



Progression to work pathfinders: a submission by CPAG

March 2010

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General comments

The following is a submission by CPAG on the Income Support and Employment and Support Allowance (work focused interviews, work related activity etc) (lone parents and Partners) Regulations 2010.

The introduction of Progression to Work Pathfinders is part of the government's programme to relate entitlement to means tested benefits ever more closely with work or work related activities. This scheme will require lone parents claiming income support and partners of those on income support or income related employment and support allowance (IRESA)

- to attend and participate in work focused interviews (WFIs) (a provision already in place but to be revised in part in accordance with the Welfare Reform Act 2009,) and
- to participate in one or more types of work related activity (WRA) between each WFI (as part of a planned programme of activities to assist the person back to work).

The programme is 'supported' by a system of escalating sanctions that can lead up to a 20% reduction in the adult personal allowance/ in the benefit increase for partner to be applied indefinitely or until the person has made the appropriate contact with the jobcentre plus (JCP) local office.

CPAG has already put on record its opposition to increased conditionality and in particular its criticism of the requirement that most lone parents should be required to claim income based job seekers allowance (IBJSA) and be available for work as soon as their youngest child is 7. [the age is currently being phased in]. CPAG is also critical of this 'progression to work programme because it is to be enforced through a process of escalating sanctions. The concept of a 'progression to work group' was put forward by Professor Paul Gregg in his report, 'Realising Potential: A Vision for Personalised Conditionality and Support' in which he considered how more people could be helped off benefits and into work. Yet in a statement at the beginning of the report as CPAG's policy officer, Gabrielle Preston has pointed out, Paul Gregg notes that there are a number of risks associated with conditionality that need to be designed out as far as possible at inception. He refers specifically to ignorance on the part of claimants as to what is expected of them, severe hardship arising from sanctions. He also expresses concern that that conditionality may lead to people being directed to inappropriate courses or jobs (in the case of progression to work it would presumably include a range of actions and activities that might not be appropriate for the particular person). More importantly he also suggests that conditionality could push people outside of the benefit system entirelyand 'that the system fails to recognise the wider contribution that claimants are making, principally as carers.'

Although he has said the proposals in his report strike the right balance, CPAG is less sure that this is the case as research findings point to the application of conditionality and the operation of sanctions posing a problem for certain groups.

Clearly the regime and sanctions are less severe than those operating for those who must claim IBJSA and who have to be available for work but this group of parents have an important parenting function and are responsible for very young children. In CPAG's view it is not appropriate to put their benefit income at risk given the

consequences this may have for child poverty. Moreover research has shown that 'for families in hardship, adequate, reliable and secure welfare support was a critical issue'. [DWP2010 Sanctions undermine secure welfare support.]

CPAG believes that lone parents and partners where there are children should have a real choice about when and if they enter employment and what measures they take to prepare for the job market. Some will have had experience of working, others none, some will have educational qualifications and others none or very low qualifications, still more may have literacy and numeracy problems or suffer from health conditions which may make the organisation of work related activity and child care hard to achieve. Research has shown that it is parents who suffer most from progression to work requirements, see section on Sanctions. It is our view that rather than view this group of claimants or partners as requiring a regime of sanctions the emphasis should be facilitating access to education/ training at all levels and other activities that may help claimants and others who will later return to work. Parents do often want to return to work but want to know more about possible choices, child care provision and training opportunities. What is important is to give this group of parents the information they need so that they can use it to their advantage. For other parents who lack basic confidence or skills different forms of communication may be necessary – for example informal group meetings with other parents who can share ideas and problems and follow up home visits if requested. What they do not need is yet another form of 'policing' backed up by sanctions

Lone parents and partners with disabled children

Existing rules provide for lone parents to be exempt from the requirement to seek work as a condition of receiving benefit if their child qualifies for the middle or higher rate care component of disability living allowance. The new provisions relating to requirements in pathfinders also apply different rules to those with disabled children. In this case a parent will be exempt from participating in work related activities while their child is between the ages of 3- 6 inclusive whatever the rate of DLA received. This is welcome but in turn creates an odd anomaly.

