

Skills Conditionality

a consultation response from the National Institute of Adult Continuing Education

1. The National Institute of Adult Continuing Education (NIACE) is an independent non-governmental organisation and charity. It is a membership body with corporate and individual members drawn from a range of places where adults learn: in further education colleges, workplaces, local community settings, universities, prisons and in their own homes via technology. The ends to which NIACE activities are directed can be summarised as being to secure more, different and better quality opportunities for adult learners in the UK. It is particularly concerned to advance the interests of those who have benefited least from their initial education and training.
2. NIACE welcomes the opportunity to contribute to the public consultation initiated by the Department of Business, Innovation and Skills and the Department for Work and Pensions on proposals to implement a policy of 'Skills Conditionality'. This would involve the staff of Jobcentre Plus referring benefit claimants to a college or a provider of training or a specialist advisor with potential benefit sanctions for non-participation. It is proposed that the new regime will apply to claimants in receipt of so-called 'active benefits' (meaning those which require the claimant to be actively seeking or preparing for work, namely Jobseeker's Allowance (JSA) and Employment Support Allowance - Work Related Activity Group (ESA-WRAG). From April 2011, such claimants who are identified as having a skills need which is acting as a barrier to employment may be referred to specified training with potential benefit sanctions for non-participation.
3. NIACE is broadly supportive of policy proposals which seek to increase participation in learning and skills development among adults, and which promote the role and value of learning in enabling people to overcome disadvantage and take control of their lives. Unemployment corrodes individual, community and national wellbeing, and the orientation of government policy towards supporting people off benefits and into work is welcome. Support for skills development clearly needs to be a key part of that approach. Indeed, evidence from NIACE's own work indicates that training generally raises employability levels among the adult unemployed, and that undergoing a period of training is likely to increase the rate at which people return to work where jobs are available.¹ From recent research with unemployed people, NIACE also knows that the overwhelming majority want to

¹ see Williams, J and Wilson, T. (2009) *Learning and Work* Inquiry into the future of Lifelong Learning.

work and are receptive to interventions that they believe will help them to achieve that end.

4. Nevertheless, there is a mass of evidence that adult education and training is at its most effective when the trainee or student is motivated to learn. Enforced attendance on a programme will mean that those providing teaching, training, coaching or instruction must overcome an initial barrier before meaningful learning can occur. As a result NIACE suggests that the Government must ensure that the learning offered is of the highest quality and relevance. In addition it must ensure that those delivering it are adequately skilled and resourced. A low-quality offer that people attend under threat risks damaging the wider reputation of colleges and other providers and doing little to raise the aspirations and skill levels of individuals. NIACE draws the attention of the Departments to the findings of Ofsted that DWP-sponsored courses have, in general, been of a lower quality than other forms of provision inspected and notes that there are no current proposals for Work Programme provision to have any external quality assurance. Colleges will have real concerns over quality and these will need to be allayed.
5. In the following paragraphs NIACE draws the attention of Government to a number of areas where further development and/or clarification of the proposals would improve their potential to deliver positive outcomes.
6. A first area of concern is about the lack of attention paid by the proposals to the matter of where primacy will sit when claimants/learners are subject to conditionality on different, and potentially competing, counts. It would, for example, appear from *Universal Credit: Welfare that Works*, that a claimant/learner who is subject to skills conditionality would also be required to be actively seeking and remain available for work. Therefore, if a claimant/learner received an offer of work whilst on a course that they had been mandated to attend, they would be expected to leave the course in favour of employment - even if on the cusp of achieving a qualification that would open the door to a wider range of sustainable employment prospects rather than low-skill temporary employment. As part of a transition to work, claimants will need assurance that arrangements can be made to facilitate completion of a course once started.
7. NIACE recognises that a job rather than a qualification would also be the preferred option of many claimants/learners. However there is a danger that, like earlier initiatives to improve employability, the proposals risk reinforcing the problems faced by low skilled workers who oscillate between periods of unemployment and low-paid, low-skilled temporary work at the bottom of the labour market. Having been mandated to attend training it is both perverse and unjust to deny claimants/learners the opportunity to secure the boost to their labour market position that the intervention was intended to produce. One key to success will be the proposals' ability to distinguish sensibly between short-term jobs and sustainable jobs when employment opportunities are available. Anything less would seem contrary to the government's commitment, expressed through the Work Programme, to reduce 'churn'.

