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SPECIAL ISSUE • Disability and Conditional Social Security Benefits

## article

# Benefits conditionality for disabled people: stylised facts from a review of international evidence and practice

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While behavioural conditionality for disability benefit claimants has been increasing, there is little evidence on its implementation or impacts. This article summarises existing studies, alongside an international review based on 140 documents and 38 expert interviews, into four 'stylised facts': (1) requirements for disability benefit claimants are common, but sanctioning is rare; (2) assessment and support are critical for implementing conditionality; (3) limited but robust existing evidence suggests that sanctioning may have zero or even negative impacts on work-related outcomes for disabled people; and (4) individual case studies suggest that sanctioning can lead to destitution and affect mental health.

**key words** sanctions • activation • disability • benefits • social security • welfare reform

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## Introduction

Over the past 25 years, there has been an increasing turn towards behavioural conditionality in the benefits system (Clasen and Clegg, 2011: 338), in which claimants are required to carry out work-related activities under the threat of cuts to their benefits ('sanctions'). While this initially focused on unemployed people and single parents, there has been a more recent move to extend conditionality to disability benefit claimants, not just in Anglo-Saxon countries, but also in Scandinavia and beyond. This has been actively encouraged by the influential international think tank the Organisation for Economic Co-operation and Development (OECD), which has argued that 'helping jobseekers with mental health conditions should be achieved

by ... avoiding, as far as possible, exemptions from job-search and participation requirements' (OECD, 2015: 150), or, in more detail:

The operation of a disability benefit scheme [presently] differs drastically from that of an unemployment benefit scheme, with strict participation requirements in the latter but not in the former. This difference is justified for people who are unable to work but not for the much larger number of those who have partial work capacity... [Instead,] benefit payments should be linked to the willingness of the beneficiary to co-operate with the responsible authority and engage in employability-enhancing and, where appropriate, job-search activities. (OECD, 2010: 13)

Yet, despite these strong prescriptions and a growing international trend, the OECD presents only high-level discussions about the implementation of conditionality for disabled people, and presents no direct evidence on its impacts. In this article, I review published evidence and case studies of international practice to present a series of 'stylised facts' about disability and conditionality (an approach taken from Martin, 2015). The article focuses, in turn, on three key questions: 'How common internationally is conditionality for disabled people?'; 'How is conditionality for disabled people implemented internationally?'; and 'What impact does conditionality have on disabled people?'

This partly comes from a review of the existing academic and grey literature, and partly from a wider international review of disability assessment in 10 countries, which includes seven of the nine countries with the most activating disability benefit systems according to the OECD (2009: 232). Here, I focus on seven countries that have attempted to implement disability conditionality in some form (the Netherlands, Germany, Denmark, Sweden, Norway, the UK, the US and Australia). The review focuses on how administrative systems respond to people with broadly defined chronic illness and disability (hereafter, 'disability'), rather than seeing how systems would treat claimants with a specific *a priori* definition of disability. Understanding of each case was primarily obtained from documentary analysis, with over 140 documents reviewed, supplemented by 38 expert interviews. Understanding the context of individual policies is always challenging in international research, and the broad international scope necessarily comes at the price of depth.

Policymakers must also consider the *ethics* of conditionality. Aside from ethical objections to conditionality *per se* (Standing, 2011), there may be particular ethical objections to conditionality for disabled people given disabling societies and discriminatory employers (Patrick et al, 2011). Others conversely argue that conditionality is necessary for legitimacy (Pickles et al, 2016). Yet, these ethical debates are themselves often bound up with the empirical evidence – whether conditionality can be implemented fairly, and whether it has positive outcomes for both the state and for benefit claimants themselves (Molander and Torsvik, 2015). This article therefore focuses on the evidence itself in order to enable others to subject potential policy reforms to context-specific, evidence-informed ethical analysis.

## How common is conditionality for disabled people?

### *Disability benefits*

Where conditionality for disabled people presently exists, there is always one group of disabled people who are required to take steps towards work, alongside another group of disabled people who are exempt. Those subject to conditionality are either separated into a particular category within the disability benefit (the UK), separated into a sickness benefit (the Scandinavian countries) or put on a wider benefit that also includes people without disabilities (Australia). Whichever structure is used, the on-paper requirements placed on disabled people are often based on the ‘rehabilitation-before-benefit principle’ (OECD, 2010: 107). For example:

- In Australia, all but the most severely disabled people are required to show ‘active participation in a program of support’ for 18 months before being eligible for the disability benefit (Department of Social Services, 2016). During this time, they claim Newstart Allowance alongside single parents and unemployed people, with conditionality requirements being lessened for 19% and temporarily suspended for 17% of claimants at any one time (Australian Bureau of Statistics, 2016). Young (under-40) disability benefit claimants are also required to attend work-focused interviews.
- In Norway, when people move on to the long-term sick leave benefit after one year, they are required to participate in work-related activity based around an individual action plan (OECD, 2013a: 161). This is similar to the system in Sweden, where many people on sick leave are required to attend a face-to-face meeting (‘Sassam’) for which non-participation can result in sanctions (Engström et al, forthcoming).
- In Denmark, people are referred for a multidisciplinary rehabilitation team assessment after an initial period of sickness absence. The assessment is not meant to award people with a disability pension until all efforts at rehabilitation have been exhausted; instead, the assessment sends them on a rehabilitation programme that they are required to participate in (see later). While individuals can refuse medical treatments, they are required to accept non-medical health-related treatments (Beskæftigelsesministeriet, 2016).

An alternative to the rehabilitation-before-benefit principle can be found in the UK, where disabled people are sorted into those subject to conditionality (known as the ‘Work-Related Activity Group’ [WRAG]) on the basis of a functional capacity test. I go into more detail about these systems later in the section on implementation.

