

Welfare Reform Bill

Proposed benefit regime for claimants dependent on or with a propensity to misuse drugs

Report Stage briefing by DrugScope

DrugScope is the UK's leading independent centre of expertise on drugs and the national membership organisation for the drugs field. --

1. What does the Bill propose for claimants who have or may have drug problems?

- The Secretary of State will be able to require claimants to answer questions about drug use and/or whether someone is in drug treatment. The Bill does not include any criteria or thresholds which have to be satisfied before the requirement to answer questions is imposed. Initially, the focus will be on people who are dependent on heroin and/or crack cocaine ('problem drug users').
- If claimants do not submit to this process or the JobCentre is not satisfied with their answers they can be required to attend for a 'substance-related assessment'. If they 'fail to comply' with the assessment they may be required to undergo one or more drug tests.
- Claimants who are identified as having drug problems through this process can be required to attend drug treatment as part of a 'rehabilitation plan'. During this period they will receive a 'treatment allowance' and job seeking requirements (e.g., actively to seek work) may be suspended for a period to give them space to focus on addressing their drug problem.
- The Bill introduces a benefit sanction regime for claimants of Jobseekers Allowance (JSA) and Employment and Support Allowance (ESA) who fail without 'good cause' to attend an interview to discuss their drug use, a substance-related assessment, submit to a drug test or fail to agree or comply with a rehabilitation plan.

2. The focus on social (re)integration for claimants with drug problems

DrugScope welcomes the aim to provide more support through the benefit system for people with drug problems and to increase levels of engagement with drug treatment services:

- The Government estimates that as many as 100,000 benefit claimants with serious drug problems are not in contact with treatment services;
- People with drug problems are one of the most excluded and marginalised groups in our society;
- The Drug Treatment Outcome Research Study estimates that 80 per cent of problem drug users (i.e. people misusing heroin and/or crack cocaine) are unemployed;
- Participation in training, education, work and other meaningful activity not only promotes social inclusion, but will tend to improve drug treatment outcomes;

- Two thirds of employers surveyed in 2008 by the UK Drug Policy Commission said that they would not employ a former heroin or crack cocaine user, even if they had the competencies for the job.

3. Positive developments

DrugScope welcomed the commitment in the new drug strategy (*Drugs - Supporting Families and Communities*) to focus on the social (re)integration of people with drug problems. We agree that problem drug users have too often been 'written off' by the welfare system - we need to be more ambitious. We agree that employment, training and other forms of meaningful activity (such as voluntary work) can have an important role to play in supporting and sustaining recovery from substance misuse problems.

We support Government proposals:

- to improve links between JobCentres and drug treatment providers;
- to provide individualised support for problem drug users to help them into education, training and work;
- to introduce flexibility in the job seeking requirements - for example, providing problem drug users with an opportunity to address their problems before requiring them actively to seek or be available for work;
- to subject new approaches to proper pilot and evaluation processes before rolling them out.

4. Key considerations for an effective approach

DrugScope favours voluntary participation with the emphasis on 'carrots' and not 'sticks' - perhaps building on the Progress2Work scheme for people with drug problems in the benefit system, which was launched in 2001, receiving £40 million for the first three years and £20 million a year since, and which has not been fully evaluated. There is evidence that 'voluntary' approaches to supporting problem drug users into work and training are effective. There is no evidence that compulsory requirements linked with benefit entitlement will improve engagement with drug treatment, treatment outcomes or rates of retention.

- We believe that a benefit regime for problem drug users will only work in supporting people into drug treatment if it recognises that many drug users will find it difficult to disclose that they have drug problems, and will need reassurance and support to talk about them;
- There is no evidence that benefit sanctions will be effective for this group, and they will create significant hardship (including for families and carers) - the Government has recently abandoned a similar approach to offenders on community sentences (who had benefits cut for non-compliance with the court's order), concluding that there had only been a 1.8 per cent improvement in compliance and that it was spending £5.60 on the scheme for every £1 of savings made (Source: David Hanson, Hansard, 27 February 2009, Cols 36WS-37WS, see also 'Benefit pilot scheme scrapped for costing too much', Daily Telegraph, 28 February 2009);
- 'Multiple need' is common among people with serious drug problems (for example, many problem drug users have physical and mental health problems, are homeless or in insecure housing and have criminal records) - and that means they need help from a range of agencies if they are realistically going to access work;
- Problem drug users often face other significant barriers to employment (including skills deficits and employer attitudes);

- For many problem drug users entry into mainstream employment may be an appropriate long-term aspiration, but not a realistic short-term goal. It is important that other forms of meaningful activity are available for this group.

