identified ten relevant issues – some directly concerned with claimants' rights, followed by others more closely associated with claimants' responsibilities (five issues in each group). These issues have been approached from one perspective (i.e. in terms of the rights and responsibilities of claimants themselves); but the discussion below also incorporates discussion of the rights and responsibilities of others (such as the state and employers).

### **5.2 Background considerations**

When considering the issues around any proposed changes in the balance of rights and responsibilities in the benefits system, a number of general questions arise. In the case of an extension of conditionality - which raises the issue of the balance of rights and responsibilities in its clearest form - these might include:

- Is the proposed extension a deepening of conditionality for an existing group, or a broadening to a different group and/or benefit?
- Does it relate to the initial qualifying conditions for a benefit (e.g. the work capability assessment to qualify for ESA) or ongoing/increasing conditions once benefit has been obtained (e.g. in JSA, progression on to a compulsory New Deal)?

- Are conditions being fulfilled in order to qualify for additional benefit (i.e. positive incentives), or are they conditions which if not fulfilled may lead to benefit being reduced or withdrawn (i.e. negative sanctions)?
- Do conditions relate directly to the receipt of a particular benefit - e.g. job search for JSA ('internal' conditionality), or is a benefit being used to influence other behaviours 'external' to benefit receipt (such as Housing Benefit sanctions for anti-social behaviour)?

These broader questions should be borne in mind when considering the remainder of this section.

### **5.3 Rights for claimants**

#### **5.3.1 *Rights to support: services to help claimants fulfil conditions, and benefit levels***

If claimants are to be expected to fulfil more responsibilities, it could be argued that the minimum *quid pro quo* involves the right kind of support to help them to do so. Support for workless claimants has increased considerably over the last ten years in the UK, alongside increases in conditionality (DWP, 2007, 2008a and 2008b). (As described earlier, for example, Work Focused Interviews have become mandatory for groups who until the late 1990s faced no work-related conditions.) Increases in support – such as prolonged contact with a Personal Adviser, vocational training courses, and help with travel to interviews and expenses on starting work - have been used to justify the expansion of claimants' responsibilities to actively seek work and/or improve their skill levels (see section 6 below).

However, there is concern that increases in the level of support do not always match the corresponding increase in conditionality. This raises questions about, first, ensuring the quality and suitability of services and training (including the key issue of how this should be assessed and by whom), which is important to ensure that claimants really do benefit from support; and secondly, who has, or should have, control over services, the provider or the claimant.

Increasing conditionality at a time of economic crisis and rising unemployment (when spending opportunities are more limited) also places new demands on the social security system, especially on its staff. Already, claimants can feel 'knocked back' instead of supported when they try to improve their situation, because of elements in the system such as the rules on earnings disregards and the disruption of reporting income changes. The introduction of ESA involved a

slight change to the permitted work rules, increasing the weekly earnings disregard for the means-tested element to the same, higher, level as that for the non-means-tested element. However, for some groups on means-tested benefits, the earnings disregards are minimal and some have not changed much in recent years (Millar *et al.*, 2006).

Resource demands (funding and qualified staff) will also need to be met if the regime is not to risk failing to provide promised support in exchange for claimant obligations. Failure to provide adequate support may increase the frustration which claimants feel in putting effort into job search and work-related activity (e.g. skills training) when jobs are scarce.

The question of benefit levels is rather more complex, opening up key issues such as the content of the economic rights of citizens. Some people (e.g. the 'Citizens' Income' campaign (see McKay, 2005)) would support the right to an income for individuals both in and out of employment, with no conditions attached (except citizenship, or at least residence). Others would focus more on the notion of a decency level for minimum incomes, regardless of the conditions attached to their receipt, which should be sufficient to allow people to live in human dignity, to access their rights and to fulfil their responsibilities. This is examined in more detail in section 6 below; but it is already clear from the discussion in previous sections that there is room for debate about the adequacy of benefit levels in the UK today, especially for some claimant groups.

### **5.3.2 Rights to fair treatment in the labour market**

The growing emphasis on 'work for [all] those who can', reflected in the increasing extent of conditionality (with its focus on job search, employability etc.), introduces important questions about the relative advantages of being a paid worker, and the responsibility of governments to ensure that those in work receive fair remuneration and are not discriminated against in the labour market. Some argue that governments should support job creation, and guarantee job security and a minimum level of wages, and that responsibilities should also be enforced on others, in particular employers. Others argue instead that to intervene in this way – at least beyond a basic level – is either unworkable or unrealistic or both.

There have been important developments over the last ten years in terms of new or extended employment rights – including the introduction of the national minimum wage and the equality duties (see BERR, 2008). The latest proposal involves doubling the Access to Work budget to help disabled people access

paid employment (DWP, 2008a); and a 'jobs fund' for young people to guarantee opportunities after a certain period of unemployment.

But some argue that the Government could do more to address inequality in the labour market (Hills and Stewart, 2005; Commission on Vulnerable Employment, 2008). Critics highlight the existence of job insecurity as evidence of insufficient intervention, and call for further responsibilities to be enforced on others, in particular employers, to offer sustainable jobs, counter discrimination and make appropriate jobs available to meet the needs of different employees (those with disabilities, caring responsibilities etc.); they would argue that many people would not become claimants to begin with if their employment were sustained. These arguments extend to governments' responsibility to support job creation with public funding and to act as an employer of last resort, especially in a recession (CPAG, 2008b). Moreover, whilst the Government has introduced a range of policies to help balance paid work and family life, it is still argued that this only gives a right to *request* flexible working, and to reasonable consideration of that request, rather than a right to flexible working in itself.

### **5.3.3 *Rights to income and infrastructure to support employment***

In order to enter the labour market, claimants/jobseekers need to be able to secure an adequate income (through benefits and tax credits in addition to wages if necessary). They also need to be able to travel affordably to jobs and to have someone with whom they can safely leave their child/ren.

New in-work payments have been introduced in the UK in recent years to 'make work pay' and changes have been made to benefit rules to ease the transition into employment (see, for example, Bennett and Millar, 2005). But some commentators still express concerns that claimants will not always be better off – or better off enough to make the additional effort worthwhile – when they enter employment (CPAG, 2008b), and that in-work poverty still affects many. Tomlinson and Walker (2009: 5) argue that 'only quality jobs offer sustained protection against poverty' (defined in a multi-dimensional way)'.

In terms of income *in prospect*, for claimants contemplating entering employment, the quality and comprehensiveness of 'better off in work' calculations are important. For example, claimants need to be made aware of any potential losses (e.g. free prescriptions, free school meals) and work-related costs (e.g. travel and childcare - costs which vary in terms of how much control

governments have over them)<sup>35</sup> - before entering employment (Citizens Advice, 2007). Burchardt (2008) has also argued that the 'time costs' of moving into paid work should be included. In terms of income *in reality*, there are important issues around whether work really does pay (and whether any increases in income are sufficient to compensate for the loss of stability/security associated with leaving benefit). Parents are particularly reluctant to expose their children to instability of income and, although various positive policies have been introduced which are addressed to the transition point, recent research by Ridge and Millar suggests that at least for lone parents this is still a key issue (Ridge and Millar, 2008).

Whilst there have been considerable improvements in infrastructure over recent years (such as the expansion of childcare), some argue that there are still significant gaps in affordable provision - in particular in places for older children and those with disabilities, and in rural areas (OPM, 2008; Working Families, 2006). The review of childcare sufficiency assessments carried out by OPM for DCSF showed a lack of after-school care for older children, holiday care and childcare for those working atypical hours in the majority of authorities. This is highly relevant for parents on benefits in view of the types of jobs which many are likely to be offered. The limited hours of free early years education available – although these are increasing – and the complexity of the childcare element of the Working Tax Credit are also relevant. This argument raises important questions about the appropriateness of increases in conditionality for lone parents in particular, especially during a recession when barriers to the labour market increase and job security declines. There are further issues about the degree to which the infrastructure available to support work is/will be taken into account when decisions are made in the context of the current discretionary, sanctions-based system, and the extent to which claimants will be able to make choices about childcare provision.

The DWP's response to concerns expressed about the impact of an inadequate infrastructure for some claimants was to stress that lone parents will not be required to accept work when suitable, affordable childcare is not available (reported on BBC Radio 4, 2008). But this raises new questions as to where the lines between suitable/unsuitable and affordable/unaffordable will be drawn; who will be required to draw them; and how, if at all, claimants will be able to

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<sup>35</sup> It is not clear to what degree, if at all, allowances in tax credits have inflated childcare costs (potentially providing an argument for direct provision). Many other countries focus more on direct provision and/or subsidies to providers (often accompanied by some fee relief for parents) rather than subsidies to parents, arguably also giving governments a greater influence over childcare quality.

challenge such judgments. These same issues also apply to transport and other forms of infrastructure, and therefore to a much wider group of claimants.

#### **5.3.4 Rights to information and communication, quality decision-making and redress**

*Information, communication and transparency* are critical to the success of the social security system (e.g. in ensuring high take-up levels, and that any sanctions function as intended - for deliberate non-compliance only). This is particularly important given the recent increases in conditions placed on claimants in terms of monitoring claims and reporting relevant changes. However, concerns have been voiced about the accessibility and availability of information (NAO, 2006); about the reliance on telephony (SSAC 2006b) and the internet for communication; and (as noted in section 4 above) about low levels of awareness around sanctions (Dorsett, 2008; SSAC, 2006a). This has prompted measures to clarify information and improve transparency for claimants, as well as Gregg's proposals to reform sanctions (2008). For example, Code of Practice 26 (COP26) has been introduced recently in the Tax Credits system. COP26 includes a clear statement of responsibilities on the part of both the state and the claimant, and what action will/can be taken if responsibilities are not met (with specific reference to overpayments and procedures for dealing with them). Information, communication and transparency can potentially be empowering, giving claimants the 'agency to take control of their lives' (Bennett and Cooke, 2007). They can be seen as particularly important – and potentially more problematic - with the increase in private and voluntary sector providers.