While *requirements* are common, actual *sanctioning* of disabled people seems rare. For example, Germany has a conditional unemployment benefit with high levels of sanctioning: over a million sanctions were applied in 2015 (Bundesagentur für Arbeit, 2016). However, only 8,700 sanctions were for failures to report for the medical or psychological service. Examining this is harder elsewhere as most countries do not publish data on sanctions for disabled claimants. Nevertheless, there are anecdotal reports from the Netherlands (NVVG, 2010), Germany (Aurich-Beerheide and Brussig, 2017), Denmark (Mehlsen et al, 2015), Norway and Sweden (Hultqvist and Nørup, 2017) that sanctions are uncommon for disabled people, for reasons we explore

more fully later. Claimants may still be worried about the possibility of sanctions (eg in Norway, see Breimo, 2016: 71), but the sanctions seem to be rarely carried through.

The exceptions to this are Australia and the UK, both of which publish unusually transparent data. In Australia, nearly 150,000 sanctions were applied in the first quarter of 2016 to claimants who are likely to have a disability (claimants in jobactive stream C or with Disability Employment Services), about one quarter of all sanctions (Department of Employment, 2016). (Figures on the sanction *rate* are unfortunately not available.) These are predominantly temporary suspensions until the claimant starts complying, but a substantial minority are longer-lasting. Moreover, over 10,000 job-seekers in this period were sanctioned after giving a medical reason for non-attendance that was not accepted as reasonable.

The sanctioning of disabled people is also prevalent in the UK. At its peak in August 2014, 125,000 disability benefit (WRAG – see earlier) sanction referrals were being made each year, with almost 50,000 initial sanctions (where benefits are stopped pending potential challenges), and resulting in 35,000 confirmed sanctions (for sources and notes, see Web Appendix 1). Sanctions during 2009–10 were primarily for not attending interviews, whereas sanctions during 2013–15 were primarily for ‘not carrying out activity’, which is primarily failing to take part in the contractor-led ‘Work Programme’. While sanctioning is still rare among those subject to conditionality (3% of WRAG claimants were sanctioned in 2014/15; see Webster, 2016b), it is clearly happening at a non-negligible scale, with over 400,000 confirmed sanctions being applied to disability benefit claimants since conditionality was introduced in 2008.

### *Non-disability benefits*

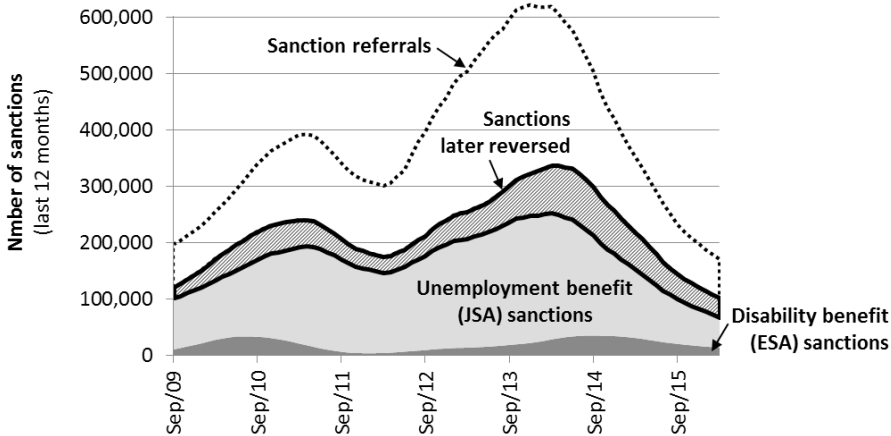
Some disabled people are also subject to conditionality within *non*-disability benefits after being assessed as fully capable of work, especially as many countries have tightened eligibility for disability benefits (Clasen and Clegg, 2011: 338). Conditionality on these benefits is sometimes more demanding (and incurs greater penalties) than on disability benefits. However, there are often few data available, and no comparable data using consistent disability definitions across countries. Nevertheless, there are data showing that, for example, 25% of disabled people in the US claim a non-disability benefit such as food stamps (the Supplementary Nutrition Assistance Program [SNAP]), Temporary Assistance for Needy Families (TANF) or unemployment insurance (Houtenville and Brucker, 2014).

The only country for which more detailed data are available is the UK, which publishes transparent figures on sanctioning among unemployment benefit claimants who self-declare a disability – though it is important to note the limitations of this self-declared disability data. The figures show that throughout 2000–15, 20–30% of unemployment benefit sanctions have been applied to disabled people. In total, across disability and non-disability benefits, 170,000 sanction referrals are made about disabled people in the UK every year (down from a peak of 620,000, as shown in Figure 1), of which 90,000 (250,000 at the peak) were subsequently confirmed as a sanction. While failure to attend an adviser interview was the main reason for sanctions in the early part of the period, failure to participate in work-related activity (the aforementioned introduction of the contractor-led ‘Work Programme’)

and particularly work-related failures (such as not looking for work) became more important on the unemployment benefit from 2011.

Not only are such sanctions not uncommon in the UK, but it even appears that disabled unemployment benefit claimants are *more likely* to be sanctioned than non-disabled claimants. New estimates presented for the first time in this article (based on official statistics, and detailed in Web Appendix 1) show that the sanctioning rate for disabled people on unemployment benefit is *higher* than for non-disabled people – much higher in 2010 (disabled people being 50–53% more likely to be sanctioned), and still noticeably higher for the latest available statistics in 2014 (26–28% more likely). This is consistent with other estimates that, for example, homeless unemployment benefit claimants are much more likely to be sanctioned than others (Batty et al, 2015: 10).

