

Citizens Advice Scotland

Scottish Association of Citizens Advice Bureaux
www.cas.org.uk



Extending labour market interventions to in-work claimants – call for ideas

Response from Citizens Advice Scotland

March 2013

- Citizens Advice Scotland and its member bureaux form Scotland's largest independent advice network. CAB advice services are delivered using service points throughout Scotland, from the islands to city centres.
- Citizens advice bureaux in Scotland helped clients with over 500,000 new issues in 2011/12 – more than 1,400 new issues for every day of the year. Nearly 200,000 clients brought new issues to a bureau over the year.
- In 2011/12, Scottish bureaux achieved a financial gain of almost £140million for clients based on funding of £16.9million.

Introduction

Citizens Advice Scotland (CAS) welcomes the opportunity to provide input as the Government develops its thinking about how to extend labour market interventions to in-work claimants. CAS strongly welcomes government policy and practice that will increase individuals' income and employment opportunities. Therefore we hope that this policy can be made to work effectively.

Citizen Advice Bureaux in Scotland provide free, impartial and independent information and advice on a wide range of issues to anyone who needs it. Benefits and employment issues are respectively first and third largest areas of advice that we provide. We provide advice to people in some of the most vulnerable circumstances. Therefore we are well placed to identify the issues that are likely to arise in extending labour market interventions to in-work claimants, and our response focuses on how this policy will be implemented in practice.

Much of what CAB see is the result of poor practice, either in Jobcentres or from employers, or the result of the misapplication of policy. While some of our recommendations may seem obvious and the examples extreme, they are based in the everyday experience of bureaux and their clients. Some of the examples provided here are not in line with the law or official policy (and the advice clients say they have been given by Jobcentres is not always correct), but they do represent actual practice on the ground. Almost all have come into Scottish bureaux in the past three months.

While we recognise that this consultation is primarily about generating ideas, these are key aspects of the effective delivery of the policy, which could make the difference between a highly successful policy which achieves the Government's aim of increasing the earnings of those on Universal Credit, and one which not only fails to meet its objectives but has unintended negative consequences. We also recognise that the timescales for implementation are tight. Nevertheless to make this an effective policy, and given the lack of national and international precedent, we strongly recommend investing in research and evaluation both before and during implementation to make sure it works as well as possible.

Changing profile and volume of Jobcentre clients

As a result of this policy, for the first time ever, anyone who receives any support from the benefits system will be required to try to earn a minimum threshold. For many this will in effect be a requirement to work full-time. Some of these people will have received benefits in the past but without any related activity requirements, for example those receiving housing benefit or tax credits. This will be a culture shift for claimants which should not be underestimated, and will have major social implications for how families are able to manage their caring responsibilities for example. Some may be confused by the introduction of mandatory work requirements of benefits such as tax credits which in the past they have proactively been encouraged to claim. This needs to be handled sensitively as the policy is implemented.

The profile of claimants coming to Jobcentres to search for work is changing and will continue to change with the introduction of Universal Credit. Recent policy changes mean that more people with health problems and disabilities are applying for JSA or having to meet work-related requirements within ESA. The inclusion of in-work claimants for the first time provides both a major challenge and also a major opportunity for a step change in the quality of support claimants receive.

This also has implications for the capacity of Jobcentres and advice services. Increasingly bureaux are finding that Jobcentres are referring clients to bureau for issues that should come under the Jobcentre's remit, such as supporting people to make benefits claims and providing information about possible benefits entitlements. This may be a reflection of capacity issues in Jobcentres, and puts unwarranted pressure on bureaux.

Recommendation: A full review is undertaken of the changing profile and volume of claimants, and the nature and complexity of interactions within Jobcentres caused by present and future welfare reforms, followed by a full analysis of the implications and costings.

Recommendation: Research should be done with in-work claimants to understand their expectations, needs and experience before and during implementation of the new policy.

Recommendation: The Government should test mechanisms for how the scheme could work through a series of pilots prior to full roll-out. The pilots should cover a range of different geographical areas, including urban and rural situations, and there should be sufficient time allowed for practical learning to be drawn from the pilots.