*Quality decision-making, complaint and redress*: despite a high level of customer satisfaction in general with the services that Jobcentre Plus provides (e.g. Sanderson *et al.*, 2005), Citizens' Advice Bureaux and other advisers still have numerous examples of bad quality decision-making (see, for example, Finn *et al.*, 2008). It can also be argued that increases in conditionality may introduce a greater number of decision-making points, and therefore reduce transparency and add to complexity, as well as increase the likelihood that a bad decision will be made. In addition, there is the potential for financial hardship during the appeals process, as well as other barriers to engaging in the complaints procedure and seeking redress, such as a lack of understanding of the process (Dorsett, 2008). This raises important questions about what claimants should be able to expect in return for meeting their obligations, and what their rights should be if they are not met (for example, the right to seek compensation). And under a system which is more personalised and discretionary in future, it may be more

difficult to seek redress or demonstrate a lack of reasonableness in decision-making.

*Discretion versus regulation:* There has been a long-standing debate in the UK about the right balance between regulation and discretion in the social security system. The arguments were rehearsed, for example, in the controversial beginnings of the discretionary part of the Social Fund in 1988 (see, for example, Walker and Lawton, 1989). Regulation was often characterised by its critics as tending towards the two extremes of over-complexity on the one hand or bluntness in meeting individual needs on the other; but discretion was criticised in its turn by some for failing to assure claimants of their rights, and of resulting in injustice and inequalities.

Today, the trend is unambiguously towards greater personalisation of services and more discretion for Personal Advisers, rather than clear rules being set in regulations. This has been argued for on the basis of increased flexibility and freedoms (see DWP, 2003), with some perhaps seeing greater discretion as moving further towards the personalised conditionality advocated by Gregg (2008). But critics argue that it increases the likelihood that claimants will receive differential treatment. Goodwin (2008), for example, reported that similar behaviour by lone parents might or might not lead to a sanction, depending on which Personal Adviser was dealing with their case.

This also suggests that discretion can leave the way open for prejudice. Indeed, evidence from the US suggests that racial discrimination can be a problem in a discretionary system (Kahil et al., 2002). However, in the UK the equality duties and the need to deliver equality of service mean that there is a legal obligation for discretion to be 'fair'.

Recently a claimants' charter, overseen by an independent ombudsman, has been suggested in order to protect claimants' rights in these areas of benefits administration vis a vis both Jobcentre Plus and private/voluntary sector providers; this is discussed further below, in section 6.

### **5.3.5 Claimant choice and/or opportunities to shape the system**

The latest government proposals (DWP, 2008a and 2008c) suggest that jobseekers may have a choice of provider when they are moved on from the Jobcentre Plus system. A claimant's ability to make an (informed) choice about a provider will depend on the quality of information, the knowledge and communication skills of any staff they consult and the availability of services (for



example, some rural areas may not realistically be able to offer a choice of provision). And some claimants will be better able to negotiate or assert their own needs and wishes than others.

Furthermore, it is of course important to ensure that good quality is universal, so that all claimants, whatever their choice of provision, are able to benefit. If providers other than central government (e.g. private and voluntary sector organisations, and/or local government) are given additional powers in relation to claimants, debates about rights and responsibilities need to include them as well.

Gregg (2008) put forward the idea(l) that claimants should in future have greater control over the action plan which they draw up in conjunction with their Personal Adviser (PA), and should be able to feel that they 'own' it. This is an attractive proposition in principle. He drew on the recently developed concept of 'co-production' of services in describing his ideas for more personalised conditionality in the social security system. 'Co-production' means the involvement of beneficiaries of services in their design, planning and delivery (New Economics Foundation, 2008). However, it is unclear how the claimant's relative power vis-à-vis their PA is to be increased, or how they will be able to ensure that this is put to good effect. There do not seem to be any specific proposals for change in the arrangements, as far as we can ascertain – whilst in the meantime, the legislative power to apply sanctions to wider groups of claimants is contained in the Welfare Reform Bill. And for claimants on JSA, some aspirations which they may have - for example, to receive funding for education or training of more than 8 weeks' duration whilst on benefit - are not likely to be able to be accommodated.

More generally, the idea of a 'user voice' has not traditionally been as prominent in the social security system as it has in other areas (such as social care and health), in which users are, and have been, more involved in shaping the service they receive (Bennett with Roberts, 2004). Whilst there are many examples of organised consultation around specific government proposals, the design of particular leaflets etc., there are very few opportunities for proactive, sustained or more comprehensive input from claimants about the design and delivery of the benefits system. The references to claimant empowerment in the Gregg review (2008) could be taken forward in this way if there were to be commitment from governments.

## 5.4 Responsibilities of claimants

### 5.4.1 *Appropriateness of claimant responsibilities and ability to fulfil them*

As described above, the responsibilities which claimants are expected to fulfil differ for different groups – for example, unemployed people and carers – though for many people of working age these expectations have been converging recently (and may become more personalised and less tied to claimant categories in future). The actual responsibilities placed on claimants range from not fraudulently claiming, to not leaving a job without just cause, to actively seeking work. For most groups, failure to fulfil these responsibilities can attract financial sanctions.<sup>36</sup>

The recent welfare reform White Paper (DWP, 2008c) introduced what it describes as a more flexible, ‘tiered’ system of conditionality (intended to take more account of individual capabilities). However, it also proposed a further deepening of conditionality, as well as a broadening to new groups (e.g. JSA for lone parents with younger children than formerly) – though there will (still) be some groups from whom no work-related activities are expected, as recommended by Gregg (2008). This would be extended even further in future by the proposed abolition of Income Support, with most working age claimants being moved on to JSA or ESA if they were claiming an income replacement benefit, with a view to having a ‘single working age benefit’ (DWP, 2008c; Gregg, 2008). It is not yet clear whether this will provide a flexible, personalised system in which claimants feel more empowered, or whether the differing conditions for different claimants within one broader working age benefit will be more confusing. It is also unclear whether the simplification of not having to move from one benefit to another will outweigh any uncertainty about the conditions of entitlement for any one benefit.

One change in terms of new obligations has been the introduction of responsibilities for the partners of claimants. Previously, if a benefit included an increase for a dependent adult, it was only the claimant who had to fulfil any responsibilities (such as signing on or going to a medical examination). Now in many cases (e.g. for childless couples claiming JSA) the claimant’s partner has to do so too, without receiving benefit themselves. And in future some partners with children will be subject to some conditionality; and some partners may have to become the claimant instead (for example, if they could claim JSA, rather than the other person claiming ESA). This is a radical move, which is likely to largely

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<sup>36</sup> The Gregg report (2008) also proposes the introduction of various non-financial sanctions.

affect women. What is uncertain is whether the moves to increase/impose obligations for partners and parents are being implemented with sufficient attention to the private organisation and division of labour within families, particularly with respect to different cultural expectations in terms of participation in paid work and household labour. If 'partners' are restricting their own availability (for example, because of cultural expectations about work), this may in theory ultimately attract a sanction. It is unclear what the Government's position on this would be. But the evaluations of recent measures involving change for partners imply that the issues involved are both thorny and complex (see, for example, Coleman and Seeds, 2007) - especially in a country such as the UK, in which the division of labour within couples has traditionally been treated as a matter of private choice.

#### ***5.4.2 Taking account of claimants' other responsibilities***

Recent changes to the social security system mean that many people once considered economically 'inactive' (such as lone mothers with younger children and people with long-term health conditions) have been/are to be re-classified as unemployed, or at least on the way to employment. These changes have simultaneously been praised for empowering previously 'written off' (DWP) groups (NIACE, 2008), and criticised for seeming to place value on just one type of work (paid employment) over and above other forms of work and competing responsibilities (CPAG, 2008b). This raises questions around the extent to which responsibilities which claimants have outside their relationship with the social security system (such as caring for other people and volunteering) should be taken into account when thinking about benefit conditionality.

It has been argued, for example, that conditions for partners and lone parents are being tightened before universal affordable childcare provision is in place (see 5.3.3 above). The Government has said that some JSA conditions will be eased for lone parents – for example, availability for work of 16 hours per week rather than full time will be acceptable. Some other rules will not be relaxed. Harker (2006) examined issues related to employment expectations for parents in her report on child poverty for the DWP; but the current proposals go further. In a situation in which both partners in some couples with children are expected to actively seek work, it could be asked whether either of them should be expected to be available for 40 hours per week, on the basis that the other one will take care of their 'other' responsibilities, i.e. the children. So the new proposals appear to have implications for the existing requirements placed on unemployed claimants with families. It is as yet unclear how PAs will deal with any conflicting

versions of the division of labour in cases of couples in which both partners are subject to some form of conditionality.

For many people, in particular women, different intensities of care work are also interwoven throughout their lives, rather than being confined to particular periods of the lifecycle.<sup>37</sup> There is likely to be a constant tension between their various responsibilities, in a way which is not always sufficiently recognised. For example, as Brewer and Paull (2006: 10) note:

*'... a child starting school brings a new involvement in school life for the parent as well as the child, potentially generating new responsibilities for mothers outside the formal labour market.'*

The Government has emphasised parents' responsibility for creating an appropriate 'home learning environment', and the potential costs of parents not being sufficiently involved in their child's education have been increasingly highlighted in recent years.<sup>38</sup> For joint earners with children, juggling responsibilities may be an option (one parent on hand whilst the other manages the household); but in practice, parental involvement is often by default assumed to be maternal involvement. Lone parents must often make choices between their responsibilities to their children and to the labour market. Burchardt (2008) has recently highlighted the issue of 'time poverty'; women, especially lone mothers with several children, are those most likely to suffer from both time and income poverty, with no way to improve one without further exacerbating the other. There seems to be no distinction in the new proposals between parents with one child or several children, the dividing line between different forms of conditionality being age of youngest child; yet, as implied by this study, the number of children may make a significant difference to the time it takes to fulfil parental responsibilities. This is not necessarily solved by childcare provision alone, given the complexities involved in coordinating support and transporting children to and from different childcare venues (Skinner, 2005).<sup>39</sup>

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<sup>37</sup> See article by Hilary Land in Social Policy Review 21 (forthcoming, 2009).