**Figure 1: Sanctions given to disabled benefit claimants in the UK, by benefit and reason (last 12 months, rolling)**



Note: Author’s analysis of Department for Work and Pensions Stat-Xplore (for further details, see Web Appendix 1).

It is not possible to look at the *share* of disabled unemployment benefit claimants in the UK who are sanctioned each month. However, we know that the proportion of *all* unemployment benefit claimants who were sanctioned over a 12-month period was 12.9% in 2014/15, down from a peak of 18.4% in 2013/14, and compared to 10–12% during 2007–10 (Webster, 2016b). Over a longer period of six years, 24% of unemployment benefit claimants are sanctioned (21% after challenges) – and noticeably more if we focus on those claiming for more than a year (Webster, 2016a). While sanctions are not the majority experience for unemployment benefit claimants in the UK, neither are they a marginal experience. Combined with the sanctions on the disability benefit (see earlier), more than 2.7 million sanction referrals have been made for disabled people in the UK since 2008, including 350,000 initial sanctions that were later overturned and 1.2 million confirmed sanctions.

## How is conditionality for disabled people implemented?

The international literature has often distinguished two ways in which activation can be implemented: one that invests heavily in human capital; and one that relies on conditionality/sanctioning (Dingeldey, 2007). However, this may be misleading because (as Dingeldey argues) states can become *both* more enabling *and* move towards workfare – for example, there could be increased investment in employment support alongside increased levels of sanctioning. Moreover, when we focus on disability, the critical issue is investment in assessment (in order to assess what people are capable of) and employment support (in order to have suitable activities to require them to do), rather than human capital in general.

In this section, I therefore consider a typology of how conditionality is implemented in different countries, which combines two dimensions: (1) the level of conditionality itself; and (2) the extent to which conditionality is linked to rehabilitation (see Figure 2).

**Figure 2: Typology of implementation of conditionality**

	<i>LOW conditionality</i>	<i>HIGH conditionality</i>
<b>Conditionality WEAKLY linked to rehabilitation</b>	Passive systems	Compliance-based systems
<b>Conditionality STRONGLY linked to rehabilitation</b>	Supportive systems	Demanding systems

### *Ideal type 1: demanding systems (high conditionality, strong rehabilitation link)*

The first type of conditionality for disabled benefit claimants is a ‘demanding’ system: it can be broadly characterised as providing intensive assessment and rehabilitation to disabled benefit claimants, which they are then obliged to take up. Closest to this type is *Denmark*, where claimants are only eligible for a disability pension if rehabilitation has previously been attempted (or would not be expected to have an effect), and almost no under-40s are initially eligible (Hultqvist and Nørup, 2017). Instead, the assessment usually decides on appropriate, mandatory rehabilitation activities. Sanctioning practices seem to vary by municipality; some municipalities do not even threaten sanctions as they feel that this is counterproductive, whereas other municipalities use threats for those who are not motivated to participate (Mehlsen et al, 2015). Even in the latter case, however, sanctions themselves are rare.

Investment in expert assessment is central to the Danish process. Caseworkers are first obliged to complete a preparatory rehabilitation plan with the claimant, based on a one-hour interview (OECD, 2013b: 102). This is then fed into a multidisciplinary rehabilitation team, which, in practice, includes four to six people representing multiple sectors, such as employment, health, social services and education (Deloitte, 2015). The other crucial element is employment support, and the multidisciplinary rehabilitation team have three options open to them. First, in the common situation that an individual’s work capacity is unclear, they can be sent on a work trial/work

test ('arbejdsprøvet/arbejdsprøvning'), after which the clarified understanding of the individual's work capacity is fed back into a future meeting. Second, individuals can be sent on Resource Activation ('Ressourceforløb'), a rehabilitation programme lasting for one to five years. Third, individuals with some work capacity but who would be unable to get a job in the open labour market can be put on the 'Flex-Job' scheme. This provides considerable subsidies to employers to employ disabled people with as little as 1 hour a week work capacity. Here, activation is closely linked to conditionality (Hultqvist and Nørup, 2017); indeed, even before the latest round of reforms, jobcentre executives in 2008 agreed that one of their most important jobs was 'to use activation as a work-test' (Bredgaard and Larsen, 2008).

Other systems that are closest to the 'demanding' type include the WeCARE programme for welfare (TANF) recipients in *New York City*, where, unlike in the majority of US states, disabled claimants are required to participate in TANF. Again, there is investment in assessment (a bio-psychosocial assessment with a certified physician), and employment support (condition management supported by a case manager; see Collins, 2015). It seems that conditionality is not implemented harshly – people can reschedule appointments easily – although the provider also meets their contractual obligations to closely monitor the time that claimants spend on work-related activity. Another example comes from the *Netherlands*, where claimants can again be sanctioned if they refuse to participate. However, official guidelines make clear that four steps are necessary before the conclusion that participation behaviour is inadequate, with each step encouraging the participant to resume participation (NVVG, 2010). It is only when all of these steps have failed that sanctions can be applied, and, as a result, both claimants and insurance physicians report that sanctions are rare (NVVG, 2010).

It is difficult to know if the WeCARE, Dutch or Danish systems are successful. There seems to be no current public criticism of WeCARE, which is striking given that the programme was subject to a successful class action disability discrimination lawsuit in the 2000s (for requiring people to go to offices far away from their homes). There has been public criticism of the Danish system, but not because of sanctioning (although see Hultqvist and Nørup, 2017); instead, public concerns have focused on the appropriateness of forcing people with very low work capacity to go through a practical work evaluation or Resource Activation – in one widely reported case, a capacity to work of half an hour, twice a week (Lauth, 2015).

The effectiveness of these systems is therefore uncertain, and, furthermore, it does not seem that sanctioning is widespread in any of these systems (see earlier). They are therefore not as conditional as the compliance-based systems discussed later, despite being classified as 'high conditionality' here. Still, from an implementation perspective, the Danish system and other examples such as New York and the Netherlands exemplify a form of conditionality that seems to require people to do activities that they are capable of by investing in assessment and employment support.