8. Whilst a closer alignment between the programmes of BIS and DWP is sensible, there is an entirely proper difference of emphasis that should be recognised. DWP priorities focus in the short-term on helping those actively seeking work whilst the priorities of BIS are about raising skill levels. This means that it should remain a priority for BIS to support the development of adults at a greater distance from the workforce. Such adults would include lone parents who are not currently available for work but for whom training offers the prospect of a shorter period of benefit dependency, at a smaller charge to the public purse. Similarly, meeting the ESOL needs of linguistic minority *wives* of those actively seeking work is in jeopardy. Although these people may be unavailable to participate in the labour market currently, teaching them English would have the combined effect of making them available for work whilst also supporting the government's Big Society goal of improving community cohesion.
9. A second area of concern is around the question of supporting individuals to develop the motivation, confidence and sense of agency to participate successfully in learning. Skills development is not a passive process, but requires the active engagement of the learner. Simply requiring people to attend a training course in response to identified skills need will not necessarily be sufficient to make them learn and develop those skills, particularly if they are resistant to the idea of participation and face other barriers to learning ('you can take a horse to water...') and have been conditioned into a culture of dependency. Pedagogic research suggests that the potential returns to either the individual or the taxpayer of placing claimants on training courses where their chances of success are hampered from the outset by a lack of motivation to learn are questionable. Research carried out by NIACE and others over many decades repeatedly confirms that motivation to learn is a highly complex area.² Motivational triggers vary greatly between individuals and social groups, and identifying and unlocking them can require personalised and intensive support. NIACE has a strong track record of effective intervention in this territory and would be pleased to help the government ensure that provision motivates learners and develops their skills for employment while avoiding the narrow straitjacket of 'vocational preparation'.
10. NIACE is concerned here because there will certainly be considerable overlap between people who are unemployed and mandated to attend skills training, and people who have had profoundly negative experiences of initial education. In these circumstances, skills conditionality will be applied to people whose starting point is the ingrained belief that 'learning is not for me.' Without support to build their confidence and motivation, and to challenge their self-perception so that they can identify themselves as a learner, they are unlikely to succeed may struggle to fulfil the terms of their claimant contract. Alongside the increased financial hardship that would result, the intervention

² See for example, Smith, J. and Spurling A (2001) *Understanding motivation for lifelong learning*. Leicester NIACE; and Maguire, S. and Felstead S., (1993). *Factors influencing individual commitment to learning: a literature review*, Employment Department Research Series 20, Sheffield, Employment Department.

would have reinforced their negative view of learning and made it less likely that they will be receptive to developing their skills in the future.

11. A third concern for NIACE is whether the decision to focus full funding support for skills development upon those claimants who are on active benefits is too blunt an instrument to secure the levels of culture change the Government wishes to promote. NIACE is not suggesting the extension of skills conditionality to additional groups of claimants, but is anxious about the way in funding entitlement reform will effectively exclude claimants from certain other groups from opportunities for learning and skills development. In particular, NIACE urges Government to consider how lone parents on income support might best be supported in order to prepare for effective (re)entry to the labour force. It would seem contrary to the government's commitment to help people off benefits and into work to exclude from support certain groups of low-income claimants who may be highly motivated. A more flexible approach, which is capable of responding to and capitalising upon individual circumstances, may be needed.
12. NIACE's responses to the specific consultation questions below, offer some suggestions for how these potential pitfalls might be addressed and raise a number of other issues.

Question 1: What risks and opportunities does this proposal present for colleges and training providers or Next Step prime contractors?

