

Dear Sirs

## **Release Response to the DWP Consultation Paper: 21<sup>st</sup> Century Welfare**

Release is the national centre of expertise on drugs and drugs law – providing free and confidential specialist advice to the public and professionals. Release also campaigns for changes to UK drug policy to bring about a fairer and more compassionate legal framework to manage drug use in our society.

The organisation provides eleven legal surgeries in some of the poorest communities in London, advising nearly 1700 clients a year. Legal advice, assistance and representation is provided in a range of legal areas including welfare law. Therefore, the proposals contained with the Consultation Paper will have a direct impact on our clients. Release has prepared a response to each question in the Consultation Paper which is set out below.

Release supports the Governments aim to ‘begin a real change to the benefits system by making it simpler and more efficient’. We would however remind the Government that in supporting people back into the work place, some recognition must be given to the fact that many employers have negative views of the groups that are targeted by this Consultation Paper, including our clients – people who use drugs problematically. The UKDPC reported in 2008<sup>1</sup> the concerns employers had in respect of employing someone with a history of problem drug use. No action was taken by the last Government to address this issue and

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<sup>1</sup> UKDPC, 2008, ‘Working towards recovery – getting drug users into jobs’, ([http://www.ukdpc.org.uk/resources/Working\\_Towards\\_Recovery.pdf](http://www.ukdpc.org.uk/resources/Working_Towards_Recovery.pdf))

with an estimated 80% of problematic drug users not in employment<sup>2</sup> we would urge the current Government to develop a clear strategy to address the problem of discrimination against drug users in the workplace.

## Introduction

Under the current welfare benefit system there are a number of issues facing people who use drugs problematically. As identified by the Social Security Advisory Committee, drug users are disproportionately affected by the sanctioning regime within the benefits system due to the chaotic nature of their lives<sup>3</sup>. Sanctioning usually occurs because a client has failed to meet conditionality of a benefit or for non-compliance. The usual reasons for benefit being stopped include failure to attend a medical; failure to sign on; failure to complete necessary forms and determination of fitness after a medical assessment. In some cases an appeal can be lodged and a reduced level of benefit is paid however where the issue is non compliance often this will result in a total cessation of benefit payments. For those receiving Jobseekers Allowance; Employment and Support Allowance or Income Support a decision to stop payment can result in housing benefit not being paid (as passporting benefits these are the condition on which housing benefit is paid). Although, there are measures that can be taken to restore housing benefit, for example, an application based on nil income, those affected are often unaware of these provisions. As a result, people can end up with rent arrears; overpayment of housing benefit; and the threat of possession proceedings and potentially an eviction order. This can cause a great deal of stress and can exacerbate the person's drug use – in some cases it can cause relapse.

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<sup>2</sup> ibid

<sup>3</sup> SSAC, 2010, 'Report of the Social Security Advisory Committee made under section 174(2) of the Social Security Administration Act 1992 on the Social Security (Welfare Reform Drug Recovery Pilots) Regulations 2010', <http://www.ssac.org.uk/pdf/SSAC-drugs-pilot-report.pdf> - visited 27/09/2010

## **Question 1 - What steps should the Government consider to reduce the cost of the welfare system and reduce welfare dependency and poverty?**

There should be better incentives to return to work, which would reduce welfare dependency. However it is essential that there is a clear distinction between people who claim Jobseekers Allowance (JSA) and are able to work as oppose to those who claim incapacity related benefits such as Employment and Support Allowance (ESA). The Consultation Paper fails to clearly distinguish the two groups which both have very different needs.

The welfare reforms proposed in chapter 3 of the consultation (which are discussed in greater detail under Question 6) are likely to force people into work sooner than they are actually able to do so, due to the financial implications anticipated as the proposals indicate a reduction in the amount of benefit that will be paid. With the current high unemployment rate making it increasingly difficult to secure work a reduction in the amount of benefits paid is likely to leave many people in greater poverty than is currently experienced under the present welfare benefit system. It is important that benefit rates do not cause people to live in poverty, otherwise it will force people to return to work earlier than they would have been able to do so due to their ill health. This will make it difficult for people to remain in employment and thus placing them back on incapacity related benefits. This would create a negative experience reducing the likelihood of someone then later returning to work. It is therefore important that any changes made to the benefits system do not place people in receipt of benefits in greater poverty.

