



Prepared for the Welfare Expert Advisory Group

Obligations and Sanctions Rapid Evidence Review

Paper 1: An Overview

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Executive summary

This paper provides an overview of the use of obligations and sanctions in welfare benefit policy. It covers their rationale, frameworks for understanding how they might influence behaviour and outcomes, and ways of categorising studies and effects. It briefly sets out some approaches that might help minimise the need for obligations and sanctions to be used as a means of achieving public policy goals.

A series of separate papers provide rapid evidence reviews that summarise evidence on the effects of different types of obligations and sanctions, including evidence on work-related sanctions, drug testing obligations, and social obligations.

Use of obligations and sanctions in welfare benefit policy has increased in OECD countries over the last three decades. Stated aims and rationales vary. In some countries and some reforms, strengthening of obligations and sanctions has had a fiscal imperative, responding to rising welfare caseloads and costs, or has been underpinned by a concern to address a '*welfare dependency*' culture. In others, the policies' primary stated aims are to ensure unemployed jobseekers remain attached to the labour market while promoting social inclusion, or to improve children's outcomes.

A range of possible frameworks can be applied to think about the way obligations and sanctions could influence behaviour and outcomes. These include more standard models from economics and other frameworks, including behavioural economics, and models that conceptualise 'contextual rationality' and sources of intrinsic motivation. More nuanced accounts of behaviour do not require completely discounting the idea that behaviour is shaped by some form of rationality and economic reasoning. However, they do imply caution in assuming that welfare conditionality will be effective in bringing about the behaviour it seeks to encourage or enforce. They also bring into focus other possible responses and outcomes. The different possible effects include both positive effects on the behaviours and outcomes that obligations and sanctions seek to promote, and unintended negative effects.

Experimental and quasi-experimental empirical studies are required in order to understand impacts. These studies provide estimates of the possible causal impacts of obligations and sanctions. They seek to control for the influence of 'selection effects' and other factors that may influence outcomes.

Empirical evidence is very thin in some areas. Obligations and sanctions are often embedded within a wider package of policy settings and programmes and services, and teasing apart their separate impact can be challenging. Few studies look beyond caseload and employment effects to consider intended and unintended impacts on broader outcomes, such as poverty and mental health.

Types of effects that need to be considered in empirical studies include *inflow effects* (eg compliance costs associated with obligations and sanctions may dissuade some people from claiming benefits, or cause them to delay their claim), *ex ante threat effects* (resulting from the general presence of sanctions in the system), and *ex post imposition effects* (brought about by a sanction actually being imposed or a warning). Inflow effects that lower welfare benefit receipt by dissuading claims may be large but are difficult to estimate.

Contextual studies are important in providing insights into context, client experience, and pathways by which obligations and sanctions might have their impact. Research with a frontline work perspective explores how frontline practices affect intended and unintended outcomes.

Few studies directly compare obligations and sanctions with alternative policy approaches that could be used as a means of achieving public policy goals and might help minimise the need for obligations and sanctions (eg provision of services on a voluntary basis, regulation, incentives, intensive case management, provision of information and education, and behavioural insights approaches).

Both the OECD and the authors of a new review prompted by United Kingdom (UK) reforms conclude that where obligations and sanctions are applied, **a balanced and proportionate approach is needed in order to maximise intended outcomes, and minimise unintended effects**. Both emphasise the importance of good evidence in assisting policy makers and administrators to find this balance.

Introduction

Obligations refer to eligibility criteria which require people to undertake certain activities or behave in certain ways in order to access welfare benefits. They can include requirements relating to gaining and maintaining entitlement (eg attending interviews with case managers when required, reporting leaving the country), work-related requirements (eg active job search, accepting suitable job offers), or 'social obligations' (eg enrolling children in early childhood education).

Obligations are generally accompanied by processes for monitoring and verifying compliance, and enforced by sanctions for non-compliance (or in some cases by incentives for compliance).

Sanctions are often financial, involving reduction, removal or suspension of access to cash payments for varying lengths of time. They may also involve exclusion (eg from housing), removal of choice (eg through income management), warnings, intensified monitoring, or compulsory support.