<sup>38</sup> Desforges and Abouchaar (2003) have shown that parental interest and active involvement in their children's education is the best predictor of a child's educational attainment.

<sup>39</sup> Skinner argues, however, that early education related to children's ages may have a greater impact on the co-ordination required (because of the part-time hours and different venues) than number of children.

Whilst debates about the extension of conditionality have brought some of these issues to the fore, the introduction of the gender equality duty would suggest that more in-depth consideration of them is required. Whilst the Government has made significant progress in terms of the childcare infrastructure in the UK, the focus (apart from the part-time free early years educational provision) is on childcare for those in paid work, rather than as a service which is a right for all children. This may still suggest that the responsibility is seen as private, rather than social and shared. This differs from the view of childcare provision in, for example, Sweden and Denmark (where parents are expected to look for work once parental leave ends) (Purnell, 2008-09: 202), and so makes for a very different backdrop.

Finding the appropriate place for voluntary work in the benefits system is also a difficult issue. 'Active citizenship', often emphasised in discussions about responsibilities which should go alongside rights (see 1.3 above), is usually conceived of as including volunteering. Voluntary work is generally permitted for claimants, and there is a voluntary work element in the New Deal.<sup>40</sup> Jobseekers who do voluntary work are allowed 48 hours to attend a job interview and one week to take up a job offer (House of Commons *Hansard*, Written Answers 20 April 2009, col. 136W). However, the requirement that volunteers need to retain a clear focus on moving off welfare into paid work may prove problematic in practice; and those on Incapacity Benefits may find their inability to be in paid work questioned if they engage in sustained voluntary work. There may therefore be contradictory messages about voluntary work in the benefits system; and there is no structured arrangement to permit payment for regular voluntary work in (for example) engagement in the community without this coming up against the earnings disregard rules.

#### **5.4.3 *Failing to meet responsibilities: appropriateness and effectiveness of sanctions***

As argued earlier in this Paper, sanctions have long been a part of the UK benefits system. Some argue that sanctions are a logical outcome of conditionality, as they act as a means of enforcement and without them

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<sup>40</sup> On 6 April, a package of support worth £0.5 billion (over two years) for those unemployed for 6 months or more was announced, including (in addition to a recruitment subsidy for employers) work-focused volunteering placements. On 27 April, the Government also agreed to continuing to pay benefit to unemployed graduates who take up internships for a certain period (*The Guardian*, 27 April 2009).

conditions are meaningless; others counter that they are punitive and ineffective, and harm claimants' relationships with Personal Advisers.

In recent years the use of sanctions has been extended. Additionally, there have been moves to sanction a claimant in one area (e.g. Housing Benefit) for a breach in another, quite different, area of policy (e.g. anti-social behaviour). The measure allows Housing Benefit to be withdrawn if rehabilitation measures following anti-social behaviour are offered but refused. This is a move that has caused concern, key issues being that claimants with certain mental health conditions may be disproportionately targeted, and that benefit claimants may be punished for the behaviour of another person (e.g. a lone mother for her teenage offspring). In the latter case, it is ironically a parent who has taken on the responsibility of caring for the young person who then becomes the subject of a sanction.

The sanctions system is designed to prevent fraud and deliberate attempts to take advantage of the system; but sanctions can only work effectively if people know they are being sanctioned (i.e. through appropriate information and effective communication) and how they can act to stop this. However, evaluative evidence suggests that there are continuing difficulties around awareness; and that sanctions disproportionately affect more vulnerable claimants and their families (see section 4 above, and Dorsett, 2008; SSAC, 2006a).

Whilst there is some support for the assertion that sanctions are effective in promoting participation and benefit exits (see section 4 above and SACC, 2006a), there is also evidence of the negative impact they can have on individuals and families (i.e. hardship, worsening of mental health conditions etc.) (Dorsett, 2008). The argument in their favour is often that claimants need to be facilitated to take the steps to realise their own aspirations, and that viewed in this light conditionality has a positive role. But positive alternatives to sanctions for reinforcing desired behaviours - for example, additional conditional cash payments (such as jobsearch premia) - could offer a more effective way of ensuring that claimants achieve this. ESA claimants in effect receive a premium above their initial benefit rate for participating in work-related activity. But, following the pilot of the Work Search Premium, this idea does not appear to have been pursued further by the Government more generally.

A key argument for pursuing positive rather than negative ways of encouraging the fulfilment of responsibilities by claimants is that this would fit with other responsibilities of government, rather than contradicting them. There are

concerns, for example, that the use of sanctions to punish parents already living on low incomes undermines other serious central government responsibilities, such as its efforts to tackle child poverty and to secure and improve children's well-being.

#### **5.4.4 Responsibility to whom? Different benefits**

The UK social security system combines various types of benefits, including contributory and non-contributory non-means-tested benefits and means-tested benefits. It could be argued that these types of benefit have different implications in terms of claimant responsibilities, with (for example) the contributory system in particular emphasising responsibilities to fellow-contributors and the National Insurance Fund, rather than to taxpayers as separate and different from claimants, which tends to be emphasised for means-tested payments. Over time, the balance between these two types of benefit has shifted considerably (Carmel and Papadopoulos, 2003; Hills, 2003), with the 'contributory principle' being gradually eroded, and any remaining distinction less visible, and with some benefits now comprising both elements (JSA and ESA).

It is widely accepted that public awareness of this 'dual system' for working age benefits has also been eroded (though not in the case of pensions) (Hill, 2003). This is significant for public perceptions of benefit entitlement and deservingness (i.e. those who have paid in advance can be seen as having a very clear right to benefit, as long as they have behaved reasonably), and also raises important questions about to whom claimants *should* be responsible. Under the current arrangements, responsibilities within the benefits system are (in part) justified on the basis that they are good for claimants themselves and satisfy the demands of the taxpaying public, with conditions being set and enforced by government (see section 6 below). This juxtaposition of what can be seen as different groups arguably has very different implications from the underlying philosophy of a system based on the principle that everyone should be responsible to, and ultimately for, one another, such as underlies contributory or citizenship benefits.

The latter seems to come closer to the 'structures of mutual obligation' put forward by Goodin (2002)<sup>41</sup> than to a 'reciprocity' or 'contract' relationship. A contributory system excludes those who do not qualify - although the boundaries of 'social insurance' can be made more or less flexible and permeable, as demonstrated in the differing schemes in existence in continental Europe, for example. But non-contributory non-means-tested benefits such as Carer's

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<sup>41</sup> Note that Goodin's arguments are primarily put forward in relation to 'workfare'.

Allowance, sometimes called categorical or citizenship benefits, can also reinforce social solidarity and the idea of everyone being stakeholders in the social security system, without the boundary problems of contributory benefits (though, in the UK at least, such benefits are often paid at a lower level).

#### **5.4.5 Claimant responsibilities: the role of public opinion**

Evidence indicates public support for some degree of conditionality in the benefits system, particularly when coupled with appropriate levels of assistance and opportunity (Dwyer, 2002; Hall and Pettigrew, 2007). Whilst there is considerable backing for assistance for vulnerable groups, there also seems to be a belief in personal responsibility, and concern about receipt of benefit by those who are claiming fraudulently and/or in the absence of genuine need.<sup>42</sup> Thus policy-makers appear to face difficult choices in terms of balancing demands for rights with calls for tougher conditions (which it is argued by some may help to legitimate benefit provision in the eyes of the public, and thereby in the longer term lead to more rights for claimants). We discuss this point further in section 6 below.

However, there are arguments that public opinion both shapes policy and is shaped by it. Thus the messages behind an increased emphasis on conditionality and sanctions (which will tend to emphasise fraudulent behaviour and idleness) can be seen as potentially reinforcing negative stereotypes of benefit claimants (Sefton, 2009: 243). This raises important questions about the duty of governments to shape public opinion (by educating people about the 'average' claimant who wants to work) and to challenge these negative stereotypes, counteracting 'undeserving' labels (Lister, 2004).

### **5.5 Summary**

This discussion, based on the guide drawn up for consultation with SSAC's stakeholders and the responses to that consultation, has focused on rights and responsibilities from the claimant's perspective. It has raised a number of issues which the authors believe should be considered when proposals are being made to change the balance between rights and responsibilities within the benefits system, especially by extending conditionality. The next, and final, section (6) uses these issues as a basis for going beyond the narrower discussion of conditionality to put forward some final, broader reflections.

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<sup>42</sup> British Social Attitudes data reveal high levels of suspicion around the legitimacy of benefit claims, especially for unemployed people (e.g. Hills and Lelkes, 1999).



## 6. Discussion and conclusions

### 6.1 Introduction

This section first discusses the arguments made by governments for an increasing emphasis on responsibilities in exchange for rights in the social security system. It then examines some of the wider issues about rights and responsibilities which may not be included when narrower questions about activation or conditional payments are being considered.

### 6.2 Justifications put forward for an increased emphasis on responsibilities

The recent growth in conditionality for UK benefit claimants – through both increases in demands to demonstrate that they are fulfilling their responsibilities, and extensions of the groups to whom such responsibilities are deemed to apply – has been justified on four major grounds. The first is on the basis of the additional support that has been made available to claimants and/or those entering employment; thus, increases on the rights side of the equation should, it is argued, be balanced by increases in responsibilities. For example, Gordon Brown said when he was Chancellor (before the current recession) that with so much more help available there was now no excuse for people not to take up job opportunities (Brown, 2002). More recently, however, this argument has tended to be reversed (see, for example, DWP, 2008a), with the emphasis put instead on giving rewards for the exercise of responsibility.