13. Risks to providers include:
 - a. The expectation that learners will leave courses at any stage to take up employment. As outlined above, this could impact negatively the completion and success rates. Whilst the latest Skills Funding Agency proposals allow providers to run courses where work rather than a qualification is a primary outcomes, there may be some suspicion among providers which will need to be overcome.
 - b. The capacity of providers to meet the learning needs of all potential learners in their community may be lost, due to a shift in the balance of provision to reflect the focusing of funding on provision targeted at people on active benefits. The viability of certain types of programmes, such as return to study programmes which have traditionally been an effective way of re-engaging lone parents, may result in them no longer being offered.
 - c. The proposals suggest that providers will be asked to offer places to mandated learners on their existing courses. Infilling courses with learners who are compelled to attend risks introducing people who may have low levels of motivation and who may present challenging behaviours. This could disrupt the learning environment for motivated (and fee-paying) learners and jeopardise success rates - and learner demand.

14. There are also potential opportunities presented by the proposals:

- a. During the Integrated Employment and Skills (IES) trials, the level of non-attendance by claimants referred from Jobcentre Plus to Next Step was high. As the evaluation of the trials reported, low attendance rates impacted greatly on Next Step, in terms of both funding and advisers' productivity.³ Mandating claimants to attend interviews would provide greater certainty for Next Step and aid planning.
- b. The process of finding appropriate provision for claimants with skills needs will help to highlight where there are gaps in the system. JCP and Next Step advisers will be able to work with local providers to develop provision to meet local need where significant gaps exist.
- c. New people will be brought into learning, including some from groups who may have historically low levels of participation. This has the potential of extend the reach of providers into new communities, and stimulate them to develop their capacity to support excluded groups and individuals.

Question 2: How can we minimise any risks for the skills system, while optimising the impact on participation and completion rates and employment outcomes?

15. As highlighted above, NIACE is concerned that the proposals present considerable risks to the skills system if they are implemented without careful attention being paid to putting a process in place which will ensure that claimants/learners directed to provision are in a position to achieve successful outcomes in terms of both learning and work. In particular, NIACE stresses the need for appropriate support in two areas: first, to build claimants'/learners' confidence and motivation to learn; and secondly, to record and recognise the learning achievements of people who have to leave learning early because they find work.
16. Evidence shows that, to become effective learners, adults need to believe that it is the 'right time' for them to participate in learning. For this to happen, they need to recognise the learning undertaken as relevant to their lives and linked to their aspirations, interests and capabilities. Our work with unemployed people suggests that the motivation to participate in learning can vary greatly, even among people in apparently similar circumstances. However, there appear to be common patterns. It is striking that, while some people in the early months of unemployment (those who would be affected by skills conditionality) often feel optimistic about their prospects of obtaining work and are highly motivated to seek help with job search, they may be un-receptive to the idea of undertaking training and skills development. This attitude can be particularly evident among adults who have little or no previous

³ Institute for Employment Studies (2009), *Qualitative Evaluation of Integrated Employment and Skills Trials: implementation report*. Department for Work and Pensions.

experience of unemployment. For people who have not undertaken learning for some time, or who have little positive experience of learning, their confidence about their own ability to join a course and succeed may be low. There may also be particular issues around low levels of confidence and motivation among claimants in the ESA-WRAG group who have mental health difficulties.