People who have drug dependency or have had dependency problems in the past often have a range of other physical and mental health problems, and therefore some form of employment let alone full time employment is not always a practical solution. Before

introducing incentives to work for everyone other key issues need to be addressed, such as, adequate accommodation which can have an impact on someone's health and wellbeing, as well as adequate training, volunteering and job placements as recommended by the UK Drug Policy Commission<sup>4</sup>. Without such appropriate support systems in place many people will continue to live in poverty which will worsen their health and social problems due to the decrease in welfare benefits available. The changes may then reduce the cost of the welfare system but will see an increase in other Government spending. The Government needs to tackle the key issues which if addressed fully will have a greater chance of reducing welfare dependency, the cost of the welfare system as well as tackling poverty.

**Question 2 - Which aspects of the current benefits and Tax Credits system in particular lead to the widely held view that work does not pay for benefits recipients?**

The main concern people seem to have is how Housing Benefit is calculated- the anxiety that earnings will not be enough to cover living expenses and to pay rent can create fear. This is also the case for people who receive Housing Costs (also known as Support for Mortgage Interest payments). As soon as people in receipt of Housing Costs start to work they lose the support for their mortgage interest payment. Whereas in comparison some people on a low wage may still be entitled to some Housing Benefit. Reforms should bring in line Housing Costs and Housing Benefit regulations to introduce a coherent system that would allow people on low wages to receive some assistance towards their mortgage interest payments in the same way that people can receive assistance with their rent. This would then enable people who receive assistance with their mortgage payments to continue receiving this assistance even when working on a low wage, making it more beneficial for them to work than to receive an income related benefit.

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<sup>4</sup> 2008, 'Working towards recovery – getting drug users into jobs', [http://www.ukdpc.org.uk/resources/Working\\_Towards\\_Recovery.pdf](http://www.ukdpc.org.uk/resources/Working_Towards_Recovery.pdf)

The current minimum wage is £5.80 (for over 22 year olds). If someone was to work 35 hours per week at minimum wage they would get £203 per week before tax and national insurance is deducted, after deductions their income would be £177.02 per week. If the person was living in private rented accommodation in the London Borough of Lambeth (SW9) the average rental price for a self contained flat starts at approximately £175 per week. Based on the income they would receive approximately £96.89 per week from Local Housing Allowance (LHA) (if the claim was made in September 2010) leaving them £78.11 to pay towards the rent along with Council Tax and other household bills. If the person then lived in a Band D property the council tax rate would be £1235.11, the single person deduction of 25% would bring this down to £926.33 per year, with a weekly rate of £17.82 payable. This would leave the person £60.29 per week towards household bills after paying the rent and council tax. If the same earnings were used for someone who owns their own property, with mortgage being payable at the same level of rent the income left would differ greatly as they would not be entitled to any assistance with housing cost payments towards their mortgage. They would be left with a deficit of £15.80 per week, placing them in debt before any household bills are even paid. The problem is greatly highlighted by those who live in mortgaged properties as the example shows they would be in debt even before paying their Council Tax and other household bills.

The current figure for someone in rented property would mean they would have less to spend on household bills than if they were in receipt of JSA which is currently paid at £65.45 per week (for a claimant over the age of 25 and £51.85 for someone under the age of 25). If they were in receipt of income based JSA then they would have their rent and council tax covered by benefit payments, leaving them with more money than someone who was working full time. This highlights the apprehension people have when returning to work, as there is a fear that they will be unable to afford to pay rent, council tax and basic living

expenses. If someone was to live in an average priced property with the rates of LHA reducing it would be virtually impossible for people to not face financial hardship.

Being in receipt of passported benefits such as JSA and Income Support not only means that rent and council tax is usually covered by Housing and Council Tax Benefit, it also means that people receive assistance with free prescriptions and dental treatment, free school meals for their children, as well as qualifying for assistance under the social fund which provides a number of grants and interest free loans to benefit claimants under certain circumstances. Often it is the additional benefits that make a big difference, rather than the actual benefit payment. In contrast people in receipt of Incapacity Benefit do not receive free prescriptions. Recently a Release client who is in receipt of Incapacity Benefit stated that she had not been taking her medication as she was having difficulty affording the prescription, this is also similar for people that are on a low wage. Consequently, not being in receipt of passported benefits such as JSA and Income Support can make an immense difference to the standard of living due the extra benefits that are attached to it.

Therefore whilst the current system seems ineffective further cut backs in welfare benefits are likely to have a greater detriment to society as a whole. Not only is it likely to increase poverty, it is also likely to increase crime rates where people will be forced to commit crimes in order to survive, it will also mean that people have a greater chance of being made homeless if they cannot afford to pay their rent, as well as falling into debt. This will all increase long term Government spending.