The second argument is about the need to combat a ‘dependency culture’ among claimants<sup>43</sup> (Cox, 2003; Lindsey and Mailand, 2004). The third concerns the need to steer people in a direction that is good for them. This predominates in the recent discussion document about implementing the Gregg review (DWP, 2009, paras. 2-6); the argument is that people will not necessarily ‘engage’ unless participation is compulsory, because they do not always realise the benefits of doing so in advance (DWP, 2009, para. 19).

The fourth argument is the need to legitimate benefit claims in the eyes of the general public (Hills, 2002). Making benefits dependent on the fulfilment of

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<sup>43</sup> ‘We have already moved away from a passive social security system which could be caricatured as encouraging welfare dependency... The Government will provide support, nationally and locally, and help individuals fulfil their potential. We will balance rights with responsibilities’ (David Blunkett MP, foreword to *Principles of welfare reform: The values and principles which shape the Government’s vision of the welfare state*, DWP, 2005).

conditions (making 'rights' increasingly conditional),<sup>44</sup> and the use of sanctions (SSAC, 2006a) to combat benefit fraud or the failure to fulfil conditions, is thus assumed to be necessary to satisfy taxpayers that benefits are going to the right (responsible) people, and to them alone.

### **6.2.1 Increased rights**

The increased emphasis on claimants' responsibilities, especially to take up paid work when appropriate, has been implemented alongside an expansion of state support both for those seeking work and for those in employment. This increase in support is described in more detail in Section 2 above, and has undoubtedly made a significant difference to many people's lives. However, the labour market in the UK is still very unequal, with many insecure jobs, significant levels of low pay<sup>45</sup> and a wide gender pay gap. Take-up of the Working Tax Credit for those without children in particular is very low and childless, able-bodied under-25s are not eligible to claim it.

Moreover, as also noted in Section 2, for many claimants (in particular working age adults) the level of benefit in relation to the living standards of the rest of the UK population has declined in recent years – although children have seen real increases in their rates of benefits and Tax Credits. Recent work on a 'minimum income standard' (Bradshaw *et al.*, 2008) showed that benefit levels for working age individuals and various family types were below such a standard,<sup>46</sup> as well as being below the relative income poverty line (60 per cent of median disposable income). Public opinion polling has demonstrated that members of the public are less likely to say they think benefits are adequate to live on when

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<sup>44</sup> 'A new welfare 'consensus' that emphasizes a citizenship centred on notions of duty rather than rights has been built. This has allowed the state to reduce its role as a provider of welfare and also defend a position in which the welfare rights of some citizens are increasingly conditional on those individuals meeting compulsory responsibilities' (Dwyer, 1998: 493).

<sup>45</sup> The UK has considerably higher levels of earnings inequality than other EU countries. In 2006, 16 per cent of UK men and 29 per cent of women were low paid (earning less than two-thirds of the male median); this compares to 5 per cent of men and 10 per cent of women in Finland (see Stewart, 2009, Table 13.4).

<sup>46</sup> Work carried out for the Joseph Rowntree Foundation and published in 2008 aimed to establish a 'minimum income standard' that would enable the purchase of food, clothes, shelter and 'the opportunities and choices necessary to participate in society' (Bradshaw *et al.*, 2008). The figures calculated excluding childcare, rent and council tax (for those of working age) were £144.51 per week for a single adult, £349.32 for a couple with 2 children and £194.76 for a lone parent with one child. These figures were considerably higher than benefit income for most groups; this was particularly pronounced for single adults, with the minimum income being more than twice as high (the differences were respectively: -£84.01, -£132.44 and -£64.92 per week respectively).

they know what level they actually are. As in previous recessions, it is likely that this knowledge will become more widespread in the near future. The resources spent on support for those out of work to help them to enter the labour market are also lower than in some other countries, as noted in section 2. Despite the increase in expenditure under recent Labour governments, in relative terms the UK can still not really be described as a country with high levels of conditionality matched by high levels of investment.

There are two other issues which are important to consider in relation to rights. First, we described above (section 2) the changes in the nature and amounts of benefits over time. But there has also been a series of administrative problems in recent years in Tax Credits, Child Support and benefits, which have had a serious impact on the lives of many claimants. Both these factors suggest that many claimants are unlikely to think of the payments they receive as an inalienable right. The level of error in the determination of benefits has not been reduced significantly, and (as noted above) CABx and others still have many examples of bad decision-making and delivery (Finn *et al.*, 2008), whilst benefit fraud has declined, from an estimated 2 per cent of benefit expenditure in 2001 to 0.6 per cent (House of Commons *Hansard*, Written Answers 27.1.09, col. 447W). In a study of informal work and the benefits system, ATD Fourth World and Community Links (2009) also found many of those who took part in their discussion groups (often long-term benefit claimants) asserting that they felt they were often not treated with respect when claiming benefits.

In addition, for some people responsibilities have been introduced without corresponding rights to benefit payments. For example, both the claimant and partner in couples without children on Jobseeker's Allowance now have to fulfil the conditions for JSA, in terms of being available for and actively seeking work; but the partner gets no benefit in their own right, because the JSA is in the claimant's name (Bennett, 2005). Similar measures are now being extended to couples with children (though many partners will be in the 'progression to work' pathfinder group). Most partners of out-of-work benefit claimants are women. If either the claimant or the partner does not fulfil the conditions, it is in effect the claimant who is sanctioned, as they are the only one being paid benefit. Means-tested benefits involve joint assessment for couples - and the payment of benefit for both partners to one person. These arrangements do not sit very easily with activation and conditionality measures which are increasingly individualised. The implications of the recent activation measures should be taken on board in the equality impact assessments which the DWP is committed to carrying out.

### **6.2.2 'Dependency culture'**

As noted above, US welfare reform during the mid- to late 1990s was particularly influential for New Labour policies. 'The end of welfare as we know it', as President Clinton called his proposed reforms, involved the replacement of the Aid to Families with Dependent Children (AFDC) scheme with Temporary Assistance to Needy Families (TANF), with time limits and a strong emphasis on paid work (Waddan, 2003). Clinton talked about the need to 'end welfare as a way of life ... and make it a path to independence and dignity'. The US reforms appeared to be based on a sense that public and political feeling in that country saw long-term welfare 'dependency' as a serious and growing problem.

The intensification of responsibilities for claimants in the UK has also often been promoted by ministers in terms of combating a 'dependency culture' (Cebulla, 2005) and/or a 'culture of worklessness' (Brown, 2002) which is said to exist amongst some groups of claimants and in some areas, especially those which have seen several generations of worklessness. Activation is seen as the answer to these problems, the rationale being that 'unconditional' or 'passive' benefits undermine self-reliance and thus promote dependency (Cebulla, 2005), while work-related conditions encourage proactive behaviour. The 'dependency culture' thesis is, however, contested (see, for example, Dean and Taylor-Gooby, 1992), with empirical studies demonstrating that long-term benefit recipients subscribe to mainstream aspirations and values - not celebrating rights to welfare, but rather seeking work that would afford them a sense of self-worth and their families financial security (Dean, 2007).

Some commentators have drawn attention to what they see as an apparent mismatch between concern about dependence on state benefits (Dean, 2001: 3) and (for example) a lack of attention to enforced economic dependence within the household, which affects many women in particular. In addition, there are few expectations regarding fulfilment of responsibilities by recipients of occupational and fiscal benefits (Mann, 2009). And Davidson and Kemp (2008) point out that the kind of benefit conditionality experienced by claimants of ESA is not applied to people in receipt of Statutory Sick Pay or Occupational Sick Pay. The 'social divisions of welfare' described by Richard Titmuss in the 1950s are also apparent in the expectations of beneficiaries of different kinds of payments.

### **6.2.3 Positively influencing behaviour?**

Frank Field MP argued in 1999 that the social security system was no longer 'seen as a neutral agency operating in society. Rather ... one, which, for good or ill, helps determine motivation, shape action and thereby determine character' (Field, 1999). Claimants once seen as 'passive victims' (or, to use Le Grand's (1997) term, 'pawns'), with little agency or ability to change their own circumstances, had been recast as self-interested, and economically motivated. This perspective lent support to arguments for increased benefit conditionality and incentivising paid work, promoting, supporting and directing individual agency so that claimants act in their own best interests. The increasing emphasis on behavioural 'engineering' (Le Grand, 1997) has involved, as noted in section 2 above, a combination of policies to promote 'desirable' behaviour (such as conditional cash payments) and policies to discourage or penalise unwanted behaviour (especially sanctions for non-compliance) (Lister, 2008).

This approach has had mixed fortunes in practice, including in policy areas related to other claimant responsibilities besides activation. The compulsion on 'parents with care' on benefits (usually in practice lone mothers) to identify the father of their child/ren so that Child Support could be obtained, introduced in 1993, was enforced by a benefit sanction, which was applied unless the lone mother had good cause not to name the father. This has now been abandoned in the face of widespread non-compliance by mothers, and evidence that the cost to the Government of collecting maintenance for IS claimants was often higher than any benefits passed on to their children. There are current plans to withdraw the regulations to reduce the benefits of offenders failing to fulfil their community service sentences (*The Guardian*, 27 February 2009); and there had, at least until autumn 2008, been no withdrawals of Housing Benefit from those refusing to cooperate with rehabilitation measures following anti-social behaviour (House of Commons *Hansard*, Written Answers 29.9.08, col. 2380W). A proposal to take away Child Benefit from parents whose children truanted was floated, but not pursued beyond the drawing board stage (Bennett with Dornan, 2006). All these measures involved using benefit sanctions to fulfil purposes outside the social security system.