### *Ideal type 2: passive systems (low conditionality, weak rehabilitation link)*

In a 'passive' system of disability conditionality, there are formal conditionality requirements for disability benefit claimants, but this is only weakly linked to the support and opportunities available for them to move towards work. It therefore becomes more difficult to require disabled people to undertake a given activity –



partly because it is less clear to front-line staff if the person in question is capable of the activity, and partly because suitable activities to refer them to may not exist. Front-line staff may respond by simply not implementing conditionality in the way that formal policies propose, as seems to occur to some extent in Norway and Germany.

On paper, the *Norwegian Work Assessment Allowance (WAA)* is one of the most activating disability benefits worldwide. As the OECD (2013a: 161) have approvingly noted, WAA is a conditional disability benefit based around a mandatory activity plan, and there is sufficient investment in rehabilitation services that front-line staff can refer WAA claimants to suitable work-related activities. (There are only a few exceptional circumstances where people can claim the benefit without having a plan, primarily during waiting periods; see NAV, 2015). Many of the letters from the social insurance agency repeat that complying with the activity plan is a condition of receiving the benefit, and it does appear that disability benefit claimants do feel that they need to comply with their individual action (Breimo, 2016: 71). After a maximum of four years, claimants are either found capable of work, found eligible for the permanent disability pension (with no activation requirements) or their work capacity is not considered to be clarified, in which case, they often move on to social assistance.

In practice, however, even the OECD (2013a: 154) concede that ‘implementation of the procedure has been a challenge’. The assessment of work capacity relies on front-line workers who are often unsure of a person’s work capacity (Gjersøe, 2016). Moreover, even where front-line workers are convinced that a person is unemployable, they do not want to refer someone to a disability pension if this might be denied by the back office. This is partly because they do not want an unemployable claimant to be in a financially precarious position, and partly because denied disability pension applications must leave WAA in order to reapply, which only serves to generate more work for front-line workers (Gjersøe, 2016: 138). As a result, the activation of disabled people can become a way to let claimants ‘float’ (as one advisor put it in Gjersøe, 2016), and is used to build evidence of unemployability for a disability pension application, rather than helping claimants move towards employment. Unsurprisingly, a government-appointed committee has recently argued that assessment and activation need to be reformed (Våging Expert Committee, cited by Gjersøe, 2015: 12).

Similar issues can be seen in *Germany*, particularly in the article in the present special issue (Aurich-Berheide and Brussig, 2017). While another oft-cited example of rehabilitation-before-benefits (OECD, 2010: 108), in practice, both conditionality and rehabilitation are limited. Partly, this is due to problems with the assessment of work capacity, which is done by a pension fund doctor who crudely reports the number of hours per day that a person is capable of working. This gives relatively little guidance about activation to front-line workers, who themselves have limited expertise in health-related issues, have limited time to build up a rapport with the claimant and struggle to effectively use the specialist medical services available. Moreover, it seems that people with health problems are generally protected by job centres, who have considerable discretion and whose incentives motivate them to only use sanctions where they feel that this will get people into work – something that they seem to feel often does not apply to those with more limited working capacity. Finally, the rehabilitation that is supposed to occur before disability pensions is a casualty of complex inter-organisational governance issues and incentive structures (see also Rauch and Dornette, 2010). As Aurich-Berheide and Brussig conclude, disabled people fall into either incapacity pensions with little work focus or support,

or the public employment service, which has a work focus but concentrates this on non-disabled people who are felt to be closer to the labour market.

### *Ideal type 3: compliance-based systems (high conditionality, weak rehabilitation link)*

The previous section suggested that a lack of investment in assessment and rehabilitation makes it difficult to implement conditionality in practice. However, in ‘compliance-based’ systems, not only are requirements placed on disabled claimants despite problems with assessment or rehabilitation, but non-negligible numbers of claimants are sanctioned due to their failures to comply with these formal requirements. This comes at a cost: it seems less likely to help disability benefit claimants towards employment (as we discuss later), and may place requirements on claimants that some are simply unable to meet.

*The UK* seems to exemplify this. The decision about whether claimants should be subject to conditionality at all (whether on unemployment benefits or the ‘WRAG’ group of disability benefit claimants)<sup>1</sup> is governed by a functional capacity assessment that has been beset by problems, and that simply does not directly assess people’s capacity to undertake work-related activity (Baumberg et al, 2015). Once claimants are allocated to one of these groups, decisions about conditionality depend on front-line staff (and government ‘decision-makers’ who confirm sanctioning decisions). The UK is not unique in depending on front-line staff, but this has caused particular problems:

- Front-line staff are often low-skilled and have little health-specific training, particularly for the unemployment benefit. While more skilled disability employment advisors do exist, they are inconsistently available and inconsistently used.
- Front-line staff do not always have sufficient discretion. Until March 2015, unemployment benefit claimants were not allowed to have more than two periods of two weeks’ sickness without becoming ineligible for the benefit, and front-line staff did not realise that they could tailor conditionality for those with health conditions/impairments (Work and Pensions Committee, 2014: 37). For disability benefit and unemployment benefit claimants on the contractor-run ‘Work Programme’, contractors were *required* to refer claimants for possible sanction even if the contractor believed that there was good reason for non-participation.
- Front-line staff have sometimes been monitored against performance standards that included sanctioning rates (PCS, 2014). While not formally a ‘target’, this nevertheless seems to have strongly influenced the behaviour of front-line staff to sanction claimants even if they did not judge that this would help move claimants towards work.