Jobcentre administration for in-work claimants

The development of effective practice to support employed jobseekers will be extremely complex. For example, Jobcentres will have to become much more flexible in arranging appointments with advisers and work these around claimants' working hours. This is possible but will require a significant shift in practice, as currently our experience is that speaking to the Jobcentre can be challenging, with advisers and clients trying many times or spending long periods on hold to speak to someone.

- An East of Scotland CAB reports of a client who was called for an interview with a Work Programme provider. However the previous day she was starting a college course and could not attend. She informed the Jobcentre who said they would pass the message on but did not. She has been told her benefit may be stopped.

However, it will be much more challenging to arrange job interviews. Many job interviews are arranged with only a few days' notice and employees may not be in a position to ask for time off in these circumstances.

Dealing with jobsearch for in-work claimants will have to be handled with extreme sensitivity and discretion. The reality we see is that in some contexts if an employer

finds out that an employee is job seeking, it may put the employee at risk of losing their job, and employers may become increasingly reluctant to take on part-time employees who are, or who are likely to be, on benefits. The worst case scenario could be that an employer found out that a claimant was job seeking, for example if a phone conversation with an adviser was overheard by the employer, and the claimant lost their job as a result.

Recommendation: The principle that no one should be worse off in work must be extended to create a guiding principle that no one is worse off as a result of jobseeking requirements. Job seeking requirements must in no circumstances put a jobseeker's existing employment at risk.

DWP culture change

Working with jobseekers who are already in work will require Jobcentres to practise significantly greater levels of flexibility than they currently do. The evidence seen by bureaux in Scotland suggests that a significant change to Jobcentre culture and practice would be required for this to be the case, requiring major investment in training and revision of administrative systems. This training must include a realistic understanding of the employment market, of the conditions of employment for workers in low-paid, often insecure, employment, and a realistic view of claimant motivations. In our experience, most people want to maximise their earnings as far as possible, taking into account their wider circumstances, such as caring responsibilities and personal health.

Recommendation: A systematic training scheme is developed and delivered prior to the introduction of interventions for in-work claimants, which include a realistic understanding of the current employment market, of the conditions in the lower end of the employment market, and a realistic view of claimant motivations.

Supporting claimants into better work

A key aim of this policy is to move claimants into better paid work. It sometimes appears to clients we work with that the advisers who they have spoken to are not interested in the quality or hours of work, just in getting them into some form of work and therefore ending the JSA claim.

- **An East of Scotland CAB** reports of a client who is a single mother receiving JSA. She was part of the Work Programme and as a result started a job with an online telesales company. The Work Programme provider says she should be getting 30 hours of work per week and told the client these hours were guaranteed. However she is on a zero hours contract. The company have told her that hours are not guaranteed, and that the position is technically self-employed. So far she has only received 4 hours of work from the company. She feels pressurised by the Work Programme provider to 'sign off' and claim Working Tax Credit instead of JSA but the client is worried her hours will not be enough to support her and her young child.

- **A West of Scotland CAB** reports of a 19 year old client who has a zero hours contract with a major high street retailer. He has had no work since Christmas, which means he has had no income for the past two months. He had been to Job Centre plus to ask about JSA for the weeks he did not get any work. They informed him he was not eligible for JSA - as he had a contract for work it would not be possible to give him JSA for the times he was not earning.
- **An East of Scotland CAB** reports of a client receiving JSA who has been looking for work for some time. He has also been volunteering to gain additional experience. He previously worked as a scaffolder and has done level 1 training. He is aware that a local scaffolding company are recruiting for around 100 jobs, and has arranged to do the level 2 training (10 days in a different part of the country) to aid his prospects of getting the job, paid for by his family. He spoke to the Jobcentre about this as it would involve missing two signing on days. They told him that if he missed his sign-on days he would be sanctioned or his benefit stopped indefinitely. He feels he has no option but to cancel the training (possibly losing the money), which reduces the chance of him finding work. He cannot risk losing the money, as he and his partner are expecting a baby next month.