More recently, the Government has explored the ideas promoted in behavioural economics (which aims to understand people's economic decisions and behaviours), and how policy might be employed to bring about behavioural change (Halpern *et al.*, 2004) - especially to 'nudge' people into making the right choices, by understanding and acting on the way people make decisions and designing 'environments' accordingly (see Thaler and Sunstein, 2008). Activation

policies, with job-search and other conditions, as well as sanctions for non-compliance, can be seen as examples of measures taken to reinforce and promote behaviours, specifically participation in the labour market, endorsed by the Government as being beneficial both to individuals themselves and to society as a whole (Halpern *et al.*, 2004).

As noted above, these policies are now often described as rewarding responsibility. In this light, conditionality is seen as playing a positive function in helping people to take the steps to realise their own aspirations which otherwise they are unlikely to take. Some people may of course be helped or persuaded, for example by a Work Focused Interview, into taking action – though whether this fulfils their aspirations or not is likely to depend on the kinds of factors discussed in section 5. But arguably this view of conditionality is more applicable at a high level of generality than when assessing the merits of specific changes.

As noted in section 5.4.3 above, positive alternatives to sanctions for reinforcing behaviours which fulfil both government's and claimant's goals - for example, additional cash payments (such as jobsearch premia) – could provide an alternative to sanctions in fulfilling this aim. And several targeted, voluntary schemes, such as the Working for Families Fund in Scotland ((McQuaid *et al.*, 2009), as well as Partners Outreach for Ethnic Minorities (POEM) (Aston *et al.*, 2009),<sup>47</sup> have recently been evaluated positively. Factors seen as important for POEM in individuals achieving movement towards the labour market included trust, making clients feel comfortable and flexibility. The authors of the WFF evaluation concluded:

*It was a voluntary scheme on the part of clients, which showed that effective support of the right type, albeit in relatively good economic conditions, can result in a significant improvement in the employment and employability of disadvantaged parents. (MCQuaid et al., 2009, Executive Summary, p. 12).*

Finally, for some commentators, arguments about influencing claimants' behaviour - whether in a negative or a positive direction - are seen as (over)-emphasising the role of the individual rather than structural factors.

Activation policies have also been influenced by a growing belief in supply-side economics. This approach does not see employment as a zero sum game in

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<sup>47</sup> This was an interim evaluation. The participants involved were not benefit claimants but were jobless.

which there is only so much work to go round (worklessness therefore only being solved by injecting additional demand into the economy), but instead sees maximising the supply of labour as the answer (Gregg and Wadsworth, 1999). This economic analysis complemented the increasing emphasis on individual behaviour, as it suggested a focus on persuading individuals to join the workforce in greater numbers. Resources expended for this purpose could be seen as investment, rather than simply as public spending, equipping people to be 'responsible risk takers', in Giddens' (1994) words, in the context of globalisation and constant change. But a focus on the individual can be seen as downplaying the importance of structural factors in this context as well; and in the current economic downturn, demand side issues may be considered more important again. (For example, the 2009 Budget included the guarantee of a job, training place or work placement for 18- to 24-year-olds out of work for 12 months (HM Treasury, 2009).)

#### **6.2.4 Public opinion**

*'Matching opportunity and responsibility is the only way to obtain consent from the public to fund the welfare state. It has become the new deal for 21<sup>st</sup> century welfare.'* (Tony Blair MP, then prime minister, quoted in Deacon, 2000: 11)

When he was prime minister, Tony Blair (1999) declared that he wanted to introduce a 'something for something' welfare state, and that he was supporting reforms intended to make the welfare state popular (again). It was clear that the key factor in this effort was the benefits system (Bennett, 1999). In part this meant, as Alistair Darling (1999: 35) put it, 'restoring public confidence in the benefit system by rooting out fraud and error'. But it also meant an element of compulsion, with a responsibility on claimants, in return for the right to advice, to 'look at their options – not to write themselves off' (ibid: 37). The *quid pro quo* is that, in return for claimants fulfilling their responsibilities, the public will be prepared to give them more rights – or at least to continue giving them the same rights. As Bastagli (2009, p. 132) put it, on the basis of data on British public opinion: 'the link ... between welfare payments and some form of valued social participation or reciprocity appears to act as a source of legitimacy for welfare spending'. Government ministers have also used this argument (e.g. Purnell, 2008-09). It could be added that if the actual impact of sanctions is mixed, the message that they convey may itself be seen as the key aim.

Relatively little research has been conducted specifically exploring public opinion around rights and responsibilities and their connection to the social security system (Dwyer, 2002). Some studies which have done so, however, highlight the importance placed on social rights as part of the 'citizenship package', and the responsibility placed by the public on the state as a provider, in terms of both social security (Dwyer, 2002) and its role as an employer of last resort (Hills and Lelkes, 1999). The Government has recently published the results of some deliberative research with members of the public, which suggests a more supportive attitude towards conditionality (Hall and Pettigrew, 2007). Taken together, this evidence suggests that public opinion is somewhat mixed, with what might be called conditional support for conditionality, with considerable recognition of the structural causes of unemployment, and some concern that too much focus on the responsibility to take up paid employment may marginalise other responsibilities, such as care for others (Dwyer, 2002).

Public opinion does seem to have shifted over the decade since Labour took power, however, in the direction of more punitive attitudes towards benefit claimants (Sefton, 2009: 238). The increasing emphasis on claimants' responsibilities, which we have also traced over this period, does not appear to have succeeded in making the welfare state (benefits system) popular again, but may instead have fed the public appetite for 'othering'.<sup>48</sup> Bennett had noted in 1999 (p. 40) that the Government's strategy, in trying to dissociate Tax Credits from the social security system, and in emphasising conditions and sanctions for benefits claimants, 'risks reinforcing rather than countering negative images of benefits/claimants'. Now Sefton (2009: 239) argues that the changes in public attitudes 'may have been unwittingly encouraged by New Labour rhetoric on "rights and responsibilities"'.

It has been argued that recent governments have been sensitive to the opinions of the popular media, which may also have a key role in both reflecting and influencing public opinion. Sensationalist stories of benefit fraud, large families in local authority housing reliant only on benefit income and 'money-grabbing' teenage mothers frequently grace the pages of the tabloids, whilst the protagonists' fictional counterparts appear in television dramas. These stories and images no doubt have an impact on the public consciousness, shaping and

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<sup>48</sup> Defining identity by the stigmatisation of individuals or groups as different or 'other'. This is a phrase employed in particular by Lister (2004) in describing public attitudes towards people living in poverty.



consolidating beliefs and attitudes.<sup>49</sup> Indeed, there is a popular belief that tabloid newspapers aim to reinforce negative views towards those on low income and benefits (UKCAP, 2008) by regularly juxtaposing ‘hard-working families’ and benefit claimants to draw a distinction between them (Seymour, 2008). The Government’s use of the description ‘hard-working families’ arguably represents an attempt to ensure that there is public support for its redistributive policies; but again it risks appearing to counterpose those in employment to people on out-of-work benefits, to the detriment of the latter. The Government has also been backward in vaunting the above inflation increases implemented in benefits for out-of-work families – meaning that many people are unaware of either its targets on child poverty or the progress made towards them.

Van Oorschot (2008), speaking at the annual conference of the Social Policy Association, argued that welfare states (such as the UK) with an emphasis on means-tested benefits tend, in debates about their social security systems, to focus largely on the payments side, and on which groups are deserving of support. On the other hand, countries with more generous benefits systems which cover more of the population are more interested in the paying-in side; so debates tend to be focused more on how to maintain continued public commitment to financing these generous benefits, with discussions about the drivers of solidarity and self-interest amongst the population as a whole. This would seem a more promising way to retain and increase public support than continuous attempts to prove the deservingness of groups of benefit recipients. But it becomes more difficult the more social security recipients are seen as a separate group from those financing benefits.

The evidence of change above also demonstrates that public opinion should not be treated as static. Sefton (2009: 242) argues that trends towards greater individualism and meritocracy in society may be influential. In addition, he uses the influence of economic trends on public opinion to warn against holding the Government entirely responsible for changes in underlying attitudes: when the economy was doing well, people might be more inclined to emphasise personal responsibility.<sup>50</sup> It is therefore possible that public sympathy towards those in poverty and/or on benefits, in particular unemployed people, may increase during

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<sup>49</sup> See the interim report of the Fabian Commission on Life Chances and Child Poverty (2005) for discussion of the function of popular media images in influencing attitudes towards poverty.

<sup>50</sup> He also argues that if the Government had been more explicitly redistributive it might not have been able to achieve as much as it has.

the economic recession, as it has done in similar periods before (Gallie and Paugam, 2002).

It is also already evident from media coverage of the financial crisis that there are likely to be greater demands from the public for a demonstration of responsible behaviour from the better off and those with more power. In the 2009 Budget (HM Treasury, 2009), the Government simultaneously proposed both a higher tax rate on those on high incomes and stricter measures against tax evasion and avoidance.

### **6.3 Wider issues about rights and responsibilities**

Much of the discussion in this Occasional Paper has focused on the practical application of rights, and in particular responsibilities, and the relationship between them, within the existing social security system. However, this final section moves into a broader discussion. The concepts of rights and responsibilities have long been part of discussions about the UK's social security system and of wider political debates. However, over time they have changed in nature and shape, in recent years being linked together more closely and frequently construed as a contract between citizen (claimant) and state - and in the latest welfare reforms appearing to be rhetorically recast again, with 'support' instead of rights and 'expectations' instead of responsibilities (DWP, 2008c).