5. Key concerns

- We have concerns that the Bill introduces unprecedented and wide ranging powers with a lack of adequate safeguards - for example, as currently drafted a benefit claimant with a relevant drug problem could be required by the Secretary of State to attend and abide by the rules of a residential drug treatment service. JobCentres will be given power to share sensitive and 'confidential' information with the police, probation service and others;
- We are concerned that extension of sanctions will deepen poverty and exclusion, could increase crime, will put extra pressure on families supporting people with drug problems, and could impact on the quality of therapeutic relationships in drug services if workers are involved in policing the system;
- This regime could stretch the capacity of drug treatment services - the Impact Statement says: 'Additional costs are likely to be incurred to the Department of Health from extra places in drug treatment. The extra referrals to the treatment sector will be subsumed over time into current place allocation *through re-prioritisation*' [emphasis added];
- We are concerned that JobCentres are not appropriate environments for the disclosure of drug problems - claimants disclosing a serious drug problem need sympathetic treatment, in a supportive environment and immediate access to relevant support services;
- DrugScope members say that JobCentre staff are reluctant to work with people with drug problems and/or in drug treatment and believe that they will need a lot of support to work with this group appropriately;
- We are concerned that the provisions in the Bill could effectively require people under threat of benefit sanction to take a particular drug (for example, methadone) or to comply with a treatment programme or regime that is informed by a particular belief system or religion;
- While the Bill states that people will not be required to undergo treatment without their consent it is unclear how this is reconciled with the threat of benefit sanctions for non-compliance;
- Drug testing should not be introduced into the benefit system. It is an invasive procedure. A drug test can only reveal that a particular substance is present in somebody's body at a particular time - this means, for example, that test results can be identical for someone with a serious crack cocaine dependency and a first time user of powder cocaine;
- Colleagues in other sectors - such as mental health - are concerned that this regime introduces a new principle into the benefit system that could subsequently be extended to other groups who might be required to seek treatment or face benefit sanctions (for example, for depression or obesity or muscular problems).
- We believe that compulsory requirements in the Bill (e.g., to attend a specific treatment service) and the powers to share information with the police and others are not compatible with the rights and responsibilities contained in the NHS Constitution.

6. Some amendments pursued by DrugScope at Committee Stage

While DrugScope opposes the introduction of new benefit sanctions for problem drug users we proposed a number of amendments on specific proposals/powers. These included:

- Removal of term 'propensity to misuse' drugs, so these provisions can only apply where a claimant has a drug dependency problem - no definition of 'propensity to misuse' is provided in the Bill;
- The term 'drug dependency' is not defined in the Bill, and is important for its application and implementation.
- Ensuring that claimants can only be required to answer questions about drug use where there are reasonable grounds for believing they have a drug problem and that this is a barrier to finding work or training.
- Ensuring that such interviews about drug use are conducted at such time and place as is appropriate for the disclosure of drug dependence, by a suitably qualified person, and that support is available to a person at the point of disclosure of a drug problem.
- Requiring the Secretary of State to provide reasons for referring a claimant for a substance-related assessment.
- Removal of drug testing provisions, because drug testing is invasive and unreliable.
- To introduce an entitlement to and process for appeal against the conclusion of an interview, assessment or drug test (and not only the application of a sanction).
- To ensure that no information disclosed by or about a person as a result of the investigative processes can be used to the person's detriment. (Except in exceptional circumstances where the law permits and/or requires breach of confidentiality, such as risk of serious harm to a child.)
- To remove the powers for the Secretary of State to receive confidential information from the police force, probation service and 'such other person as may be prescribed and to supply it to others' - currently there seem to be no clear limits to these powers.
- To introduce additional safeguards to ensure a person cannot in effect be required to comply with a particular form of treatment or with a belief system supporting a treatment facility or regime.
- To remove sanctioning powers and to limit the use of sanctions if they are introduced - in particular, we argued that sanctions should not be enforced where they would worsen or prolong a drug problem, as this is directly contrary to the purposes of the legislation.

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For further details visit DrugScope's web page on Welfare Reform at <http://www.drugscope.org.uk/ourwork/Policy-and-public-affairs/topics-and-campaigns/key-topics/welfare-reform-bill.htm>

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