### **Question 3 - To what extent is the complexity of the system deterring some people from moving into work?**

It is not so much the complexity that deters people from moving into work, the complexity of the system tends to be encountered mainly when applying for the benefits.

Problems arise when claimants believe they have informed all the relevant bodies who are responsible for the various benefit payments about a change in circumstances. This misapprehension is a result of claimants being informed (sometimes incorrectly) that all the different benefit agencies are linked. This can lead to unnecessary overpayments, which could have been avoided had there been a system where someone only has to inform one benefit agency of a change in circumstances rather than three, or a system where notification of a change in circumstances can be better linked.

The current system can make people fear moving into or agreeing to temporary work, as whilst it is possible for them to make a rapid reclaim for some benefits, it is not possible for all benefits. Claimants also worry about a period of not receiving any benefits or income when they agree to temporary work. This can often be the case where benefits are paid every two weeks, and wages from temporary work are paid monthly, this can result in an interim period where the claimant is not receiving any income, there are also often concerns that there may be problems with assessing their entitlement to housing benefit during this period.

As stated, the complexity of the system does not generally deter people from returning to work. For many of our clients, there is also a lack of opportunities available due to a history of problematic drug use. Greater support is needed to assist people back into work. Many drug users have criminal records which will impact their ability to secure work, others have

been out of work for a number of years and therefore lack confidence, skills and experience which would enable them to secure employment. From providing legal advice in drug treatment centres across London a number of clients have stated that they have literacy problems due to leaving school at a young age and now struggle to read simple letters. For these people it is not a matter of the benefits system being too complex or too generous in payments that prevents them from working, but often a number of factors which need to be addressed before any conditionality or radical reforms affecting their entitlement are introduced.

**Question 4 - To what extent is structural reform needed to deliver customer service improvements, drive down administration costs and cut the levels of error, overpayment and fraud?**

One central system could improve this; however there is no guarantee that this will reduce the levels of error, overpayment or fraud. There are flaws in current systems where there is only one administration centre such as HM Revenues & Customs which deals with all PAYE Income Tax matters. The recent debacle regarding overpayments and underpayments of income tax is a clear example that one centralised system is not always error proof, and whilst there are positives for claimants to have one central system there are also downsides to it which should not be overlooked.

The implementation of one central system is likely to reduce staffing levels meaning that the administration cost will be reduced however the actual implementation of a new system is likely to increase overall costs. Such costs would be linked to the significant cost of reforming a benefits system which has been in place for a long time.



One central system would mean people can go to one place to claim all the benefits they are entitled to, and any change of circumstances would only need to be informed to one agency thus reducing administration costs. This in theory should cut the levels of any errors or overpayments however as highlighted above this is not guaranteed. However if an error or overpayment was to be made it is likely to have greater consequences for claimants than the current system due to the new benefit models proposed in chapter 3 of the Consultation Paper. For example a Universal Credit which will link benefits in one integrated system.

One central system would be easier for claimants to understand and to navigate. It could also ensure that they received all the benefits they were entitled to.

In respect of the delivery of the service, many clients have stated that they have found frontline staff in local benefit offices unhelpful. They have often lacked appropriate knowledge on someone's entitlement to benefits, in many instances clients have been told to call a central benefits delivery centre as frontline staff do not know the answer or have generally been unhelpful and at times rude. The Consultation Paper highlights the need for 'trust' in the system and this goes beyond structural reforms. The key to a successful benefit system is better management of the system rather than a central system.

There is also a concern that a central system may breach Data Protection legislation, for example someone may be entitled to Disability Living Allowance and therefore their details will be on the Disability and Carers Service system. One central system could result in personal details being shared to other sections such as housing and council tax benefit and other income related benefits where it is not appropriate or necessary to do so. Under the current system information is only available once a person has made a claim for the particular benefit, and therefore staff working in the Jobseekers Allowance section do not

have direct access to information held by Local Councils administering Housing and Council Tax benefit. More information is needed on how one central system will continue to comply with The Data Protection Act 1998, and whether people could opt out of having their information shared between the entire benefits system.

## **Question 5 - Has the Government identified the right set of principles to use to guide reform?**

Whilst the principles outlined seem fair and sensible it is important that reform of the welfare system is based on detailed proposals rather than rhetoric.