In June 2012, CAS published a report containing the findings of a survey of graduates. A quarter of respondents said that they were in employment which underutilised their skills. 78% of respondents said that Jobcentre Plus had been unhelpful in finding them a graduate level job while only 2% found the support offered there to be helpful. One 25 year old graduate in Law said that, "At the group meetings we were encouraged to leave any degree off the CV to help us find more plentiful unskilled work. Nobody would employ me as a cleaner if I had a degree. I was told to stop looking for graduate work and take a 'survival' job."

In the Powerpoint presentation accompanying the call for views, the DWP recognises that those in part-time work are predominantly women in the caring, leisure and customer service occupations. Historically these have been some of the areas of work with particularly poor employment conditions. DWP should consider how to ensure that this policy does not encourage employers to offer poor quality work with low pay and poor conditions, which would reinforce reliance on the benefits system to support essential costs for living. This would also reduce the possibility of people progressing to better paid work, one of the key aims of this policy.

Balancing work search requirements with employment

From an employer's perspective, an employee who is required to job seek as part of their benefits entitlement, is likely to need time off to attend job interviews, and is more likely to leave their employment to take up other work.

CAS sees numerous example of claimants who are required to attend interviews with the Jobcentre or with Work Programme providers, and information has not reached them until after the appointment time has passed (usually resulting in a sanction).

- A West of Scotland CAB reports of a client who has been sanctioned by the Jobcentre because he failed to attend his interview scheduled for 10.50am. The reason was that he had a job interview at 11am. The client receives low rate DLA and has dyspraxia, which means he is unable to properly manage day to day affairs and becomes disorganised.
- A North of Scotland CAB reports of a client who was told by the Jobcentre that he had been registered with a local employment skills provider. He attended on Monday, Tuesday and Wednesday, but each time they told him that he was not registered with them. On Thursday he went to stay at a friend's overnight. On Friday he arrived home to find a letter from the Jobcentre telling him to register with the provider on Thursday. He had missed the appointment and so was sanctioned.

Recommendation: Jobcentres must be able to send appointments out with appropriate levels of notice before in-work claimants, who will have much less flexibility than current claimants, are brought into the system.

Understandably, employees may not want their employer to know that they are seeking other work, and employees should have a right to privacy in relation to whether they are claiming benefits. It will be important for Jobcentre staff to be sensitive in their approach to jobseekers to ensure either of these factors is not inadvertently disclosed to employers.

The framework developed around this policy must recognise that employment practice is often poor and some employers do not comply with legal employment requirements. Often this is found in the lowest paying sectors of employment, and is therefore more likely to affect those people who would not meet the minimum earnings threshold under Universal Credit, and would therefore be required to undertake further job seeking activity.

- **A Central Scotland CAB** reports of a client whose trade is masonry. The client has worked full time (39 hours/week) with the same company for 4 years. The client has been told that with immediate effect his hours are to be reduced to 24 per week because there is not enough work. The client has not been told how long the reduced working hours will last and he is worried about how he will make ends meet. The client earns £23,000 per year, which will reduce to £14,150. Four other workers are also in this situation and he believes the boss has reduced all of their hours to push them into seeking other employment and avoid making redundancy payments.
- **An Island CAB** reports of a client whose employer has reduced his hours from full time to three days per week. The client has been employed full time by his employer for 26 years. The reduction in hours was imposed with no notice or agreement (no change to contract or verbal agreement). The client's

wife works part-time and the couple are worried about how they will pay their mortgage on their reduced income. The client wanted to know if his employer was entitled to do this.

- **An East of Scotland CAB** have a client who obtained work through an agency in a hotel belonging to a national chain. Her pay was minimum wage but no one would explain her working conditions. On her last day having worked 22 hours she was told the work she did should have taken half the time and that her last half day would be paid at £1.45 an hour. She has received no money, but has received a letter from the agency stating that there was a £60 deduction from wages arising from a conditions letter she has no recollection of signing.
- **An East of Scotland CAB** saw a client who is contracted to work four ten hour days a week in a care home. The care home currently has a vacancy for someone to work the opposite shift to the client, but is making no effort to fill the vacancy. Instead they are asking her to do overtime, which she does not want to do but feels pressurised into. Over the last three weeks she has worked 60 hours, 60 hours and 70 hours respectively.