Application of sanctions usually involves a process for assessing whether there was a good and sufficient reason for non-compliance, and may include a process by which clients can seek a review, or have the sanction removed through recompliance. Like other countries (Griggs & Evans, 2010), in New Zealand most sanctions are applied for failure to attend an interview when required (MSD, 2018).

Obligations and sanctions are just two of a range of potential policy levers available to achieve policy outcomes, and operate within the context of other policy and operational settings that might also include financial incentives, case management, and active labour market programmes.

Purpose

This rapid review draws on international literature and OECD reviews to provide an overview of:

- the **origins** of obligations and sanctions policies in contemporary welfare benefit systems
- the commonly stated **rationales** for obligations and sanctions of different types
- **frameworks** for understanding possible impacts on behaviour
- ways of categorising **types of evidence** provided by studies that estimate the impact of obligations and sanctions, and **types of effects** studies consider
- **approaches that might help minimise the need for obligations and sanctions** by encouraging behaviours sought by public policy, and criteria for assessing whether conditionality adds value.

The aim is to provide the backdrop for separate rapid evidence reviews focused on different types of obligations and sanctions. Most of this evidence comes from overseas, so understanding developments in international policy and thinking provides useful context.

A key source is the book **Welfare Conditionality** (Watts & Fitzpatrick, 2018) which brings together findings from a major international review of evidence, policy and theory undertaken as part of a five-year work programme. This work programme was prompted by intensification of obligations and sanctions in the United Kingdom (UK). Results from a large qualitative longitudinal study with service users undertaken as part of this work programme were released in June 2018 (Welfare Conditionality Project, 2018).

Origins and rationales

While being available for work and actively seeking work have long been conditions of entitlement for unemployment benefits, obligations and sanctions have increasingly formed part of broader welfare benefit policy settings in OECD countries over the last three decades, extending to new groups of claimants, and a wider range of behaviours and policy goals. In parallel, 'conditional cash transfers' have been trialled in developing countries to encourage engagement with health services and education, while extending cash assistance.

One source of influence for increased use of obligations and sanctions has been a Northern European model that seeks to balance social protection with economic competitiveness and growth. An example is the Danish 'flexicurity' model which combines generous benefits for citizens with strong activation requirements, including retraining and human capital development programmes, and large investments in employment support and childcare.

Another is the 1996 United States (US) welfare reform, which was driven by dramatic growth in welfare caseloads in the early 1990s and a perception that unconditional benefits in the past had damaged work incentives and created dependency. Supporting a 'work first' approach, the introduction of obligations and sanctions was accompanied by large declines in US welfare caseloads (Watts & Fitzpatrick, 2018; Ziliak, 2016).

Reflecting these different sources of influence, the rationales for obligations and sanctions policies vary. The Watts and Fitzpatrick review and OECD documents set out a range of commonly stated intended outcomes.

Commonly stated intended outcomes:

Jobseeking and activity obligations for jobseekers and low income parents:

- (re)integrate unemployed people back into the labour market
- balance the social protection welfare benefits provide with measures that offset the negative impact of benefits on work incentives and reduce the risk of labour market and social exclusion for recipients
- ensure benefits are paid only to those who need them
- address a culture of welfare dependency
- reduce claimant rates and fiscal costs.

Activity, employment, training and work obligations for inactive youth:

- reduce flows into long-term welfare benefit receipt
- reduce intergenerational transmission of benefit receipt
- reduce claimant rates and fiscal costs.

Social obligations (eg related to participation in children's health services, early childhood education or parenting programmes) for low income parents:

- improve health and wellbeing of children in the short-term
- increase engagement with services
- improve outcomes in the longer-term and help break intergenerational transmission of poverty.

Income management for highly vulnerable or very young clients:

- ensure income is spent on essential items first
- protect children from neglect and poor outcomes.

Rehabilitation-focused support, work-related activity requirements or work capacity assessment for sick and disabled people:

- improve health, income and social inclusion
- ensure benefits are paid only to those who need them
- reduce claimant rates and fiscal costs.