Clearly, a system that demonstrates that ‘work outweigh the risks’ and therefore motivates people to move into employment is welcomed. The reality however is that greater economic incentive to work is not enough. Recognition must be given to the other barriers that exist – long periods of unemployment; lack of skills and confidence; a history of substance abuse – and these must be addressed to achieve any real change in the system. Further to this, reform must be outward looking as well, many employers are deterred from employing certain groups of people, including drug users, and this must be addressed to achieve any significant shift in the system. The current economic situation means that there are not many jobs out there and the paper has not addressed how this will be overcome. The principles listed do nothing to address the reality of the situation for those on benefits nor the external barriers which may exist.

A recent report<sup>5</sup> highlighted the barriers to employment that problem drug users face, a study of 30 current and recovering drug and alcohol users in England was conducted, which

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<sup>5</sup> Problem drug users’ experiences of employment and the benefit system, by Linda Bauld, Gordon Hay, Jennifer McKell and Colin Carroll for the DWP, 2010

found that many people only worked for a few years over a period of decades, whilst others carried out short-term temporary work which was low paid. There are a number of barriers in place such as having limited work experience or qualifications, criminal records, as well as employer's attitude to our clients which can often be the biggest hindrance.

Rewarding work and personal responsibility is a welcomed reform however it is important that people who are unable to work are not penalised. A clear distinction in reform need to be drawn between those who can and cannot work, unless these are clearly defined the reforms will be detrimental to this specific group.

We do welcome the Government's commitment to 'continue to support those most in need', and hope that this will be a central in guiding theme to all future changes in the welfare system.

**Question 6 - Would an approach along the lines of the models set out in chapter 3 improve work incentives and hence help the Government to reduce costs and tackle welfare dependency and poverty? Which elements would be most successful? What other approaches should the Government consider?**

There are a number of models suggested in chapter 3 and whilst there are positives to the models proposed there are also a number of concerns. Most of the models suggested appear to reduce costs and tackle welfare dependency but very few seem to address poverty. From the models suggested there is no ideal model and therefore it seems that a range of different aspects of each model will need to be combined if the current systems in place are completely changed. It should be noted that it is difficult to properly interrogate each model without proper economic analysis.

Release welcomes the Government's commitment to maintain the current level of support for people in the most vulnerable circumstances.

In order to analyse the positives and negative aspects of the models set out in chapter 3, details of each model are set out below.

**A Universal Credit** – A Universal Credit proposes that when working a claimant will see a slow reduction in benefits, with the first few hours of work unaffected, this is welcomed as it will mean people on low wages can still receive some benefit. However more information would be needed as to how tax credits are likely to be affected as many people that are on low wages are able to top up their income through Tax Credits dependant on their circumstances, such as hours worked and earnings.

The concern with a Universal Credit is that the proposal seems to be directly linked to means tested or income benefits, no discussion is given to universal benefits including Disability Living Allowance and Child Benefit. It is our submission that benefits such as these should be retained and that they should be managed outside of the Universal Credit proposal if it is adopted.

The consultation paper mentions that there will still be support for people in the most vulnerable circumstances, however there is no proposed definition of how this will be achieved. There are concerns as to how this will be assessed, and by whom. There are many people who are vulnerable and are part of families, and therefore any proposed changes needs to address how a Universal Credit will affect such people.

At present contributory benefits can be a big help to people who have recently lost work and live with a partner, for those who have paid enough national insurance contributions

they are entitled to up to six months assistance which can make a difference especially if they were recently made redundant or unable to work due to ill health. The current contributory element does not carry out a means assessment and therefore changes to this will mean that there will cease to be contributory benefits if the assessment is based on household income and savings.

More detailed proposals need to be provided in relation to housing costs- this should be brought into line with housing benefit so that people on a low wage can also receive some assistance rather than just those on means tested benefits as at present. A change in the way housing costs eligibility is assessed could provide a greater incentive to return to work. Such a reform could prevent mortgage possessions and homelessness. Release would also advocate that the time limit that currently exists in claiming assistance with mortgage costs be removed to ensure that those who need help with housing costs receive it immediately – we would ask that this principle be adopted regardless of which model is rolled out.

There is a concern that if this model was to be introduced people could have all of their benefits stopped in one go, especially when this is due to an error on the part of the benefits agency. There is also no indication as to how benefit entitlements would be affected during an appeal process. For example a client assisted by Release initially was in receipt of Jobseekers Allowance, due to his health deteriorating and him being in hospital he was advised by the Jobcentre Plus to switch his Jobseekers Allowance claim to Employment and Support Allowance. In this instance it took almost three months to process the claim fully during which time the client had to make claims for Crisis Loan under the Social Fund to meet living costs, whilst this was ongoing the client continued to receive Housing and Council Tax Benefit due to his nil income. If the same situation had occurred with Universal Credit then it is likely that he would not have been entitled to any assistance towards his rent or council tax, which could have caused him to lose his home as well as being subject to

criminal proceedings in the Magistrates Court for non-payment of Council Tax. The reforms do not indicate how Discretionary Housing Payments and various Social Fund payments will be affected if at all.