#### **6.3.1 A claimants' charter**

Contractual language implies that the responsibility of claimants may be to themselves (i.e. their own development) but is also to the state, as the partner to the contract which provides them with rights (though increasingly in relation to 'activation' measures the Government is handing over the operation of part of the 'contract' to other providers). But, as discussed in section 5 (above), individuals themselves may consider other responsibilities to be more important at some points than either of these. In particular, for example, recent research by Ridge and Millar with lone parents demonstrates that at some points in their lives they may prize stability more than progression in employment (reported in Millar, 2007). Similarly, families with children more generally may not want to risk losing what has been called the 'bleak security' of a life on basic means-tested benefit for the disruptions and uncertainties of taking up employment. ATD Fourth World and Community Links (2009) also found in their discussion groups that for

claimants with multiple disadvantages, some issues were sometimes more pressing than employment.<sup>51</sup>

It is very welcome that these kinds of issues are recognised by the Government in its discussion document about implementing the Gregg review (DWP, 2009, para. 31), at least in relation to the pathfinders for the 'progression to work' group; but it is not yet clear what practical safeguards will be available to ensure that claimants' concerns and views will be respected and taken into account in decision-making, and how the existence of a sanctions regime will fit with this. The 'customer insight' resource which government departments are now developing should include a focus on exploring and understanding claimants' own priorities in different circumstances. A constructive suggestion made by ATD Fourth World and Community Links (2009) is that claimants should be involved in training Jobcentre Plus staff, including Personal Advisers, in order to increase their understanding of the problems faced by long-term benefit claimants and those living in poverty more generally.

However, as noted above, the voices of claimants currently remain marginalised in social security debates and reforms in the UK. There are no governance arrangements for the social insurance system which involve unions and employers, as in some countries in continental Europe, or any formal mechanisms for regular engagement with claimants more generally. Yet empowerment and agency are very important issues in a system in which the balance of power is so unequal.

Proposals to introduce a greater degree of 'ownership', and the positive tone of the language about the 'progression to work' group in particular in the Government's discussion document about implementing the Gregg review (DWP, 2009), are welcome. However, as noted above, the proposals seem to be unclear about how claimants can control this or other elements of their claim in reality, freedom of choice being limited by regulations (backed by a sanctions regime) and subject to advisers' discretion. Advisers therefore seem to be gaining more power in reformed welfare arrangements, as part of the drive to personalise the benefits system. In some respects, this drive marks a positive shift - an increasing level of flexibility and the ability to respond to individual circumstances. In the pathfinders for the 'progression to work' group, for example, it appears that account will be taken of the variations in the journey back to work for non-jobseekers, and of how the needs of parents with younger

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<sup>51</sup> See also Dean *et al.*, 2003.

children can differ; and there will be no specific definition of what work-related activity should be undertaken (DWP, 2009, paras. 29 and 30). However, such personalisation also brings with it concerns about the ability to provide consistent, coherent, transparent administration, where claimants know the rules and when they have grounds for complaint.

In order to meet such concerns, the chairman of the Work and Pensions Select Committee, Terry Rooney MP, has recently suggested the introduction of a 'claimants' charter':

*'... the responsibilities of claimants are enforced through sanctions, and the state's right to co-operation is enforced similarly, but the responsibilities of the state to the claimant and the rights of the claimant tend to get diminished. Will he consider the idea of a claimant's charter, in which those rights and responsibilities are clearly delineated? Claimants would then know what they could expect, as well as their obligations.'* (Terry Rooney MP, House of Commons *Hansard*, Debates 27.1.09, col. 182).

The Government has indicated a willingness to look at such a charter. Gingerbread, the Disability Alliance, the Child Poverty Action Group and Citizens Advice wrote to MPs on 20 February 2009 outlining the principles on which a claimant's charter should be based, including (in summary):

- claimants not in employment should not be expected to live below the poverty line;
- claimants must be treated with dignity and respect;
- during their first interview claimants should be told about the conditions of their claim;
- claims should be dealt with in a timely and accurate way, with no charges incurred by claimants for communications about their progress;
- claimants must have a right of appeal against a sanction and be told about this;
- claimants must have high quality support to help them enter sustainable employment;
- claimants should receive the minimum wage for activities which should be paid;
- claimants should be able to access good quality independent advice on these issues;
- the Government should tell them about this, and they should be provided with the charter.

The organisations suggest that the charter should be enforced by an independent ombudsman, who should have jurisdiction over private and voluntary sector providers as well as Jobcentre Plus. After the creation of Jobcentre Plus, Karagiannaki (2005, p. 29) commented that ‘the explicit work-focus of the new organisation ... raises questions as to whether [it] is wholly beneficial to less job-oriented client groups’. It is therefore important that the relevant elements of such a charter should also apply to those claimants who do not have responsibilities to prepare for, or actively seek, work. The increasing focus on responsibilities should not blind us to the fact that these claimants are no less deserving of an informative, transparent and fair benefits delivery system, or of being treated with respect, or of receiving the right amount of benefit.

Should such a claimants’ charter be agreed, it could go some way towards redressing the balance of power which is currently firmly tilted in favour of the state in the ‘contract’ with claimants as individuals. But if ‘we need to ensure claimants are treated fairly and have *real voice* and power’ (Purnell, 2008-09: 203, our emphasis), this would need to be complemented by mechanisms to ensure a ‘real voice’ for claimants as a whole in the design, implementation and monitoring of social security arrangements through regular engagement.

### **6.3.2 A fair welfare contract?**

As noted at the beginning of this Paper, SSAC was interested in exploring the issues set out by White and Cooke (2007) in their framework for a ‘fair welfare contract’ between citizens, the state and civil society. White and Cooke set out the following requirements for fairness in terms of a balance between rights and responsibilities, which go well beyond the shape of the benefits system or the rights and responsibilities within it and refer to the structure of society as a whole:

- Fair opportunity – referring to the level of social mobility, and the existence of structural inequalities in society;
- Fair reward – meaning fair wages for different kinds of work, and the level of intervention in the labour market;
- Universality – whether contributions are expected from, and enforced on, all those who are able to make them; and
- Diversity – whether society is sensitive to all contributions (e.g. the value of care).

White and Cooke concluded that not all these requirements were met in the UK (see Appendix 1 for more detail). They argued that: there is still a large opportunity gap and limited social mobility; that growing inequalities in the labour market blunt some progressive government policies, and that the tax system is regressive; that more emphasis is placed on claimants rather than on (for example) those with an inherited fortune in terms of making a contribution; and that there are mixed messages in different policy areas about the value of care compared with other contributions to society.

Aspirations towards 'a Scandinavian-style consensus around an active, egalitarian welfare state, combining high employment, universal childcare and low child poverty' (Purnell, 2008-09: 198) constitute a challenging vision for the UK, which if taken seriously as a goal to aim for would require not only significant improvements in the accessibility and affordability of childcare, but also faster progress on the gender equality and family-friendly agendas - and a more generous social security system, based more on the ideas of contribution and/or citizenship, and paying benefits to everyone at a level which allows people to live in dignity. The idea of 'consensus' implies popular and political agreement around this vision.

We have noted that benefits/Tax Credits have been increased in real terms for some groups, particularly children. Groups with additional needs also receive higher payments than the basic benefit rates (for example, via Disability Living Allowance). But this time of recession and high unemployment could be seen as providing an appropriate opportunity to consider benefit levels more widely (see Kenway, 2009). There are several arguments for increasing benefit levels – even leaving aside the economic argument, that a boost to benefits provides an immediate fiscal stimulus (Sinfield, 2009). First is the argument made by Frank Field MP (2009), who has focused on the basic rate of contributory JSA (now paid for up to six months only), arguing that it is an insufficient return for those who have worked for many years with 'decades of National Insurance contributions'.<sup>52</sup> His view is that the payment is inadequate to fulfil the rights based on contributions which such claimants have built up - thereby arguably undermining the 'something for something' view of the welfare state which the Government is keen to promote. As SSAC itself said in a report in 1999:

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<sup>52</sup> The value of contributory JSA has fallen in relation to average earnings: Unemployment Benefit (later contributory JSA) fell from 18.7 per cent of average earnings in 1980-81 to 10.5 per cent in 2008-09 (House of Commons *Hansard*, Written Answers 2 April 2009, cols. 1405W-1406W).

*'We believe that there is merit in the assertions of some commentators that the maintenance of a contributory element within the benefits structure means that all citizens, however well able they may be to provide for themselves, have a stake in that structure as potential recipients of benefit ... the principle of inclusive social insurance can be said to play a part in engendering social solidarity and cohesion.'* (SSAC, 12th Report, May 1997 to March 1999, 1999, para 9, chapter 1).

Secondly, there is also an argument that raising basic benefit levels for claimants, whether on non-means-tested or means-tested benefits, would help them to fulfil their responsibilities (see, for example, Dean, 2001: 3, drawing on Doyal and Gough, 1991). As noted earlier, poverty - as a result of inadequate benefit levels, or other causes - can undermine the capacity to fulfil responsibilities, in part by forming a barrier to access to services and support (Lister, 2004). Esser (2009), in a recent comparative study of public attitudes, finds that those countries with the most generous welfare regimes tended to have higher levels of work commitment. It can be argued that the exercise of both rights *and* responsibilities is dependent on resources - and that it can be their inability to fulfil their responsibilities fully, because of lack of resources, which causes the most distress to people in poverty themselves.<sup>53</sup>

Recently, building on the European Employment Strategy and member states' plans to combat social exclusion, the EU has issued a communication about 'active inclusion'. Its purpose is to ensure not only that labour market entry is supported for those who are able to work, but also that this is accompanied by a 'decent' standard of living and access to adequate services. The emphasis is on inclusion in, and contribution to, society, whether or not someone is able to enter paid employment (Commission of the European Communities, 2007: 6-7). Policies to ensure a decent standard of living, via an adequate income, and access to quality services are seen as equally as important as labour market entry.

### **6.3.3 Rethinking the contract model**

Many of the arguments described in this Paper explicitly adopt the language of a 'welfare contract'. The concept of a 'contract' can imply an agreement between equal partners. However, as we note above, it would be difficult to argue in

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<sup>53</sup> ATD Fourth World, for example, has made this point with regard to parents living in long-term poverty who feel that they do not have the resources to give their child/ren the decent upbringing they would wish for them.

relation to the social security system that both parties have equal power and/or voice in shaping the nature and terms of the 'contract'. As Goodin (2002) argues, because claimants need the benefit they are applying for, it is rather a one-sided contract, and it is therefore difficult to see that they can exercise real 'choice'. The idea of a true contract in this context has therefore been challenged by some as inappropriate (as well as irrelevant to some kinds of benefits/Tax Credits).