When a child on the lowest care rate of DLA reaches the age of 7 his/ her parent will be required to seek work thus moving straight from a position where they have not been required to participate in work related activities to signing on and being available for work. CPAG has always argued that the requirement to impose work seeking on this group of parents is nonsensical given that these children may often have behavioural problems or other mental health conditions which may make a move into work difficult. A parent may find themselves caught between their duties to their employer and their duties as a parent to their child. The requirement to satisfy the labour market conditions before obtaining a job may also prove equally onerous. Children with such conditions as autism are often placed on the lowest rate of DLA but their behaviour is often unpredictable and parents may be called to school or nursery to help. It is also the case that children often move in an out of different bands of DLA and with it the parent's status changes from carer to non carer in terms of social security law.

It would make logical sense to recognise the particular difficulties this group of parents face and continue the greater flexibility allowed in terms of progression to work activities and allow this group of parents to be treated as carers and claim income support rather than require them to sign on. It does not stop a parent who

can both work and care for their child from doing so. But such a change would benefit those with children aged 7 and over who are currently expected to look for work and at the same time it would address the anomaly created by the more flexible approach being granted to parents of those aged 3-6.

Departmental objectives

The Department suggests that it may be possible to forecast costs and savings as a result of introducing the pathfinders. It would appear that savings could only be made by moving parents off benefit before they are required to sign on or they can show that they can move into work more quickly once required to sign on as a result of undertaking these work related activities. This also ignores the cost ultimately of running this type of programme with a high level of intervention required. Additionally the economic downturn and employment opportunities are likely to skew any assessments over the next two years.

To know whether the scheme is effective the DWP need to know far more about which parents fail to comply with requirements and why. Although the model programme provides for home visits and quite intensive investigation by staff as to the reasons why a parent may not have attended an interview or participated in a work related activity, questioning by those who must directly or indirectly police the sanctions regime is unlikely to enable the DWP to obtain the whole picture. There will simply not be enough trust. An in depth ethnographic research model carried out by independent researchers might usefully be used to pursue further what factors inhibit full participation by parents. This might also provide a useful guide as to the necessity for including a sanctions regime as part of the programme.

Comments relating to work focused interview (WFI) requirements

Benefit dependency

This pejorative phrase is used in several places in this report, to describe those who claim means tested benefits with the sole exception of pension credit when somehow the right to have at least a basic income is suddenly classed as a 'worthy' need. The use of the phrase is an insult to those who are currently unemployed or unable to work for whatever reason, and it fails to acknowledge the fact that employers are reluctant to employ those with few skills, who may have learning difficulties or other health problems which make employment a daunting or unlikely event. It fails to acknowledge the important role that parents undertake when caring for children; a choice which those on higher incomes assume is their right to choose rather than training for work or seeking work. The payment of benefits is an investment in both adults and their children and should be described in positive terms. It is also consistent with objectives laid down in the Child Poverty Act 2010.

The WFIs are described as a means to help lone parents move away from this so called benefit dependency and move closer to work. CPAG welcomes the fact that in accordance with Section 3(2) (a) of the Welfare Reform Act 2009 there will now be no need to attend these interviews in the first year of the child's life although this change will be covered in separate regulations. But we believe it would be more

appropriate to recognise the importance of the parent's role as carer of the child and extend this period of non intervention at least until the child reaches the age of 3.

Frequency of WFIs

The increased frequency of WFIs may be useful in itself as part of this particular programme but it also increases the number of potential situations in which a failure to comply will result in sanctions being imposed with their consequent reductions in benefit level, consequences which are not in the interest of the parent or the child and is contrary to the principles outlined in the Child Poverty Act 2010.

CPAG would prefer to see WFIs offered as an additional support to parents but without the underlying threat of sanctions.