The proposal indicates that people in receipt of Jobseekers Allowance, Income Support and Employment and Support Allowance would all receive the same basic allowance, with additional amounts payable. It is not clear whether this means that all claimants will receive the same amount, or the additional amounts will take into consideration the different needs. Again people who are able to work and are in receipt of Jobseekers Allowance should be treated differently to those who are unable to work and are in receipt of incapacity related benefits as their needs vary greatly.

The proposals for a Universal Credit state that incentives for work would be reinforced through a system of disregards, although it should be noted that there are already earning disregards in place under the current welfare benefits system, and therefore this alone does not seem like an incentive, and the implication of having all benefit entitlements stopped in one go could be grave. However, we do welcome the fact that a Universal Credit would result in lower Marginal Deduction Rates.

A single statement proposed under the Universal Credit structure would be beneficial. It would mean that people will be able to see in one place all of their benefit entitlement and would be able to understand their financial circumstances more clearly rather than receiving different statements.

***Disregards and tapers*** suggest that it 'may make sense to provide larger disregards for some groups such as families bringing up children'. However further information and thought needs to be given as to whether a cap will be placed on the number of children that

a family is entitled to have in respect of benefiting from a disregard. This is currently the system for Local Housing Allowance Reforms (changes due to be implemented in April 2011) which will mean families will only be able to claim for a maximum of four bedrooms. The Local Housing Allowance changes mean that people with larger families are likely to live in overcrowded accommodation as they simply will not be able to afford adequate living conditions. It is important that the same is not done in respect of other benefits.

The proposal of a single withdrawal rate is also likely to result in people being worse off as their entitlement to benefits will stop in one go, rather than a gradual reduction in different benefits. At present someone can be entitled to housing benefit or council tax benefit but not entitled to tax credits or vice versa. Whilst this can be confusing and the proposals mean that people can see they are better off in work, it is also likely to affect people that already work a small number of hours for various reasons, and therefore the reform needs to look at not only people returning to work but how being in a low paid job or working part time may affect the entitlement and financial support currently available. In contrast it means that there is more financial support under the current system for people that work than is being proposed.

### ***Single unified taper***

The model suggests that a set of benefits would be retained reflecting that families need support for different reasons. Whilst the system being simplified is welcomed, the amount of benefits being available for different needs being reduced may have a detrimental impact and increase poverty. This is because people will not be entitled to the same level of payments that they would have been entitled to before. The model states that no disregards will be made but there will be a tapered withdrawal of benefits which will show the exact amount people would be entitled to when working. Whilst this would be helpful and make the system easier to understand it does not appear as though everyone will be

better off. People that are in work are likely to be better off as they would get to keep 25% more of their income than now. However it appears people who are unable to work due to ill health or other factors may suffer as a result. The report states that the Work Capability Assessment will still be used though it is not clear how ESA and JSA claimants will be treated differently, nor does it state which benefits will be reduced.

### ***Single working age benefit***

Again this model seeks to disadvantage people who under the current system receive up to 26 weeks of contribution based benefit, under the 'new' system they would get only get 12 weeks. This has a detrimental effect on couples where one is working and the other is made redundant, as they wouldn't qualify for means tested benefits and any assistance would be cut short at the very least by 14 weeks. This would negatively impact families with a greater risk of poverty.

The consultation states that 'contributory principle in working age benefits is misunderstood and of little real value'<sup>6</sup>, this is contested. By working directly with clients Release has seen the value of contributory benefits to people's income, particularly for couples, 6 months entitlement of a benefit that otherwise someone may not be entitled to can make a big difference. For example someone living as a couple aged over 25 could receive an additional £283 per month on the basis of contribution benefits.