And if a contract model is seen as appropriate for thinking about (elements of) social security provision, it has been argued that it is more appropriate to adopt a lifetime approach to benefit rights and responsibilities – thus 'temporally decoupling reciprocal obligations' (Goodin, 2002: 591). This suggests that responsibilities should not necessarily be thought of as having to be fulfilled at the same time as a benefit is received. And Dean (2001: 3) concludes:

*'Interdependency is a fundamental characteristic of the human condition and our obligations are not determined by some narrow mutualistic calculus, so much as socially negotiated over time, within relationships and between the generations'.*

#### **6.4 Conclusions**

It has been argued that, once there is the strong expectation that almost everyone of working age receiving benefits is on a journey back to work, 'with clear consequences if they are not', a wider set of issues about fairness and responsibility can be brought to the centre of the welfare debate. These issues include how to enhance employment support; achieve universal, affordable childcare and help families balance work and family life; promote equality for disabled people, including by changing employers' attitudes; simplify the benefits system and improve incentives; increase the quality of work and progression; and ensure people earn a good wage that lifts their family out of poverty (Purnell, 2008-09: 203). These are ambitious and positive goals by any measure. The argument is that the Government has already made progress on these issues, but that there is further to go; and that 'making the welfare system more demanding is also about creating the conditions for it to become more generous' (ibid: 202). This is drawing on the logic of the argument about public opinion discussed above.

It could be argued, however, that, despite these aspirations, to focus so much policy energy on emphasising the responsibilities of claimants, and the need to enforce them via sanctions, may reinforce negative images which constrain rather than increase public willingness to focus on claimants' rights and the



positive ambitions described; that part of the concern about this emphasis rests on the fact that these ambitions described as being desirable for the future are not yet fully in place in the UK; and that these are the issues which should be the main focus of government priorities. The additional issue not mentioned above is the (in)adequacy of many benefit levels, in particular the adult rate of IS/JSA; as we argued above, both access to rights and the fulfilment of responsibilities are dependent upon resources. Finally, the key challenge for the future is to ensure a sustainable social security system supported by all.

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## **Appendix 1: Overarching issues in the rights and responsibilities debate (White and Cooke, 2007)**

This section presents a discussion of the overarching issues significant to achieving an appropriate and ‘fair’ balance between rights and responsibilities for those claiming social security benefits in the UK, as set out by White and Cooke (2007) in their framework for a ‘fair welfare contract’. These ideas, amongst others, served as a framework for the consultation with SSAC stakeholders about the issues to be considered when an extension of conditionality is proposed. White and Cooke set out the following requirements for fairness in terms of a balance between rights and responsibilities in this context:

1. Fair opportunity - whether two individuals with the same abilities can realistically aspire to the same jobs regardless of social backgrounds (i.e. levels of social mobility);
2. Fair reward - the degree to which the structure of rewards for economic contributions can be described as fair (i.e. whether people receive a ‘fair’ wage for the work they do);
3. Universality – whether contributions are expected from, and enforced on all those who are able to meet them;
4. Diversity - whether society is sensitive to the full range of economic contributions that citizens can make (e.g. the value of care).

We examine each of these briefly in turn below.

*Fair opportunity* involves the structural inequalities which limit what an individual can aspire to - or, as Rawls (1999) puts it, ‘whether two individuals with the same abilities can aspire to the same job’. Creating or promoting fair opportunity may be interpreted as just a case of levelling the playing field (removing active discrimination) - labelled the ‘weak meritocrat’ view; or it may be seen as proactively attempting to minimise structural inequalities - the ‘strong meritocrat’ view (White and Cooke, 2007). Over the last decade, the Government has introduced a number of policies designed to promote equality of opportunity and social mobility. These include programmes such as Sure Start (parenting, childcare and other help for families in disadvantaged areas) and Excellence in Cities (designed to improve the performance of inner city schools). However, White and Cooke (2007) – and many others, including the Government itself – argue that there is still a large opportunity gap and limited social mobility in the UK.

*Fair reward* is concerned with wage inequality and the level of intervention in the (labour) market in order to tackle this inequality and/or its consequences. Although much has been done over the last decade in terms of 'making work pay' (including subsidising/regulating the lowest wages, as well as changes to benefits, tax credits and other policies), growing inequalities in the labour market have sometimes blunted the impact of these policies. Thus, for some, entering the labour market may still mean little in terms of additional income, in stark contrast to the very high incomes of those at the top, this inequality being (arguably) entirely disproportionate to differences in talent and ability. Also important is 'the regressive nature of the overall tax system, where the poorest pay the biggest proportion of their income' (White and Cooke, 2007: 6).

*Universality* centres more generally on equality of expectation, i.e. whether a contribution is expected from all who have the capacity to make it. This is, of course, closely connected to what is seen to be a 'contribution', and specifically the centrality of paid work in such definitions. Significantly, almost all discussions around 'free-riding' (receiving but not contributing) focus on benefit claimants, and very little attention is paid to those who can afford to live without 'making a contribution' (e.g. because they have an inherited fortune). This also leads to benefit conditionality which is based not on circumstances and capabilities, but on arbitrary boundaries of benefit type (and in turn age, age of child etc.). These categories mask important within-group differences that may impact on a claimant's ability to fulfil conditions (White and Cooke, 2007). Measures are now being taken to introduce a more 'personalised' system of conditionality; but existing benefits categories still appear to be important in defining the level of conditionality (i.e. whether someone is placed in the 'work-ready' or 'progress to work' group) (see section 3).

*Diversity* is concerned with what constitutes a 'contribution', or what value is placed on different forms of contribution (in particular care for others and voluntary work). This issue is significant, as it lies at the heart of debates about broadening conditionality to different groups. For example, lone parents of children under 16/19 have traditionally not been expected to be available for paid work in the British social security system, their role (and contribution) being their full-time care of their children - childrearing, in the past, being seen as vital to (social) reproduction of the workforce. Now, however, these boundaries have gradually been (and continue to be) redrawn, as paid work takes priority over other forms of contribution. This is now also being extended to mothers in two-parent families. Voluntary work, although recognised in some parts of the benefits system as a bridge to paid work, can be seen as not 'real' work, and

may interfere with the real business of finding waged labour. Outside the confines of conditionality as part of the benefits system, a number of measures have been taken which show an increased recognition of the 'contributive status of care work' (such as the gradual extension of paid maternity leave, the introduction of paternity leave and increased rights to flexible working) (White and Cooke, 2007: 7). Thus there appear to be mixed messages in different policy areas about care as a contribution.

However, as explained above, although White's and Cooke's discussion of the components of a 'fair welfare contract' was one of the starting points for SSAC's decision to commission this study of rights and responsibilities in relation to the social security system, their exploration of the issues involved remains at a fairly general and abstract level of principle. It is also helpful to think about such tensions in a more applied sense. In addition, if considered through a lens of rights and responsibilities, there are some rights in particular to which White and Cooke pay less attention in this formulation of the issues at stake. The more detailed exploration of relevant issues in sections 5 and 6 of this paper is therefore informed by, but not limited to, White and Cooke's consideration of what is needed to create a 'fair welfare contract' or a balance between rights and responsibilities.

White, S. and Cooke, G. (2007) 'Taking responsibility: a fair welfare contract', in J. Bennett and G. Cooke (eds.), (2007) *It's All About You: Citizen-centred welfare*, London: Institute for Public Policy Research: 26-42.

## **Appendix 2: Discussion guide for the SSAC stakeholder consultation**

### **Rights and Responsibilities in the Social Security System**

**Julia Griggs and Fran Bennett (University of Oxford)**

#### **Introduction**

The Social Security Advisory Committee (SSAC) has long taken an interest in the development of the 'rights and responsibilities' agenda as applied to the UK's social security system,<sup>54</sup> and in particular in the conditions which claimants must fulfil. Both the coverage of conditionality and its extent have tended to expand in recent years. Most recently, proposals to increase further the expectations placed upon (many) claimants have been published, and a review of benefit conditionality is being conducted for the government by Prof Paul Gregg.

This, together with the publication in 2007 of a report by the Institute for Public Policy Research<sup>55</sup> exploring what a 'fair welfare contract' for the UK might look like in practice, prompted SSAC to commission an independent study of rights and responsibilities in the benefits system.

Julia Griggs (Research Officer) and Fran Bennett (Senior Research Fellow), of the Department of Social Policy and Social Work at the University of Oxford, have been commissioned to conduct this study. They will be writing a paper for SSAC exploring the issues involved. Today's seminar is part of the research process. SSAC intends to publish the paper on their website early in the new year.

#### **Background**

The juxtaposition of rights and responsibilities is not new within the UK social security system; rather, it has always been an important element, and there is no benefit without some kind of condition(s) attached. However, there has been a growing emphasis on activation policies, at first increasing the expectations on unemployed claimants and then extending more conditionality to other groups as well. This has been justified by reference to improved rights (e.g.

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<sup>54</sup> SSAC does not have formal responsibility for the tax credits system in the same way as it does for benefits, though it does have a memorandum of understanding with HMRC. This study will focus primarily on the social security system, but will also include consideration of tax credits, as it is difficult to consider the issues involved without taking them into account. 'Social security'/'benefits' when used in this document will include tax credits where appropriate.

<sup>55</sup> Bennett, J. and Cooke, G. (eds.), (2007), *It's All About You: Citizen-centred Welfare*, London: Institute for Public Policy Research.

wages/benefits/tax credits which ‘make work pay’); the need to combat a ‘dependency culture’ amongst claimants; and/or the need to legitimate benefit claims in the eyes of the general public.