Sources (Watts & Fitzpatrick, 2018 p51-80; OECD, 2005)

In some countries, the policies aim to ensure unemployed jobseekers remain attached to the labour market, and to promote social inclusion. In others, they are underpinned by concerns to reduce fiscal costs, or address a 'welfare dependency' culture.

In some cases, reforms have sought to address unemployment where this is seen as a personal failure, rather than reflecting wider socio-economic drivers, or promote a sense of 'mutual' or 'reciprocal' obligations between benefit recipients and state.

Common themes are reducing reliance on welfare, bolstering personal responsibility, reducing social harms, and improving outcomes (Watts & Fitzpatrick, 2018 p4-8, p32-7, p80, p126).

Frameworks

A number of frameworks can be used to think about how obligations and sanctions might impact on behaviour and outcomes.

A common thread across more standard economic frameworks is that they assume that individuals maximise their personal utility and ignore social costs – or externalities – created by the existence of welfare benefits. Obligations and sanctions are seen as a way of potentially 'correcting' for these socially sub-optimal outcomes.

One of these frameworks draws on **static utility maximisation** theory from economics. Within this model, welfare benefit provision without conditions reduces work incentives. These inherent work disincentives reduce labour supply below the socially optimal level, with social costs for the taxpayer funding benefits. Governments can use work-related obligations and sanctions as a mechanism for offsetting work disincentives, and require or encourage people to work at or closer to the levels they would have in the absence of welfare benefits. Similarly, if governments are concerned that some people are refusing jobs because they are combining benefits with informal work, activity obligations can be seen as a way of increasing the costliness of claiming benefits, and ensuring benefits are paid only to those who need them (OECD, 2005 p176-8).

A second, related framework involves intertemporal utility maximisation in a **'life-cycle' model**. Here individuals are assumed to maximise their life-time personal utility. Choices made in one period can affect opportunities available in subsequent periods. Obligations and sanctions can again be seen as a way of offsetting work disincentive effects, this time encouraging behaviours now that will improve outcomes in the longer-term. Using this framework, work obligations can be seen as a way of encouraging learning-by-doing skill formation on the job today, raising human capital, and increasing future wages (Ziliak, 2016 p343-4); conditional cash transfers in developing countries can be thought of as a mechanism for shifting behaviour if, eg families under-value the future social benefits of sending their children to school (Watts & Fitzpatrick, 2018 p92).

A third economic framework for understanding behaviour is **search theory**. Search theory recognises that searching (eg for a job or an early childhood education place) takes time, is costly, and is subject to uncertainty about whether the next offer will be a better one. In this framework, people set a reservation wage (or non-financial condition, eg a quality standard that must be met in the case of early childhood education) to help guide their decision about when to stop searching and accept an offer. Obligations and sanctions can reinforce active search despite its costliness, and speed the search process. They can also speed up the search process if they have the effect of causing people to lower their reservation wage (or conditions). They may, however, also reduce the quality of the outcome (Griggs & Evans, 2010, p18).

When these more standard economic frameworks are applied, it is usually acknowledged that **obligations and sanctions sit alongside wider institutional settings** and policies which enable or present barriers to achieving the behavioural response sought. Enablement might require eg addressing demand-side barriers and expanding the set of earnings opportunities available, ensuring that active labour market programmes provided are effective, or promoting the availability of high quality and affordable childcare (OECD, 2015; OECD, 2018). Variation in administrative interpretation and implementation, resourcing for administration, local organisational culture and practice, and local barriers to compliance, such as lack of transport or childcare, might all influence the way that policy settings are applied and responded to (Griggs & Evans, 2010 p30).

Behavioural economics offers another set of perspectives on decision making in which the 'bounded' nature of rational behaviour is emphasised. People are seen to make decisions without having full information or certainty. They often have poor information about what is expected of them or lack understanding of the sanctioning system, and may be unlikely to respond in a rational way as a result (Griggs & Evans, 2010 p29). Research in behavioural economics suggests that living in conditions of poverty impacts on the cognitive resources available for forward-thinking decision making. People might place little or no value on what happens in the longer-term. They might be more concerned to avoid losses than to receive equivalent gains. Faced with difficult decisions, they may not make a choice at all, or make the easiest choice (Watts & Fitzpatrick, 2018 p82). Likewise, staff administering obligations and sanctions might apply them using rules of thumb and be informed by biases. Frontline staff and their behaviours and incentives play an important role in mediating the impact of policies on the behaviour of people (van Berkel et al., 2017).