### ***Mirrlees Model***

Currently the benefit rates are set on the consumer price index, the calculation looks at the estimated rate of consumer goods and services. The calculation of a person's benefits entitlement is not only set on basic rates under the CPI, but also a person's applicable amounts depending on their circumstances. The applicable amounts are further calculated

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<sup>6</sup> Chapter 3, 21<sup>st</sup> Century Welfare, DWP, July 2010



on set rates based on a personal allowance, this includes personal allowances for children in the family as well as premiums. The Mirrlees model suggests that there will be no applicable amounts meaning everyone will be entitled to the same amount, despite different circumstances but the allowance proposed is a lot lower than the CPI at present (levels of £50 for a single person). This model therefore would not work in practise as it would mean that people would be forced to work even in circumstances where this is not practical such as being incapable of working or caring for someone who is incapable of working. With greater unemployment rates, people that are unable to secure work may be forced to commit crime in order to afford the bare essentials to enable them to survive in society where the cost of living regularly increasing.

The integrated 'family allowance' being paid directly into a bank account could potentially lead to difficulty in managing the amount, and people being less able to budget. There has been an increase in people requesting that Local Housing Allowance (LHA) is paid to their landlord<sup>7</sup>. Over a quarter of private sector tenants have fallen behind with their rent since moving to the LHA scheme<sup>8</sup> and are having difficulty managing their affairs. There has been an increase in landlords reluctant to rent to people who are in receipt of LHA due to the problems encountered. If all benefits were to be paid directly in one monthly instalment then there is an increased risk of people falling into financial hardship and not being able to manage their financial affairs. The current procedure allows for better financial management as the benefit is paid in instalments.

Whilst people should be encouraged to become financially independent and responsible, this should not be forced on everyone and should be optional.

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<sup>7</sup> Campaign Briefing by Shelter- Local Housing Allowance and direct payments-giving claimants a choice.

<sup>8</sup> Campaign Briefing by Shelter- Local Housing Allowance and direct payments-giving claimants a choice. The same point is highlighted by Housing Benefit Law Update in Legal Action, September 2010

### *Single benefit/negative income tax model*

More information on this model is required however it appears from the information set out that it could mean people would be entitled to less than under the current system.

None of the models set out a clear difference in relation to claimants who are unable to work due to ill health and those capable of working. It is therefore not clear whether all claimants will be treated the same regardless of the reason they are in receipt of the benefit, or whether people who are incapable of work will be excluded from the current reforms proposed.

The models also fail to address how people from abroad will be treated. Under the current system EEA nationals are entitled to some benefits is dependent on their personal circumstances. Therefore models which provide one credit should be approached with caution as it may affect people's entitlement. By way of example a client was an Italian national who had been residing in England for a number of years. She became a lone parent and applied for Income Support on this basis, the DWP refused as they did not believe that she had met the habitual residence test, during the appeal she continued to receive Child Benefit and Child Tax Credit, on appeal she was successful and was awarded Income Support as well as Housing and Council Tax Benefit. If all benefits were linked then she may not have even been entitled to Child Benefit and Child Tax Credit which would have caused her to be without any income at all, resulting in both her and her daughter suffering from severe financial hardship.

**Question 7 - Do you think we should increase the obligations on benefit claimants who can work to take steps to necessary to seek and enter work?**

Personalised obligations for claimants are simply an increased form of conditionality and could lead to greater sanctioning of benefits.

The obligation to make people look for full time work will not always be practical, and there are many people who full time work would not suit due to their health problems. There should be no sanctions imposed for these people and there is a risk that the current proposals will force people back into work before they are able to actually do so, because of both conditionality proposed and as a reduction in benefit payments. There should be encouragement and greater incentives but not an increased obligation which will result in sanctions. The current system already addresses where Jobseekers Allowance claimants do not actively seek work, they are sanctioned. Training schemes have had a mixed success rate and this is dependent on people's skills. There has been an increase in the numbers unemployed making it even more difficult to return to work where there have been long periods of unemployment due to the level of competition.

For a number of people who have been on incapacity benefit of some sort, once they feel that they are capable to return to work they often find it difficult to secure work, mainly due to lack of confidence and skills where they have been out of work for so long.

Similarly this applies to people who have been receiving Jobseekers Allowance for some time. A way to increase employability for people that have been out of work is to encourage voluntary work to enable people to gain skills as well as confidence to return to work full time. Full time voluntary work should such placements be available should allow claimants to still be entitled to Jobseekers Allowance.

Again, the paper fails to look outwards at the external barriers that exist for many claimants.