This growth in conditionality is not unique to the UK experience; there is an international trend towards welfare-to-work style policies, where benefits (or benefit premiums) are conditional upon certain behaviours or actions, and sanctions applied for ‘non-compliance’. In addition, there has been more limited exploration of increasing conditionality in other areas of benefits in the UK (maternity grant, housing benefit etc.) and elsewhere. Whether these moves involve positive incentives or negative sanctions, they have all signified a growing stress on claimant behaviour, and an increased likelihood of expecting responsibilities in return for rights.

### **Issues to be considered**

In the forthcoming paper, we will consider the principles involved in rights and responsibilities in the social security system from a broader theoretical perspective. But both SSAC and you as its stakeholders are involved in topical debates now about whether conditionality should be extended and/or increased within the social security system. In this context, we thought it would not be very useful for today’s seminar to start from scratch and design a theoretically perfect society and/or benefits system. Instead, we take as our starting point the current expectations of claimants in the UK social security system, and invite you to discuss what issues should be considered when proposals are put forward to extend and/or increase conditionality. What can claimants reasonably be expected to do and in exchange for what? What conditions should be put on conditionality?

This is nonetheless clearly still a very wide area for debate in a limited time. So to guide the discussion, we have selected **10 topic areas** below, and an overall aim: to develop a list of issues which should be considered when an extension of conditionality is proposed in the future.

### **Points to note**

When considering these issues, it is important to think about whether they are being applied to:

- An increase in conditionality for the **same group (deepening)** or
- An extension of conditionality to a **different group and/or benefit (broadening)**.

It is also important to be clear about whether we are thinking about:

- **Initial qualifying conditions** for benefits (e.g. the work capability assessment to qualify for employment and support allowance (ESA)) or



- **Ongoing / increasing conditions** once benefit has been obtained (e.g. in jobseeker's allowance (JSA), progression on to a compulsory New Deal).

We may also think differently about conditions to be fulfilled in order to qualify for **additional benefit** (i.e. positive incentives) versus conditions which if not fulfilled may lead to benefit being **reduced or withdrawn** (i.e. negative sanctions).

## **A. Rights for claimants in the UK benefits system**

### **1) Rights to support: services to help claimants fulfil conditions**

The government has justified increases in claimants' responsibilities to actively seek work / improve their skill levels by indicating that levels of support (personal advisors, suitability of training, help with travel to interviews and expenses on starting work etc.) have simultaneously improved; benefits have also been increased for some groups. However, others have argued that levels / standards of support in terms of services (personal advisors, suitability of training etc.) and benefit levels for many are too low; and/or that this is not an appropriate criterion by which to judge conditionality.

***Issues for discussion may include:** level and quality of support, personal advisors, quality and suitability of training, benefit levels*

**Considering questions such as:** What, if any, arguments are there to justify imposing greater conditionality if support services to seek work (or fulfil other conditions) and benefit levels are improved? Are there any arguments against this proposition? How do you judge standards of support?

### **2) Rights to fair treatment in the labour market**

There are different views about the responsibilities of the government to intervene in the (labour) market. Some argue that it should guarantee job security and at least a minimum level of wages; and that responsibilities should also be enforced on others, in particular employers, to counter discrimination and make appropriate jobs available to meet the needs of different employees (e.g. those with disabilities, caring responsibilities). The government should support job creation with public funding and be an employer of last resort, especially in a recession.

Others argue instead that to intervene in this way – at least beyond a basic level (e.g. a national minimum wage) - is either unworkable or unrealistic or both. It is more important to invest in human capital (skills, training etc.); and supply side economics will then ensure that sufficient jobs will be created.

**Issues for discussion may include:** job-creation, labour market regulation, job security, fair wage levels, labour market discrimination, availability of flexible work

**Considering questions such as:** Does the government have a responsibility to ensure secure, fairly paid jobs are available (for all) in return for job-seeking conditions? Or is this impractical and/or inadvisable?

### **3) Rights to income and infrastructure to support employment**

In order to enter the labour market, claimants / jobseekers need to be able to 'make work pay' – i.e. secure an adequate income (through benefits and tax credits in addition to wages if necessary). They also need to be able to travel affordably to jobs, have someone with whom they can safely leave their child/ren, and so on.

**Issues for discussion may include:** income, infrastructure, transport, childcare, care for other dependants, choice of provision

**Considering questions such as:** To what degree should the in-work income available through wages and benefits/tax credits, and the infrastructure available (e.g. transport and childcare), be taken into account when considering availability for work expectations? Is it possible to draw a line between 'inadequate' and 'good enough', and, if so, where should it be drawn?

### **4) Rights to information and communication, quality decision-making and redress**

It has been claimed by some that expectations on claimants are not clearly set out or communicated, and that therefore when claimants are sanctioned they do not know why. There is a high level of customer satisfaction with the services that Jobcentre Plus provides; but CABx and other advisors still have numerous examples of bad quality decision-making.

The trend is towards greater personalisation of services and discretion for personal advisors, rather than clear rules being set in regulations. This has been argued for on the basis of increased flexibility and freedoms; critics say that it increases the likelihood that claimants will receive differential treatment.

**Issues for discussion may include:** quality of information, communication, claimant knowledge and awareness, reporting responsibilities, quality of decision-making, discretion/regulation, transparency, redress

**Considering questions such as:** What should claimants be able to expect in terms of administration, customer service and quality of decision-making? What

should the claimants' rights be if these expectations aren't met? Should we be looking towards greater levels of discretion or regulation?

### **5) Claimant choice and/or opportunities to shape the system**

The latest Green Paper suggests that jobseekers might have a choice of provider when they are moved on from the Jobcentre Plus system. But the idea of a 'user voice' more broadly has not traditionally been prominent in the benefits system, as it has in other areas (e.g. social care, health) where users are more involved in shaping the service they receive.

***Issues for discussion may include:** power, choice, control, 'user voice', opportunities to shape rights and responsibilities / benefits system*

**Considering questions such as:** How important for claimants is the choice of provider? Should they have greater opportunities to shape the nature of the 'welfare contract' and/or the benefits system more generally?

## **B. Responsibilities of claimants in the UK benefits system**

### **6) Appropriateness of claimant responsibilities and ability to fulfil them**

The responsibilities which claimants are expected to fulfil usually differ for different groups – e.g. unemployed people versus disabled people, carers etc. – though these expectations have been converging recently. This question asks for a consideration of the actual responsibilities placed on claimants – from not fraudulently claiming, to not leaving a job without just cause, to actively seeking work etc. (It may be easier to think about this by dividing claimants into different groups and/or benefits into different kinds of benefit.)

***Issues for discussion may include:** degree and nature of responsibilities, capability, personal responsibilities*

**Considering questions such as:** How appropriate are the expectations placed upon claimants? Should they be different for different kinds of claimants / benefits? Should any account be taken of different cultural / religious / gendered norms?

### **7) Taking account of claimants' other responsibilities**

Recent changes to the benefits system mean that many of those once considered economically inactive (e.g. lone mothers and those with long-term health conditions) have been / are to be re-classified as unemployed. These changes have simultaneously been praised for empowering previously 'written off' (DWP) groups, and criticised for seeming to place value on just one type of

work (paid employment) over and above other forms of work and competing responsibilities.

***Issues for discussion may include:*** *caring responsibilities, gender, value of care, voluntary work/community activities*

**Considering questions such as:** Considering questions such as: Should other responsibilities the claimant has (e.g. caring for dependants, voluntary work in the community etc.) be taken into account when defining their responsibilities, and if so, how (and how far) can we accommodate claimants' different needs? Should this also apply to other claimants (e.g. those already treated as unemployed)?

### **8) Failing to meet responsibilities: appropriateness and effectiveness of sanctions**

Sanctions have long been a part of the UK benefits system. In recent years their use has been extended. Additionally there have been moves to sanction a claimant in one area (e.g. housing benefit) for a breach in another (e.g. anti-social behaviour), and for the behaviour of another person (e.g. teenage offspring). Some argue that sanctions are a logical outcome of conditionality; others that they are punitive and ineffective and harm claimants' relationships with personal advisors.

***Issues for discussion may include:*** *(automatic) sanctions, evidence of effectiveness, hardship, dependants, child poverty targets*

**Considering questions such as:** What, if any, arguments are there for sanctioning claimants for not fulfilling their responsibilities? Under what circumstances, if any, might sanctions be an inappropriate response to the failure to comply? How might this be considered alongside other goals (e.g. tackling poverty)?

### **9) Responsibility to whom? Responsibilities in contributory and non-contributory benefits**

The UK social security system combines two types of benefits, contributory and non-contributory (some of the latter also being means-tested). It could be argued that these two types of benefit have different implications in terms of claimant responsibilities, with the contributory system emphasising responsibilities to fellow-contributors and the National Insurance Fund, rather than to taxpayers as a separate group from claimants. Over time the balance between these two types of benefit has shifted considerably, with the 'contributory principle' being gradually eroded, and any remaining distinction less visible, with some benefits comprised of both elements (JSA and ESA).

***Issues for discussion may include:*** contributions/contributory benefits, obligations, means-testing, taxpayers, stigma

**Considering questions such as:** Should responsibilities be different depending on whether the benefit is contributory or non-contributory?

### **10) Claimant responsibilities: the role of public opinion**

Evidence indicates widespread public support for some degree of conditionality in the benefits system, particularly when coupled with appropriate levels of assistance and opportunity. Whilst there is considerable backing for assistance for vulnerable groups, there also seems to be a belief in personal responsibility and concern about receipt of benefit by those who are claiming fraudulently or without genuine need.

***Issues for discussion may include:*** Public opinion/concern, taxpayers, political pressure, sanctions, personal responsibility

**Considering questions such as:** Does increasing attention to conditionality confirm the image of claimants as responsible for their own situation and fail to confront negative public attitudes? Or is there a valid argument that public support for improving income (e.g. benefits for those out of work) will only be forthcoming if conditionality is seen to be strict(er)?

**Are there any other issues you think should be added?**