Alongside these challenges around assessment, there have been challenges in providing appropriate employment support for disabled people. Some intensive support exists, but most disabled claimants have been placed on the contractor-run ‘Work Programme’, where there have been complaints about the quality and appropriateness of support (see also McNeill et al, 2017), and where employment outcomes for disabled people have been consistently low (see, eg, Public Accounts Committee, 2014).

While sanctioning is only applied to a minority of claimants (see earlier), the non-negligible sanctioning rate has resulted in a number of cases where conditionality seems to have been inappropriately applied to disabled people, particularly for those on the unemployment benefit. For example, a recent qualitative academic research project interviewed 56 disabled unemployment and disability benefit claimants, of which 21 reported being sanctioned:

Those who had been sanctioned reported being unable to attend appointments due to ill health, or being unaware of appointments. The latter could be due to poor communication (including letters going missing in the post) or not fully understanding the behavioural requirements attached to benefit receipt. Accordingly, they were unanimous in stating that their loss of benefit was inappropriate. (Dwyer et al, 2016: 8)

The case studies in this special issue – taken from the same project – provide more detailed illustrations (McNeill et al, 2017). Among many other similar pieces of evidence, a convenience survey of 500 WRAG claimants found that many felt that the work-related activity was not tailored to their capacities (Hale, 2014), and a parliamentary select committee found that it was not uncommon for those with mental health conditions and learning difficulties to be set inappropriate requirements that resulted in sanctions (Work and Pensions Committee, 2015). While these case studies and convenience samples are not necessarily representative, and many only consider the claimant perspective, such practices would not be surprising given the design of the system, and we have already seen earlier that the sanctioning rate for disabled people on the unemployment benefit is noticeably *higher* than for non-disabled people. These concerns do not seem to exist on this scale in countries closer to the ‘demanding’ ideal type of disability conditionality, where sanctioning seems to be an emergency backstop for wholesale refusal to engage with rehabilitation (following expert assessment), rather than a non-negligible response by less well-trained staff to minor non-compliance.

In *Australia*, there seems to be greater level of investment in Disability Employment Services for those disabled claimants subject to conditionality, and it is perhaps not as clear an example of a compliance-based system as the UK. Nevertheless, in a recent consultation, there was ‘widespread, almost universal concern’ about the benefit eligibility assessment (Department of Social Services, 2015: 3). Many stakeholders reported that assessments were done on a tick-box basis, sometimes not face-to-face, nor by appropriately expert assessors, and based on a ‘confusing’ categorisation of claimants based on the hours a week that they are seen to be capable of – with the result that claimants were being referred to ‘inappropriate services’ (Department of Social Services, 2015: 4).

It is unclear whether this currently leads to inappropriate sanctioning in Australia. Historically, there have been complaints that this sanctioning has not been consistently fair for those with mental illness or at crisis periods (Jones et al, 2007), and the OECD have noted that some welfare-to-work providers described sanctioning practices as, at times, ‘deeply flawed, punitive, damaging, and causing significant detriment and harm’ (OECD, 2012: 157–63) – particularly for those with learning difficulties or mental health problems that are not necessarily disclosed (Disney et al, 2010). Yet, at other times, welfare-to-work providers have complained that conditionality is too

easily circumvented by citing illness (Disney et al, 2010; OECD, 2012: 157–63), and it seems that the extensive use of individual exemptions may partly mitigate problems with the assessment (McClure et al, 2015: 133). Overall, it is clear that there are non-negligible rates of sanctioning of disabled claimants, just as in the UK (see earlier), but there is too little recent research to know if implementation difficulties also exist.

#### *Ideal type 4: supportive systems (low conditionality, strong rehabilitation link)*

Within the typology of disability conditionality outlined earlier, a final theoretical possibility is for conditionality to exist on paper, allied to a strong rehabilitation focus, but alongside low levels of conditionality in practice. Given that the focus of the international review was on countries that try to implement higher levels of conditionality (even if these are unsuccessfully implemented), there are no examples of ‘supportive’ systems within the countries selected here – though it is perhaps close to the autonomy-focused conditionality of the Swedish system, as described elsewhere in this special issue (Hultqvist and Nørup, 2017).

### **What impact does conditionality have on disabled people?**

In examining the evidence base about the effect of conditionality on disabled people, there are four key questions: ‘Does conditionality increase employment for non-disabled people, for which there is a relatively extensive evidence base?’; ‘How far would we expect this wider evidence on conditionality to apply to disabled people?’; ‘Is there any direct evidence that conditionality specifically for disabled people improves employment outcomes?’; and ‘What are the wider impacts of conditionality?’.

#### *Does conditionality increase employment among non-disabled people?*

Over the past decade, a number of studies have looked at the impact of sanctioning on employment outcomes among unemployment or social assistance benefit claimants. There are several methods that can be used. One is to compare the outcomes of claimants who are sanctioned compared to claimants who are not, but even when this is done well (eg Wu et al, 2014), it is difficult to be confident that we are picking up the effect of sanctions rather than differences in the sort of people who are sanctioned. Instead, more robust studies look at the impact of the timing of sanctions on the benefit trajectories of sanctioned claimants, or look at natural experiments such as randomised policy pilots (or, failing that, quasi-experiments such as local variation in sanction rates), which have the added advantage of enabling us to look at ‘threat’ effects on those who are not sanctioned. None of these methods gives us absolute certainty, but these give us the strongest basis we can have for understanding the impacts of sanctioning (Griggs and Evans, 2010; McVicar, 2014).