Seeing behaviour as '**contextually rational**' is a framework that draws on housing studies in which behaviours that appear irrational or impulsive may be rational when viewed from the social context, norms, experiences and world view of the person concerned. Taking a **lifecourse perspective**, research on the impact of adverse childhood experiences on health and behaviour in later life suggests that, for some, stressors in adulthood may trigger impulsive and genuinely non-rational responses (Watts & Fitzpatrick, 2018 p89-90).

Within a framework of Self Determination Theory, **intrinsic motivation** is shaped by the degree to which people's fundamental psychological need for competence and autonomy is met. Using obligations and sanctions (or incentives) as extrinsic motivators might crowd out intrinsic motivators, such as public spiritedness and a sense of 'doing the right thing'. The policies might undermine pro-social behaviour. More generally, negative experiences associated with administration of obligations might scar relationships and build hostility between service users and the staff and institutions that administer welfare benefits (Watts & Fitzpatrick, 2018 p102-103). Alternatively, obligations and sanctions may become less effective over time, eg if jobseekers lose motivation as a result of futile job search.

Watts and Fitzpatrick (2018) suggest that more nuanced accounts of behaviour do not require us to completely discount the idea that behaviour is shaped by some form of rationality and economic reasoning. However, they do imply caution in assuming that welfare conditionality will be effective in bringing about the behaviour it seeks to encourage or enforce. They also bring into focus possible unintended responses and outcomes (Watts & Fitzpatrick, 2018 p90).

Examples of unintended outcomes:

- people may be sanctioned due to lack of information about what is expected of them and poor understanding of the system, rather than deliberate non-compliance; already disadvantaged groups, including those with low literacy, those with other languages as their first language, those with mental health problems or addictions, and those discriminated against in the labour market, may be disproportionately affected
- obligations and sanctions may impose burdens and stresses on people for little gain if the main barriers they face are external to them (eg availability of jobs, access to and cost of health care services, access, cost and quality of early childhood education), or the activities and programmes they are required to participate in are not effective in improving their outcomes
- obligations and sanctions may lead to people having poorer outcomes than they would otherwise have by limiting their search (eg less sustainable jobs and lower wages, lower quality childcare)
- people in poverty may be less able to meet the costs of complying with obligations (eg transport for job search, doctors visits) and, as a result, more likely to be sanctioned, further compounding poverty
- highly vulnerable people in situations of chronic stress may struggle to meet requirements and be sanctioned or drop their claim despite having little or no alternative form of support, in some cases causing destitution, movement into survival crime, risks to child welfare, or exacerbated ill health and impairments
- the result may be that obligations and sanctions reduce social inclusion rather than increasing it, and increase psychological distress and hardship.

Sources: Griggs and Evans 2010; Watts and Fitzpatrick, 2018; Welfare Conditionality Project, 2018.

Types of evidence and effects

High quality **experimental and quasi-experimental** empirical studies are required in order to understand the causal impact of obligations and sanctions. The advantage of these methods is that they allow other factors that may influence outcomes to be controlled for, which is not possible in studies that only consider associations between obligations and sanctions and outcomes. A fundamental problem in estimating effects is that those who receive sanctions are likely to differ from those who do not in a range of ways. These '**selection effects**' need to be accounted for in the estimation.

One way of doing this is through an experimental study – or a randomised controlled trial – where obligations and/or sanctions are randomly allocated to test the difference they make. There are a few such studies, and those that exist usually involve bundles of changes (eg a package of reforms to welfare benefits in the US, or obligations tied to provision of cash transfers in developing countries.)

Many of the available empirical impact studies are quasi-experimental. In quasi-experimental studies, statistical methods or natural experiments are used to take account of selection effects and estimate impacts.