**Question 8 - Do you think that we should have a system of conditionality which aims to maximise the amount of work a person does, consistent with their personal circumstances?**

The Consultation Paper appears to place an over reliance on the link between conditionality; sanctions and reduced unemployment. No consideration is given to the negative impact sanctions can have on individuals. This has been highlighted by the Social Security Administration Committee on a number of occasions:<sup>9</sup>

*We have long taken an interest in the use of sanctions-based conditionality within the benefits system and the associated issue of the balance of rights and responsibilities (see SSAC Occasional Papers No 1 and 6). Our first occasional paper reviewed DWP and wider evidence on the use and impact of benefit sanctions. A consistent message emerged from the review about the negative impacts of sanctions on individuals, impacts such as material hardship and emotional problems. The review also found that there is a lack of convincing evidence that sanctions significantly influence the behaviour of more vulnerable claimants, who often fail to understand how the sanction regime operates. A subsequent DWP report on lone parents concluded that for the lone parents in the study, the sanction regime had negligible effects upon labour market behaviour.*

Greater flexibility and discretion is needed on how these claimants are treated rather than increased conditionality which results in possible sanctioning. Benefit sanctions are not in itself an incentive to work, as stated, sanctions can cause severe financial hardship. With the new models proposed it is not clear if the new proposed conditionality will only impact

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<sup>9</sup> SSAC, 2010, 'Report of the Social Security Advisory Committee made under section 174(2) of the Social Security Administration Act 1992 on the Social Security (Welfare Reform Drug Recovery Pilots) Regulations 2010', <http://www.ssac.org.uk/pdf/SSAC-drugs-pilot-report.pdf> - visited 27/09/2010

Jobseeker Allowance as it currently does or it will be spread across other benefits such as housing and council tax benefit.

It is important that no job seeking conditionality is imposed on people in receipt of Employment and Support Allowance, other groups of people where no such conditionality should be imposed is lone parents and partners where the youngest child is aged up to one, as well as Carers receiving or entitle to Carers Allowance or Carers Premium<sup>10</sup>. The consultation paper states that conditionality is effective in reducing unemployment, this is not always the case, as mentioned earlier there are a number of people who are unable to work, this is something that not only affects people that are unable to work due to ill health but also who have been in receipt of Jobseekers Allowance for a long time. There are many people who have had drug dependency in the past, whilst they are now abstinent they may have a criminal record with numerous offences which hinders their chances of gaining employment. For such people increased conditionality would not increase the chances of them being able to work. Instead they need better training and support to enable them to re-enter the employment market with the opportunity to learn skills and obtain experience, whether through vocational courses or the opportunity to do work placements without it affecting their entitlement to benefits. Attention must be given to the stigma drug users face when trying to access the job market.

Sanctions are already in place for people who fail to actively seek work under their Jobseekers Allowance agreement, and therefore it is not clear how any additional sanctions will be effective if at all. It seems that sanctions will actually increase poverty rather than reducing it.

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<sup>10</sup> Realising Potential, A Vision for Personalised Conditionality and Support, Professor Paul Gregg, 2008

There are also concerns raised under the proposals set out<sup>11</sup> that conditionality may be attached on benefit claimants who currently have no work search conditionality due to ill health or caring responsibilities. The proposal states that some people could be required to look for work for a few hours per week in line with their capability and circumstances, and to then later extend conditionality. Whilst this may be beneficial for some people who are able to work part time, there is a concern that conditionality will later be increased to full time prior to them actually being able or ready to work full time. Whilst the proposal states that conditionality would not be extended until someone's health is improved there is no information as to how this will be assessed. If this is assessed in a similar way to the Work Capability Assessment then it may be more people are deemed able to work full time than actually are. There is currently a high success rate of people who appeal to The Tribunals Service against failed Work Capability Assessments. A decision to impose a higher level of conditionality should be something that can be appealed, in the same way that decisions made under the Work Capability Assessment can be appealed.

It is not clear from the proposal as to whether this type of conditionality will only be imposed on the out of work benefits such as JSA and ESA, or if (in light of the models of reform proposed) someone fails to meet the conditionality, that all of their benefit entitlement will be suspended. More information would be needed on how the conditionality would impact those who are unable to work full time or part time hours, and how long sanctions would be imposed and if this could be appealed. It is vital in order to reduce poverty that any financial sanctions imposed should not be used as a first step to tackling the problem of people not satisfying their conditionality however Release is concerned with the lack of detail relating to proposed non-financial sanctions. Release cannot therefore support non financial sanctions.

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<sup>11</sup> Chapter 4, 21<sup>st</sup> Century Welfare, DWP, July 2010

**Question 9 - If you agree that there should be greater localism what local flexibility would be required to deliver this?**

Instead of focussing on localism there should be better management structures in place and adequate training of all staff that deal with benefit claimants. Under the current structure clients have often stated that they have found staff in Local Council's and Jobcentre Plus offices unhelpful, or they have lacked appropriate knowledge to deal with the query. This is something that can be resolved by ensuring all staff have been properly trained.