This evidence shows that sanctioning increases short-term job entries. This is the conclusion of the few reviews that exist (McVicar, 2014; National Audit Office, 2016), with one describing the evidence as ‘compelling’ (Griggs and Evans, 2010) – though it is worth noting that none of these are formal *systematic* reviews, and the individual studies differ widely in the estimated size of this effect. Moreover, there are two crucial caveats to this general conclusion:

- *While sanctions cause some people to leave benefits for work, they cause other people to leave benefits without having a job.* This has been shown in several studies (eg Arni et al, 2013; Busk, 2016; National Audit Office, 2016), and may be particularly strong for (though not restricted to) more advantaged claimants (Busk, 2016).
- *While sanctions increase employment, they cause people to be in worse (lower-paying, more unstable, more part-time) jobs.* While Arni et al's (2013) study is often cited here, there are several other studies that come to similar results, for example, showing that increased days in employment translated to weak or zero gains in earnings (National Audit Office, 2016), or that sanctioning led to considerable increases in part-time rather than full-time work (Van den Berg and Vikström, 2014). While one recent article argues that these effects are simply because sanctions move people with historically lower earnings into employment (Lachowska et al, 2016), recent reviews share a consensus that short-term positive effects of sanctioning on employment need to be balanced against longer-term negative impacts on earnings (Griggs and Evans, 2010; McVicar, 2014; National Audit Office, 2016).

While I have concentrated on the evidence on sanctioning here, the smaller evidence base on job-search monitoring shows similar (if slightly less consistent) results (McVicar, 2014).

### ***Would we expect conditionality to increase employment for disabled people?***

At its simplest, conditionality is based on three assumptions: that it will make claimants less selective about the jobs that they are willing to take, try harder to find work (Griggs and Evans, 2010; Arni et al, 2013) and take fuller advantage of the support available to them. However, this has to be balanced against other mechanisms at play. Being less selective about jobs may make people move into work more quickly, but it may also lead them into poorer job matches, taking worse jobs that waste some of their human capital (Arni et al, 2013). There may be a 'lock-in effect' of work-related activity that diverts job-seekers from looking for suitable work (Molander and Torsvik, 2015). It may also undermine their relationship with their caseworker, which evidence suggests is one of the most important elements of employment support services (Hasluck and Green, 2007), and more generally lead to more superficial compliance with (or even disconnection from) government-provided support.

The balance of these effects for non-disabled people was summarised in the previous section. The critical question here, however, is whether this balance will be the same for disabled people. It has been argued that there are many people with partial work capacity who do not voluntarily take up support when it is offered; hence, conditionality could have positive effects for disabled people (Martin, 2015). However, other *a priori* considerations suggest a more negative effect.

Partly, this is because it is harder to apply conditionality fairly for disabled people – and unfair conditionality is unlikely to have positive impacts. This is even accepted by those in favour of conditionality; for example, a UK pro-conditionality think-tank conceded that 'it is undoubtedly the case that misapplied, conditionality runs the risk of worsening the position of the most vulnerable claimants' (Pickles et al, 2016: 43). Moreover, people with certain sorts of disabilities (eg cognitive impairments) may not be consistently aware of the requirements being placed on them, as has been reported in the UK (Dwyer et al, 2016) and Australia (Jones et al, 2007; Disney et al, 2010). In

the light of the review of implementation, we would expect more positive impacts from ‘demanding’ systems (with considerable investment in assessing claimants fully, and providing rehabilitation that they are required to do) than ‘compliance-based’ systems (where less support is provided for claimants to move towards work, and where unreasonable requirements are more likely).

More importantly, though, many welfare-to-work professionals, disability charities and disabled people themselves think that conditionality is not suited to the employment issues facing disabled people (Mehlsen et al, 2015; Work and Pensions Committee, 2016: #66). Conditionality implies that disabled people are partly out of work because of a lack of motivation, which has been criticised for ignoring the real barriers that they face (eg Patrick et al, 2011; Garthwaite, 2014). However, even where claimants have some work capacity and may be able to get a job, they are often uncertain about their capacity to work and require considerable support. Claimants’ relationship with their caseworker becomes critical, as does their willingness to experiment with a job in a safe context in which failure is not punished (arguably a key component of the success of the positively evaluated Individual Placement and Support model; see Nygren et al, 2016). Conditionality can undermine both the relationship with the caseworker (Work and Pensions Committee, 2016: #16) and this willingness to experiment. Rather than encouraging claimants to move towards work, it can lead to fear and anxiety (see later), prompting people to ‘hunker down’ (in the words of Paul Gregg, one of the architects of the UK’s conditionality system<sup>2</sup>). Again, using the typology from earlier in the article, this is likely to be an even greater problem in ‘compliance-based’ systems of disability conditionality than ‘demanding’ systems.

### *Direct evidence on conditionality for disabled people*

This makes it crucial to have direct evidence on the impact of conditionality on disabled people, and while such evidence is rare, a small number of studies have recently been published.<sup>3</sup>

Four studies look at the introduction of mandatory activities for sick and disabled people, in Sweden (Engström et al, forthcoming), Denmark (Rehwald et al, 2015), Norway (Markussen et al, 2015) and Australia (Broadway et al, 2014). The target group for the reform was either those near the start of sickness absence (all sick leave claims in Denmark, vague sickness diagnoses in Sweden), those after six months of sickness absence (Norway) or young disability benefit claimants (Australia). For Norway, Sweden and Australia, the policy being evaluated was a compulsory rehabilitation-focused meeting, while in Denmark, the policy was much more intensive, involving weekly meetings and the requirement to be participating in a return-to-work programme to continue claiming the benefit. Some discretion was usually allowed; hence, not all claimants were required to undergo conditionality.<sup>4</sup> The studies were varied in their methodology, being based on either variation across geography and/or time (Norway), comparing similar groups not affected by the reform (Australia), or randomised policy trials (Sweden and Denmark).