Procedural aspects

Notification of WFI: Regulation 8 states that the notification of the WFI may be in writing or otherwise. Given that a failure to attend at the right time on the right day may result in the imposition of a sanction depending at what stage they are in the sanction escalation process the claimant must be able to rely on independent proof of the information given to her/him relating to date and time. CPAG would also suggest that the notice of the interview must be sent to the claimant at least 7 days in advance of the interview date otherwise the claimant should be treated as having automatic good cause for a failure to attend. This follows the provision in regulation 23 ESA regs.

Taking part in the WFI: given that the requirements of the WFI for the purposes of the pathfinder areas operate in conjunction with a requirement to participate in work related activity the wording of regulation 10 needs to be worded in a more neutral manner – para (b) – delete 'including any actionprospects'. It may be better to include an additional para (e) report on any work related activity completed or undertaken and any problems experienced. [para (e) would not apply to those who are exempt from the WRA requirements eg a parent with a disabled child on lowest rate DLA]

Work related activity

Again CPAG's view is that such assistance may be helpful but not if allied with a process of sanctions.

Regulation changes recommended

The regulations need to take account of circumstances which may limit what activity a person can undertake, The existing form of the regulations appears to give the Department some discretion but it does not spell out the kind of restrictions and circumstances that should be taken into account when requiring a person to undertake work related activity. The regulations also need to take into account the

needs of other children in the family who may be over 7 but who nevertheless will require parenting and care.

Directions about work related activity should reflect some of the same provisions that exist in the JSA regulations, in particular regulations 10 and 13 which allow a claimant who has to be available for work to restrict the work he will take. These will be particularly relevant once the person gets nearer to the point at which s/he will have to claim JSA and the work related activity may become more demanding.

Regulation 13 of these draft regulations and other regulations directing the claimant to undertake activity should include having regard to any disability, caring commitments on specific days, and the existence of other circumstances which would limit that person's scope for taking up an activity. To reflect the range of circumstances that allow a claimant to limit availability for work under JSA rules, the Secretary of State in these regulations must take into account such circumstances as the existence of a parenting order, the existence of a specific religious belief that would limit activity, the existence of disability which might make certain activity impossible. Although there is a good cause provision in these regulations it would be better if the Secretary of State had to operate these requirements with advance knowledge of these factors. It would also mean that the personal advisers would have to be aware of the kind of factors that might limit not just the work related activity but the type of work chances the person might have at a later date. It would also help with the development of an effective and realistic action plan.

Regulation 16 does deal with a restriction on the requirement to undertake work-related activity. It mentions that a person may not be required to undertake work related activity during hours in which that person has caring responsibilities in relation to the child. CPAG would recommend that there should be no requirement on the part of the parent to show that no suitable child care is available. Ultimately this puts the onus on the claimant to demonstrate that the child care that is in the area is not suitable for her/his child and this can be onerous for a person who is unused to presenting their case or who has language or learning difficulties. It should also not be a requirement to undertake these activities during school holidays because the parent may have other children of school age who are not in a school play scheme or in activities organised by the school or other recognised organisation. Child care provision during school holidays is still unpredictable and patchy.

Regulation 14 of the Jobseeker allowance regulations lists a number of situations in which a person will be treated as available for work – this is an attempt to recognise those circumstances in which a person is legitimately not able to be available for work but is for the JSA regulations treated as available. It might be helpful if the circumstances listed in regulation 14 were similarly taken into account for these regulations when deciding whether and when a person can be expected to undertake an activity as part of WRA.

Evidence of work related activity: regulation 19. It is unclear in what circumstances a claimant might be expected to obtain a statement from an independent third party. If such evidence is not available for whatever reason the claimant's own statement must have equal status for this purpose. There is also a question of privacy which could arise if a third party is asked to confirm that the claimant is undertaking this activity to the DWP. Claimants are well aware of the hostility with which they are viewed and might not want their benefit status known to that person.