**Question 10 - The Government is committed to delivering more affordable homes. How could reform best be implemented to ensure providers can continue to deliver the new homes we need and maintain the existing affordable homes?**

Whilst affordable homes do need to be delivered there also needs to be a focus on the current homes and ensuring that they continue to be affordable. Changes to Housing Benefit and Local Housing Allowance need to be made so that people can afford to live in their current homes to reduce the risk of homelessness. As mentioned earlier with the current changes due to commence in April 2011 there are great concerns that a large number of people will be made homeless. London Councils have predicted that almost 250,000 Londoners will be affected by the Local Housing Allowance (LHA) reforms<sup>12</sup> which, amongst a number of other changes, will see an introduction in bedroom caps for families, as well as a maximum amount of LHA available. All of these reforms are likely to make

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<sup>12</sup> Figure estimated by London Councils as stated in Household Changes, Ben Cook, Regeneration & Renewal, 22 September 2010

current homes unaffordable. The changes will force people to move into deprived areas where the rent is lower living in overcrowded accommodation.

The risk of not uprating means that there is likely to be an increased chance of people being made homeless as they will be less likely to pay their rent. This will have a long term implication and create more costs for the state whether this is through court proceedings to evict people, the granting of legal aid to defend such cases, as well as homelessness applications, and long term individual debt. This process has long term implications for both vulnerable people in these circumstances as well as the Government. To prevent this assistance with housing costs whether that is rent or mortgage payments need to be reformed so that there are fewer restrictions.

Therefore whilst new affordable homes are needed to tackle overcrowding and homelessness, it is fundamental to ensure people can afford to stay in their homes.

**Question 11 - What would be the best way to organise delivery of a reformed system to achieve improvements in outcomes, customer service and efficiency?**

Implementation should be gradual as has been in the case with previous benefit reforms. There are concerns that a reformed system will be very costly and therefore not effective in reducing the Government's welfare expenditure.



**Question 12 - Is there anything else you would like to tell us about the proposals in this document?**

The consultation has proposals that would enable reforms which would improve part of the benefit system however it also raises concerns, and lacks sufficient detail to enable a full response.

Key proposals such as a benefits system that is easier to access and understand is welcomed. The idea to create one IT system would reduce the numerous forms to be completed and any change of circumstances would only need to be sent to one place. However there are still concerns as to how a slight error may have an enormous impact resulting in someone not being entitled to any benefits at all whilst the error is rectified.

Better incentives to return to work should be implemented so that people are not left worse off by returning to work even for a few hours per week for example by having their Housing and Council Tax Benefit reduced. However it is important that key benefits such as this do not have any conditionality imposed in addition to the current eligibility criteria.

The proposal states that there is current complexity in the system due to the large number of manuals, legislation and updates, however a complete restructure will mean that new manuals and legislation will be needed to ensure all staff and advisers are aware on how to apply any new benefit rules and regulations. This will increase cost in the production as well as cost and time to guarantee everyone is aware of all the changes, this may outweigh any benefit that may be achieved with such a radical reform.

The introduction<sup>13</sup> mentions that the reforms should enable disabled people to have an equal role in society, whilst this is welcomed the rest of the proposal seems to indicate that benefits such as Disability Living Allowance will be reduced meaning that many people who are vulnerable would be in a worse situation than they currently are. The introduction of Disability Living Allowance was to enable people with disabilities to have an equal role in society. If reforms were made to reduce this entitlement it would place people with disabilities at a greater disadvantage hindering any recovery or possibility of normality they may have. The reform does not go into enough detail on how Disability Living Allowance will actually be reduced but it is vital to remember the significance of the benefit and the impact it can have on the standard of living for someone who has care and mobility needs.

It appears as though whilst the reforms will create incentives to return to work, the primary aim of the welfare reforms is to make Government cut backs on the spending on the welfare benefit system. The consultation states that ‘the most vulnerable’ of people will not be forced into work or have sanctions placed where they are not actively taking steps to work. There are not only concerns on how the most vulnerable will be defined, but also with the proposed models the impact of such cut backs which will create further financial hardship for those in receipt of benefits.

**01 October 2010**

**Please contact Nadia Salam, Solicitor, if you wish to discuss any aspect of this response (Direct dial: 020 7324 2981/ [nadia@release.org.uk](mailto:nadia@release.org.uk))**

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<sup>13</sup> 21<sup>st</sup> Century Welfare, DWP, July 2010