Where employment practices are poor, the benefit system must not penalise the claimant further. For example if someone is contracted to work 20 hours a week but feels pressured to work 35 or 40 hours (meaning the employer can get away with paying half the minimum wage) then this must be challenged. In such circumstances to penalise the claimant would only condone the illegal practice.

- **An Island CAB** reports of a client who worked until recently as a hotel chef. He was not shown and did not receive a written employment contract. As demands on the hotel trade are highly variable and unpredictable the client worked an additional 112 unscheduled hours. When he asked the proprietor for payment he was told that his employment contract was for a fixed 35 hour limit with any additional hours regarded as voluntary. Three other staff members have successfully taken legal action against the employer for non-payment of wages.
- **A West of Scotland CAB** reports of a client who is currently working 8 hours a week at £5 an hour (less than the minimum wage). Prior to starting the work he was claiming JSA. The client says the employer told the Jobcentre that they are paying the National Minimum Wage.

Recommendation: The DWP must work with employers' organisations on the implementation of the scheme to understand their business needs so that the requirements on in-work claimants do not conflict with these.

Recommendation: DWP and BIS must challenge poor employment practices to prevent greater pressure on the benefits system, and ensure that the policy does not end up supporting illegal employment practices. Consideration should be given to whether feedback mechanisms can be built into the new policy to investigate cases

of potential illegal employment practice (but with care to ensure no risk is placed on employees involved).

Conditionality

Under Universal Credit sanctions can be applied in the following circumstances:

- Failure to undertake all reasonable action to obtain work
- Failure to take up offer of paid work
- Failure to undertake particular, specified work preparation action
- Failure to participate in work focused interviews

The level of compulsion applied in practice in the current system would be entirely inappropriate for jobseekers who are already in work. Making decisions about increasing employment will involve a number of decisions about trade-offs, and will be extremely complex judgements based on a range of circumstances unique to each individual. These include, but are not limited to:

- Childcare availability, flexibility and costs
- Level and nature of caring responsibilities (within and outwith the family)
- Balancing the physical and mental requirements of employment with the claimant's health
- Flexibility and conditions of current employment
- Conditions of potential employment, including length of contract and flexibility of working times
- Associated costs of employment, including cost and time required to travel to employment, costs of uniforms or other work requirements etc.
- Quality of work offered including relevance to qualifications and experience

To take two simple examples, a claimant in a permanent minimum wage job working 17.5 hours a week who was offered a full-time time-limited contract on the same rate of pay, would have to make a difficult judgment based on the length of contract, the potential for extension and the wider availability of work in his area. A mother working part-time is offered a new job for a higher hourly rate of pay. It has the same number of hours, but the hours are on different days to her current work. She would have to investigate whether she could arrange childcare for the new days, and whether she could arrange it in time for the start of the new role, whether she or any partner was reasonably able to travel to the childcare to drop off and pick the children up, and what the cost implications of this might be in comparison to her present work.

These are not easy decisions, especially where employees have concerns about employers' lack of flexibility. If a claimant has a reasonable fear that their current employer will penalise them for jobseeking or taking on additional work, they must not be placed under compulsion.

Based on the cases that CAB see, we do not believe that Jobcentre advisers are well-placed currently to support people to make these sorts of judgements. Substantive training and guidance would be needed to equip advisers to do this.

- An East of Scotland CAB reports of a single parent with a two year old child who has been employed for 3 weeks, working five shifts of five hours a week. Yesterday she received a call 20 minutes before the end of her shift from her son's nursery saying that he was ill and she had to collect him. They also said that they would not take her child the next day if he was still ill. She told this to her manager who said it was fine and just to call them and let them know. The client managed to arrange childcare for the next day to cover part, but not the entire, shift. She called to let her manager know and was told not to bother coming in as they were "calling it a day" and couldn't go on like this.
- **A West of Scotland CAB** reports of a client who has been forced to resign from a new job, which had a one month lying time (so she would not get paid for two months), after she was given a three month sanction on her JSA. This left her with no money to live on or for bus fares to get to work. The client's employment history is complicated and she believes the information the sanction was based on is incorrect.

While some of these discussions can happen during the conversations regarding the individual's Claimant Commitment, ultimately it will come down to a consideration of nature and circumstances of each individual job. Moreover, claimants are likely to be reluctant to have frank and open conversations with advisers who have the power to penalise them.