Reconsideration of Action Plans reg 22: It seems likely that a person who is undertaking activities for the first time might overestimate their capacity to undertake

a particular action and might therefore want to review their Action Plan. Perhaps regulation 22 could recognise this possibility rather than it being left to the catch all phrase under subsection (4) (e) although it is necessary to keep this.

The detailed and frankly bureaucratic nature of these provisions are the proof of the impact of sanctions on a scheme. Without this underlying threat it would be much easier to frame this programme without being so exact and pedantic. A scheme which seeks to sell itself without a system of punishments can be enabling and possibly experimental because it does not matter if the person is unable to achieve a particular objective; but the claimant must play it safe with a system of sanctions.

Sanctions regime and good cause

Our comments concern the wording of the regulations, some of our concerns relating to the application of sanctions and the fact that claimants are not aware they are being sanctioned and some findings from research including that carried out by DWP concerning the general impact of work related sanctions.

Amendments to regulations

Good cause provisions reg 23. These are extensive but in the law and guidance it is important to emphasise that these are not a complete list of circumstances that count as good cause. There are a multitude of examples of DWP staff treating a list as a comprehensive list so this needs to be spelled out both in guidance to staff but also included in the regulation.

We suggest specific additions to the list:

- Attendance at a training class
- A domestic emergency or crisis including domestic violence
- Person subject to a parental order or contract in relation to an older child making attendance at the activity impossible.

We suggest a modification to sub para (m) which should not require the claimant to show that child care was not reasonably available or was unsuitable etc. This might relate to activity on one day in a 13 week period and by the time the claimant sees the personal adviser to report back at the next WFI s/he may not be able to obtain any proof that such child care would not have been available. The test in this case should be kept simple - that they could not attend the activity because they had caring responsibilities.

Additionally the regulation might need to spell out that a minor disruption within the family might make it impossible to attend an activity but the disruption could not count as a crisis.

Claimants' lack of awareness that a sanction has been applied

CPAG welcomes the fact that the new regime will include more face to face contact between claimant and JCP staff before the sanction programme starts to bite but this will still not protect claimants from the application of sanctions as they are escalated. The sanction regime can lead to a claimant having reduced benefit for many weeks and although it may be felt to be reasonable to reduce benefit for as long as the claimant fails to make a complaint or makes contact with the JCP, this assumes that the claimant has far more knowledge about their benefit payment than is the case in practice. Claimants may or may not notice that there is a drop in the amount of money they receive but even if they are aware of a different level of payment they do not necessarily associate this with a sanction. They are therefore unlikely to put the 'failure' that has caused the sanction right and will continue to manage on the reduced amount of benefit. Claimants are well used to seeing cuts in benefit for a variety of reasons including recovery of arrears, repayment of social fund loans, and deductions due to a sanction. However in many cases they may not identify the reason. This undermines the whole reason for imposing a sanction in the first place because the claimant is not in a position to learn from it.

This also has important consequences for the JCP and the quality of its communication with claimants. Notifications of changes to benefit must be clear and concise, with information about how to put the cut right and if in doubt to contact the local office or a local advice centre. The background paper mentions home visits and various measures to be undertaken to find out why a claimant fails to comply with a specific requirement. Clearly this type of face to face investigation could reveal a lot of useful information about the claimant's circumstances and assumptions.

Research findings on the impact of sanctions

In a briefing paper compiled by CPAG's policy officer, Gabrielle Preston, she cites a number of research studies which are critical of the impact of benefit sanctions on the welfare of claimants and their families. Much of the research relates to requirements of claimants to be available for work as a condition of benefit and covers findings from a number of countries but some work is UK based. We list some of the findings below:

- 'Research emanating from TANF(Temporary Assistance for Needy Families) in the US showed that it is the most vulnerable groups that are likely to incur sanctions, including "those with lower levels of education, less work experience, a high prevalence of health related barriers to employment and are more likely to experience several barriers at once.'[Improving TANF Program Outcomes for Families with Barriers to Employment. Heidi Goldberg, January 22, 2002]
- Research also shows that the imposition of benefit sanctions damages the health of young children. The study found that infants and toddlers in families whose welfare benefits were reduced or eliminated by welfare benefit sanctions have higher rates of hospitalization and hunger than infants whose families have kept their benefits. Other findings included infants being found underweight and a greater risk of being admitted to hospital on an accident and emergency visit. [The Impact of Welfare Sanctions on the health of infants and toddlers, A Skalicky and J T Cook, The Children's sentinel Nutrition Assessment Program, Boston, Massachusetts, July 2002.]