Complementary **qualitative research** is important in providing insights into context, client experience, and pathways by which sanctions might have their impact. This is because the "nature of the impact studies identified means that there are potential effects that are poorly covered by high-quality evidence. Thus the wider contextual literature that surrounds the 'core' impact and outcome evaluations is very useful both in

its own right and in interpretation and generalisation of findings on sanction effects” (Griggs & Evans, 2010, p5).

Increased attention is being paid to how frontline practices produce intended and unintended outcomes in a growing number of studies of welfare-to-work policies from a **frontline work perspective** (van Berkel et al., 2017).

The available empirical literature provides no single, overarching answer to the question whether obligations and sanctions in welfare benefit systems ‘work’ in bringing about desired forms of behavioural change, and whether positive effects outweigh the negative (Watts & Fitzpatrick, 2018 p111).

In many areas, the evidence is very thin. Obligations and sanctions are often embedded within a wider package of policy settings, programmes and services, and teasing apart their separate impact can be challenging. Studies also vary in the length of time over which they consider impacts. Comparatively few studies look beyond impacts on caseload and employment to consider other outcomes, such as poverty, mental health, attitudes and quality of life (Griggs & Evans, 2010).

While obligations and sanctions can be costly to administer and comply with, few studies consider cost effectiveness or take a comprehensive view of costs and benefits (Watts & Fitzpatrick, p91-107).

Evidence reviews by Griggs and Evans (2010) and McVicar (2014) provide frameworks for categorising effects that empirical studies might consider:

Types of effects include:

- **treatment effects** that arise from changed behaviour or changed circumstances of those affected (eg changes in employment, poverty, or mental health)
- **entitlement effects** which result from the mechanics of sanctioning (eg people may lose entitlement and exit benefit without any treatment effect on employment occurring).

In practice, a mixture of these effects can occur.

Timing of effects can be categorised as:

- **inflow effects** – occurring when eligible individuals are making a decision whether to claim benefit (eg compliance costs associated with obligations and sanctions may dissuade some people from claiming, or cause them to delay their claim)
- **ex ante threat effects** – occurring after the point of claim and resulting from the general presence of sanctions in the system
- **ex post imposition effects** – brought about by being sanctioned, or a specific warning.¹

Inflow effects on caseload may be substantial but difficult to estimate.

¹ McVicar (2014) classifies the effects of warnings as ex post effects. Griggs and Evans (2010) group these effects together with ex ante threat effects.

Approaches that might help minimise the need for obligations and sanctions

Watts and Fitzpatrick propose a series of questions, or 'tests', which can be used to consider whether the application of conditional welfare interventions, such as obligations and sanctions, is appropriate in different contexts:

1. "Does this case of behavioural conditionality seek legitimate ends...?"
2. Does the behaviour change incentivised by the proposed conditions align with the ultimate societal goals sought?
3. Is the conditional approach underpinned by a plausible theory of change regarding the desired impact of the requirements, monitoring mechanisms and threatened sanctions on the behaviour of those targeted?
4. Is there compelling evidence of the effectiveness in practice of the conditional approach in bringing about the desired behavioural changes and the ultimate societal goals sought?
5. Does the conditional element of the approach bring added value, over and above **alternative, non-coercive means** of pursuing behavioural change/the goals sought?
6. Are the techniques of conditionality used proportionate, i.e. do they deploy the minimum level of 'power over' people commensurate with achieving the relevant goals?
7. Is the conditional intervention cost-effective relative to the available alternatives?" (Watts & Fitzpatrick, 2018 p152, our emphasis.)

Few studies directly compare obligations and sanctions with alternative approaches to encouraging behaviours sought by public policy, or separately identify the impact of conditional policy elements.