Guidance will need to be issued to Jobcentre decision makers about how to support claimants to make decisions, under what circumstances conditionality should be used and what evidence would be required to justify applying a sanction. While we recognise the value of allowing Jobcentre advisers discretion in their application of rules to individual jobseekers, this guidance will need to be very clear and detailed on any issues where there is potential for jobseekers to lose benefits through sanctions.

If sanctions are to be used to incentivise behaviour, a foundational principle of the conditionality system must be that in order to incentivise behaviour, sanctions must be applied fairly and in circumstances where the claimant is indisputably at fault. We welcome the Government's commitment that sanctions will not be applied if there is "good reason" for failure to comply. However, we have seen numerous cases where sanctions have been applied in extremely rigid ways, and some clearly been applied inappropriately, and where the Jobcentre has taken no action to remove a sanction in the face of clear evidence that the jobseeker was not at fault.

- **A West of Scotland CAB** saw a client whose JSA had been sanctioned for 16 weeks because he did not take a job. Attending the job would have involved a four hour commute.
- **A West of Scotland CAB** reports of a client who is a single parent with a seven year old daughter. Her JSA adviser has told her she is to start an employment training scheme for 25 hours a week unpaid. The client feels she is unable to do this because of her childcare responsibilities.

- **An East of Scotland CAB** reports that a client has had her JSA sanctioned for 6 weeks for failing to attend a Life Skills interview. JobCentre Plus has now admitted that they sent the letter to the wrong address. There is often confusion with her property called “--- Cottage” at no.21 and a couple of doors up called “--- House”. The client has had no money for 5 weeks. She is diabetic and lives on her own. The local Job Centre have not been helpful (apart from one person finally), and the client is distressed by her inability to get someone to take responsibility and to get her the money due. Once her sanction expires she has been told she will not receive any money for a further two weeks. Client is in dire straits financially.

Recommendation: As above, training to help Jobcentre advisers understand the reality and complexity of the choices that individuals have to make is essential.

Recommendation: Sanctions must only be imposed in circumstances where it is clear that the claimant has unreasonable grounds for not complying with a direction. In other words the requirement is on the Jobcentre, not the claimant, to provide reasonable evidence of not complying.

Recommendation: Clear guidance should be issued to Jobcentre advisers and decision makers on how to advise claimants and under what circumstances sanctions may be applied. This guidance should be publicly available so that advice workers and others working with claimants have access to it.

Recommendation: In complex cases, independent and impartial advice should be available to claimants to help them make appropriate employment choices.

Structural context

The context of the introduction of this policy is high levels of unemployment, and high levels of underemployment. Many people want to work but struggle to find work for which they are qualified and experienced, or which pays enough for them to meet essential living expenses. This is the result of very limited economic growth, rapidly increasing living costs and a reduction in the pay and hours of employment available. Over recent years, the benefits system has increasingly had to subsidise low paid work, through housing benefit, council tax benefit and tax credits.

This indicates that some of the issues this policy is trying to address are structural and cannot be addressed purely through claimant behaviour.

Strong labour market interventions such as those proposed are likely to have a profound impact on the operation of the labour market, in both the short and long term. These effects are difficult to predict. It could have positive impacts, for example in the long term reducing the use of zero hours contracts as employees who receive Universal Credit will have to be seeking to meet the minimum threshold and so may not be available on “stand-by” in case work comes in.

On the other hand, we are concerned that this policy could disincentivise employers offering low paid part-time work to employees who are receiving benefits which have job-seeking requirements. Alternatively, in the short term an increase in the supply of part-time labour could lead to an increase in part-time job opportunities. The tax credit system can already be seen to have subsidised low paid work. The risk is that

this policy could lead to the generation of more roles with poor pay and conditions, meaning that the Government's policy stimulates the lowest paying ends of the market, supporting poor employment practice, and thereby increasing dependence on the benefits system.

Recommendation: The DWP should commission modelling to assess the likely labour market impacts of the policy, take action to mitigate these where necessary and work with DBIS to monitor the labour market developments and how these affect job-seeking claimants.

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