- Findings from across a range of countries including Australia, US, Sweden and the Netherlands – selected because each offered aspects of policy and practice relevant to the extension of lone parent work – related requirements in GB. Although it was concluded that it was ‘not feasibleto establish meaningful comparative benchmarks against which to measure the progress and effect of Lone parent obligations policy there were some interesting findings, in particular that ‘benefit sanctions tend to be experienced disproportionately by more disadvantaged lone parents, suggesting the need for early identification of those most at risk, to allow for earlier interventions before imposing a sanction. Additionally the evidence shows that, similar to other groups of benefit claimants, there is a ‘harder to help’ group that needs different types and levels of support (eg. health, substance abuse, basic skills etc). Most pertinent to these regulations are findings that suggest that the impacts on children of work- related requirements have been mixed with the greatest effects being experienced by parents rather than children. [Lone Parent Obligations: a review of recent evidence on the work – related requirements within the benefit systems of different countries. Dan Fister and Rosie Gloser, DWP Research Report 632, 2009-2010]
- Specific research into the impact of sanctions as a result of failure to attend / participate in WFIs was carried out in three districts. The findings were:
 - incurring a sanction does cause some lone parents stress.
 - ‘The majority of lone parentsreported being unaware of a sanction until they noticed a reduced benefit. ‘
 - ‘there was no evidence gathered in this study to suggest that customers who continued to live with a sanction had made an active decision to do so, instead they appeared to be unaware of their reduced rate of benefit’
 - ‘This study has found that amongst lone parents in this sample, the sanction regime has had negligible effects upon labour market behaviour.’

[The effects of benefit sanctions on lone parents’ employment decisions and moves into employment, Vicki Goodwin, Department of Work and Pensions, Research Report No511,2008]

- The most recent study dealing with ‘balancing parenting and employment [was] particularly problematic for poor families. It was this report that showed up the tensions between a parent’s sense of responsibility towards their children and the problem of satisfying the needs of employers. It also emphasised the importance of a reliable and secure welfare support system. [Living with Poverty: A review of the literature on children’s and families’ experiences of poverty(DWP,2010)]

Conclusions

CPAG opposes any extension of work related benefit schemes that involve the use of sanctions. Whatever the potential advantages for claimants of developing contacts with the labour market and acquiring new skills necessary for returning to work, these we would argue, are offset by the adverse impact of sanctions on the poorest and most disadvantaged claimants. The levels of benefits are inadequate even if paid at the full rate, they are even more inadequate if there are deductions made. As is clear

claimants are not clear about when benefit is being sanctioned and therefore do nothing about the reduced benefit. If the DWP proceeds with this scheme they are in effect ignoring the intentions underlying the Child Poverty Act which came into law on 26 March 2010. CPAG would request the SSAC not to support this scheme as it stands. We would however welcome the opportunity to participate in discussions to develop an alternative system to enable parents to exchange information about preparing for work and the impact of returning to work but this would not be supported by sanctions.

About CPAG

CPAG promotes action for the prevention and relief of poverty among children and families with children. To achieve this, CPAG aims to raise awareness of the causes, extent, nature and impact of poverty, and strategies for its eradication and prevention; bring about positive policy changes for families with children in poverty; and enable those eligible for income maintenance to have access to their full entitlement. If you are not already supporting us, please consider making a donation, or ask for details of our membership schemes, training courses and publications.

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