In contrast to the studies on non-disabled people mentioned earlier, some of these studies show *negative* impacts of conditionality on disabled people. This includes the intervention closest to the ‘demanding’ ideal type of conditionality, which looked at the effects of mandatory work-related activities rather than just rehabilitation-

focused meetings (the Danish study of Rehwald et al, 2015). Such conditionality led to sick claimants spending one week *less* in regular employment in the following year (5% less than the control group), with similar effects after two years (though the effect had effectively worn off by the third year).<sup>5</sup> The Swedish trial (Engström et al, forthcoming) also found that mandatory activation interviews led to *higher* levels of later disability pension receipt, though they only mention employment outcomes in passing. The other two studies show slightly different results. The introduction of mandatory interviews for young disability benefit claimants in Australia led to increased referrals to disability employment services, but had no significant impact on employment or earnings (Broadway et al, 2014). This leaves the Norwegian study (Markussen et al, 2015) as the single study that found positive impacts on return to work from sickness absence, as well as a small reduction in disability benefit claims in the longer term – though given that the Norwegian system has generally struggled to implement conditionality (see earlier), the extent of conditionality and sanctioning that was applied is unclear.

Beyond these studies of mandatory activities, there are also two studies that look at the impact of *sanctioning* on disabled people, both from the UK. Reeves's (2017) article looks at the impact on economic activity of the sanctioning of unemployment benefit claimants with a self-declared disability, based on spatial variation in sanctioning rates. He finds a link between sanctioning and greater levels of disability among the economically inactive (which is robust to multiple sensitivity tests), though with little consistent effect on levels of disability among employed people. While the design is partially limited by data availability and the possibility of confounding in non-experimental cross-sectional data, it provides suggestive evidence that the sanctioning of disabled people on unemployment benefit may drive them into economic inactivity.

The other study is conducted by the UK National Audit Office (2016), and uses a strong design, exploiting the random assignment of disability benefit claimants to employment service providers (with different sanctioning referral rates) within an area. They found *negative* impacts of sanctioning on employment outcomes among disability benefit claimants, which seem to increase over time. Sanctioning referral rates may reflect other factors that influence employment rates (eg quality of employment support), though the study does control for both differences in claimant characteristics and differences in the provider's overall performance. Still, given that the National Audit Office study also shows positive impacts of sanctioning on employment for non-disabled people, the study strongly suggests that the employment consequences of sanctioning – at least within what I have described as the 'compliance-based' ideal type of disability conditionality – may be much worse for disabled than non-disabled people.

Overall, the limited but methodologically strong evidence that exists suggests that the employment effects of conditionality are much less positive for disabled than non-disabled people. Two studies even suggest that the stronger forms of disability conditionality are counterproductive, whether they are implemented with strong rehabilitation links (Denmark) or instead with a focus on compliance (the UK), with both studies finding a reduction in employment among disabled people. The four other studies show a mixture of negative, positive and null results; the one unambiguously positive impact (in Norway) may suggest that less onerous conditionality in a supportive context may have positive effects, or may simply reflect a weaker methodological approach.

*What are the wider effects of conditionality on disabled people?*

The final element to consider is whether conditionality has any wider impacts, particularly on income/destitution and health. If conditionality makes disabled people more likely to enter suitable work, then any increased employment could potentially improve both of these outcomes. However, not only are there concerns about whether conditionality drives even non-disabled people towards poorer job matches, but the evidence also offers little reason to believe that disabled people's employment chances will be increased by conditionality – and they may even be harmed (see the previous section). Yet, even without influencing employment, there are reasons to believe that conditionality and sanctioning may influence poverty and ill-health.

Given that sanctioning involves withdrawing money from people who lack jobs (and also raising the numbers of people without work or benefits), there is a clear mechanism by which sanctioning affects income. This will partly be mitigated by other sources of support, but it seems unlikely that such support is universal. It is therefore unsurprising that, for example, almost one third of destitute people in the UK in Fitzpatrick et al's (2016: 29) study said that they had been sanctioned, while a UK area-based study found that the increased sanctioning of unemployment benefit claimants led to greater food bank use (Loopstra et al, 2016). For disabled people, the issues may be even more acute given the greater costs of disability, the greater challenges that many disabled people have in the labour market and the added challenges of responding to sanctions among those with learning disabilities and mental ill-health (Inclusion London, 2016). Both case studies from disabled people's organisations (eg Inclusion London, 2016) and qualitative research (Dwyer et al, 2016) in the UK have found that disabled benefit claimants who have been sanctioned struggled financially, sometimes with very damaging consequences. While the sanctioning of disabled people is also non-negligible in Australia, no evidence on its impacts is currently available.

Conditionality may also negatively affect disabled people's health. Partly, this may stem from financial issues following sanctions (as in one prominent UK case<sup>6</sup>), but it may also come from the stress of conditionality itself – particularly in 'compliance-based' systems such as the UK, where unreasonable requirements may sometimes be set, and where minor lapses in compliance may lead to significant financial penalties (see earlier). The rollout of a new disability assessment in the UK has been linked to suicides and mental ill-health (Barr et al, 2016), and while much of this effect is likely to be around financial worries around benefit eligibility (Garthwaite, 2014), there also seems to be considerable anxiety around the conditionality regime that accompanied it. For example:

- Disabled unemployment and disability benefit claimants in a large-scale piece of qualitative research regularly referred to the anxiety-inducing effects of conditionality (Dwyer et al, 2016), which can also be seen in the case studies in the present special issue taken from the same project (McNeill et al, 2017).
- A recent inquiry into benefit sanctions by a UK parliamentary select committee mentioned the possibility that sanctions 'can have negative impacts on mental health', based on evidence from disabled people's organisations and disability charities on the harmful consequences experienced by their members and clients (Public Accounts Committee, 2016).