A number of approaches might help minimise need for obligations and sanctions:

service provision – providing or subsidising high quality services (eg public employment services, early childhood education services) that support the behaviour or policy goal, able to be accessed on a voluntary basis; direct provision of in-kind or tightly defined support without conditions (eg food in schools, food stamps);

regulation – setting and enforcing minimum standards (eg for employment, early childhood education) as a means of incentivising the behaviour or policy goal by lifting quality;

incentives – providing in-work tax credits, gradual benefit abatement, subsidies or bonuses as mechanisms for incentivising the behaviour or policy goal, or as mechanisms for reducing financial barriers to the behaviour or policy goal; provision of financial incentives as a 'positive re-enforcer' for programme participation;

intensive case management – providing intensive case management with low caseloads on a voluntary basis as a means of supporting and facilitating the behaviour or policy goal (eg the former UK New Deal and New Zealand's COMPASS programmes for lone parents; intensive home visiting programmes such as the New Zealand Family Start programme; Whānau Ora navigators); this is often accompanied by targeting or eligibility criteria to ensure the most intensive and costly services are accessed by those for whom they will make the most difference;

information and education – providing information about the benefits of the behaviour or policy goal and the support resources available (eg the 'It's not OK' and Working for Families social marketing campaigns and SKIP parenting resources);

applying behavioural insights – making options which are beneficial in the long-term attractive and easy options in the short-term.

Sources: OECD, 2015; OECD, 2018; Griggs and Evans, 2010 p72; Watts and Fitzpatrick, 2018, p108-111.

Conclusion

Both OECD advice and the Watts and Fitzpatrick review emphasise the need for a balanced and proportionate approach to obligations and sanctions in order to maximise intended outcomes, and minimise unintended effects. Both also emphasise the need for better evidence in assisting policy makers and administrators to find this balance.

OECD advice on activation of jobseekers acknowledges the potential for unintended effects to result from overly onerous obligations and sanctions, and points to the need to carefully consider their design and administration:

"Some individuals respond by dropping their benefit claim rather than comply with participation requirements. ... employment services need to ensure that requirements are moderate, i.e. they should not be equivalent to blanket denial of benefit entitlement" (OECD, 2005 p174).

Unintended effects are more likely to occur when benefit payments are low, and do not provide sufficient incentive for people to comply. The OECD recommends considering 'active' job search requirements and settings for 'passive' policies such as levels of income support together. For effective activation, the framework of mutual obligations and sanctions:

"needs to be accompanied by moderately-generous and comprehensive unemployment and social-assistance benefit systems... in the absence of unemployment and social assistance benefits, it is often difficult to reach out to those facing multiple barriers to employment, who risk being left behind. While moderately generous and comprehensive social benefits strengthen the effectiveness of activation policies, in the absence of effective active labour market policies, there is a risk that such benefits reduce work incentives and deepen labour market exclusion. Passive and active policies should therefore be conceived together rather than in isolation" (OECD, 2018 p32).

Because New Zealand's welfare benefit system comprises only minimum safety-net benefits and has no unemployment insurance, risks of unintended negative effects are magnified. In such a system,

"since there is generally little other public support to fall back on, too strict an application of behavioural eligibility conditions could result in extremely low incomes for those excluded from benefit payments. Concerns about those potentially 'falling through the cracks' become more acute if potential beneficiaries fail to live up to their responsibilities, not because they are unwilling but because they are unable to comply" (Immervoll, 2010 p30).

In their review of conditionality in a wider range of welfare benefit contexts, Watts and Fitzpatrick (2018) conclude

"some instances of welfare conditionality could 'pass' all of the relevant tests [listed above]. Relevant here are instances in northern Europe of relatively generous benefit systems, offering high replacement rates, in conditions of high employment, and where only relatively mild sanctions (of short duration and/or a low proportion of total benefit income) are imposed for failure to adhere to modest job search activities

... If the imposition of sanctions in these circumstances leaves those subject to them with all of their basic needs met, and far from destitution, it is difficult to uphold strong moral objections to them, especially if they can be shown to have beneficial incentive effects.

... However, what is equally clear is that the recent intensification of sanctions-backed conditionality in UK out-of-work benefits, far less the

much longer-standing and extraordinarily harsh regime in some parts of the US, are a very long distance from meeting the systematic tests set out above" (Watts & Fitzpatrick, 2018, p153).

In some instances, obligations and sanctions may be able to be justified. Both OECD advice and the Watts and Fitzpatrick review emphasise the need to ask – what are the benefits and costs to society and to those affected? Are there cases where they do more harm than good? And in these cases, should they be removed, or the severity of their design or administration reduced?

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