- In one non-representative survey, 85% of WRAG claimants reported feeling anxious about sanctions (Hale, 2014).
- The British Psychological Society (2016) and four other associations involved in mental health treatment recently signed a statement saying that ‘the sanctions process may be detrimental to people’s mental health and wellbeing’.
- There are even several anecdotal reports in the UK of claimants dying from suicide or heart attacks while subject to conditionality,<sup>7</sup> though the extent to which conditionality can be *blamed* for these individual cases is contested.

It is unclear how common these issues are, and robust quantitative studies of the average health effects of UK conditionality on disabled people should be undertaken. However, the volume of case-study evidence from claimants, campaigners, health professionals and qualitative researchers strongly suggests that the UK’s compliance-based system of conditionality can have negative effects on health. Further research from outside the UK is needed to understand whether all forms of conditionality for disabled people potentially have similar effects.

Other effects of conditionality and sanctioning have been suggested in the literature. For example, Lohman et al (2004) show that children in sanctioned families in the US had worse developmental outcomes, and Paxson and Waldfogel (2003) find that US states with tougher sanctions policies had greater levels of child maltreatment. However, in both cases, the methodology is relatively weak – there are other differences between sanctioned families and sanctioning states that are difficult to account for – and this evidence does not justify strong conclusions (as accepted by Griggs and Evans, 2010: 27). Similarly, while Machin and Marie (2006) find that areas affected by a tougher benefit regime in the UK had greater rises in crime, Fallesen et al (2014) find that workfare in Denmark *reduced* crime levels. In both cases, plausible mechanisms can be outlined, but firmer conclusions await further research.

## Conclusion

While bodies such as the OECD recommend introducing conditionality for disabled people, they provide little evidence as to either its implementation or its impacts. In this article, I therefore reviewed available evidence in the academic and grey literature, alongside a new international review of disability assessment in 10 countries based on over 140 documents and 38 expert interviews. The findings can be summarised as the following ‘stylised facts’ (an approach taken from Martin, 2015):

1. Many states formally require disabled people to participate in steps towards work. However, sanctioning itself is rare, with most countries using sanctioning as an emergency backstop for repeated non-compliance with rehabilitation. Only in Australia and the UK is sanctioning less rare, seemingly being used as a non-negligible response to instances of perceived non-compliance.
2. There are several models of implementing conditionality for disabled people. *Demanding* systems (high conditionality, strong rehabilitation links) invest heavily in assessment and support, which claimants are then required to participate in. *Passive* systems (low conditionality, weak rehabilitation links) have on-paper conditionality requirements but *do not sanction* claimants in practice because of a lack of assessment/support. *Compliance-based* systems sanction around procedural

requirements *despite* poor links to assessment and support – potentially sometimes implementing sanctions unfairly.

3. In terms of employment outcomes:
  - The evidence, on balance, suggests that sanctioning increases job entry among non-disabled people – but often to low-quality jobs, and it also increases the numbers of people not claiming benefits who are not in work.
  - However, *a priori*, the impact of conditionality on disabled people is likely to be more negative than its impact on non-disabled people, and is likely to vary according to the way conditionality is implemented.
  - The limited but robust existing evidence focusing on disabled people suggests that sanctioning may have zero or even *negative* impacts on work-related outcomes.
4. In terms of wider impacts, individual case studies in ‘compliance-based’ systems suggest that sanctioning in the absence of other support can lead to destitution, and that conditionality can negatively influence mental health.

It is worth ending by emphasising that conditionality for disabled people is simply different to conditionality for non-disabled people – its implementation is more challenging, and its impacts may well be more negative. While the present article has reviewed the available evidence and conducted a new international review of implementation, the published evidence is relatively scarce, and multi-country reviews necessarily sacrifice some depth in order to achieve international breadth. Rather than simply assuming that the existing evidence base for unemployment and social assistance benefits will suffice, it is therefore crucial to add to the limited existing evidence base on disability and conditionality in all respects: its extent, its implementation, its impacts on employment and its wider impacts.

## Notes

<sup>1</sup> Requirements are more demanding on unemployment benefits (where claimants can be required to take particular jobs), and the sanctions more severe (on unemployment benefits, claimants lose their entire benefit for four to 52 weeks; on disability benefits, they can lose about two thirds of their benefit [soon to rise to the full benefit] for one to four weeks). Around 40% of Job Seekers Allowance (JSA) sanctionees and 10–20% of WRAG sanctionees receive hardship payments (Webster, 2015: 8–11).

<sup>2</sup> See: <https://inequalitiesblog.wordpress.com/2012/09/27/paul-gregg-disability-employment-speech/>

<sup>3</sup> Evaluations of reforms that combine conditionality and support (such as ‘Pathways to Work’ in the UK) have been cited elsewhere as evidence for the effectiveness of conditionality (OECD, 2010: 108; Pickles et al, 2016: 41). However, I do not consider this evidence here as the contribution of conditionality itself is unclear (as admitted by the OECD, 2010: 108).

<sup>4</sup> Exemptions were 13–30% in Norwegian municipalities (after six months sickness absence) and 17% in Denmark (at the start of sickness claims).

<sup>5</sup> Rehwald et al (2015) further focus on the differences between different types of mandatory activities (finding that some are harmful and others beneficial), but these results can no longer exploit the randomised nature of the intervention and are therefore subject to greater possible biases.

- <sup>6</sup> This is the case of David Clapson, who died from a lack of insulin after running out of money to keep his fridge working (see: <http://www.disabilityrightsuk.org/news/2016/march/support-petition-over-death-david-clapson>).
- <sup>7</sup> Of 49 government inquiries into deaths among benefit claimants, 10 followed a benefits sanction (see: <http://www.theguardian.com/society/2016/may/13/suicides-of-benefit-claimants-reveal-dwp-flaws-says-inquiry>).

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