17. Under these circumstances, 'pre-employment support' has a central role to play in building confidence and motivation to learn. The role of a skilled careers adviser in deploying a range of approaches, including skills and interest tools and action planning, is key. Through an action plan, the adviser can outline and clearly represent the link between an individual's learning and career development to build motivation. Evaluation of the IES trials confirmed that Skills Health Checks carried out by Next Step advisers were particularly effective at supporting people who were stuck in labour market 'churn'. Jobcentre Plus advisers will have to be adept at recognising where claimants need support to review their skills needs and address wider barriers to learning, and make appropriate referrals to Next Step.
18. Building motivation to learn also means supporting people to address the other practical barriers to employment that they face, because for many people dealing with skills in isolation will not be enough to enable them to move into work. Research shows that, whilst it is clear that skills can play a role in helping people to access work and progress in employment, they are not the only enabler and many people face multiple barriers. According to UKCES, of the 4.6 million with no qualifications, over three-quarters fall into one of the other groups known to experience low levels of employment. These multiple disadvantages have an impact: lone parents with qualifications have an employment rate of 63 per cent, those without have an employment rate of 30 per cent. It seems that the more disadvantages faced by an individual, the greater the likelihood of being unemployed.⁴ Therefore to be really effective, support for skills development should be integrated with wider advice services at a local level, with effective systems in place for signposting and referral between agencies. This was something that prompted the previous Government to introduce the concept of an Advancement Agency - although that vision was diluted as it moved to implementation.
19. NIACE sees considerable potential for lifelong learning accounts to play a part in building motivation at the point at which people are referred to learning, by clearly showing them how much, in cash terms, the state is proposing to invest in their skills development.
20. Appropriate referral is critical if people mandated to attend are to benefit from learning opportunities and be motivated while on programme. NIACE welcomes the decision to give learning providers a central role in assessing whether a referral to learning is appropriate for the individual. However, NIACE is concerned about the resource implications for providers. Furthermore, it is not clear from the proposals either where final responsibility for deciding that

⁴ Williams, J. and Wilson, T. (2009) *Learning and Work* (IFLL Thematic Paper 7) p. 30.

provision is right for the claimant/learner to provision will rest (although it appears to be with Jobcentre Plus) or what quality processes will be in place to govern this pivotal stage of the process. Linked to this, NIACE notes that learning providers will be able to indicate to JCP if, once a claimant has begun a programme, they consider that it is not in fact appropriate. It is to be hoped that, with robust assessment and referral processes in place, this would occur only in a very small number of cases.

21. NIACE would wish to see an explicit mechanism through which learners could signal any concerns they had about the appropriateness and quality of the programme and have these heard. Linked to this there needs to be clarity about the expectations on both JCP and providers to ensure that adequate support is in place to help claimants persist with the course. There is a considerable body of evidence, gathered by NIACE and others,⁵ which highlights the importance of the deployment of active strategies by providers to maintain motivation and participation, especially among learners who have little history of successful engagement in learning. Ultimately the decision to put someone on mandated provision rests with JCP and providers, so the entire burden of responsibility for staying there should not be transferred to the learner.
22. The question of how to maintain motivation for people who complete a learning programme but do not enter employment is also challenging, particularly in the current labour market. People are rarely resistant to the idea of getting jobs, until the point at which they have had so many negative experiences that it completely erodes their confidence. Effective follow-up from Next Step or the provider, to enable people to understand and evaluate the intervention, to recognise the skills that they have gained and what these mean for their employability, and to explore progression opportunities, needs to be built into the formal process. Evidence from the IES trials evaluation indicated that this area was problematic as there appeared to be no follow up.
23. For learners who leave provision before the end of the programme because they find work, mechanisms should be developed to enable them to obtain the maximum benefit from the learning they have so far undertaken. In the first place, this requires robust mechanisms for recording and recognising the learning they have gained in a way that has potential value in the labour market in the event of their becoming unemployed again. This is why credit towards qualifications is important. Secondly, it means providing the learner with a realistic opportunity to complete their learning or to progress to alternative provision. An exit interview with an appropriately skilled adviser should be available to all leavers to explore their options. Without such intervention, skills conditionality risks reinforcing the view that learning is of poor quality, little value and may actively contribute to the perpetuation of 'churn' at the lower end of the labour market. Again, we suggest that lifelong learning accounts could be part of the solution, by providing a way of capturing learning and supporting learners to recognise their own learning journey.

⁵ see, for example <http://www.excellencegateway.org.uk/stickwithit>.

Question 3: What factors are likely to influence how colleges and providers respond to this policy change, and in what ways?

24. Colleges have been described as the ‘adaptive layer’, and over the years adult learning providers generally have shown themselves to be flexible and responsive in shaping their activities according to requirements. However, these proposals will raise concerns about the stability of funding, particularly in light of the potentially negative impact on completion and success rates. In addition, communications with Jobcentre Plus will need to be open and robust, so that providers can respond to change and effectively and appropriately address learners’ needs.
25. Quality assurance is also likely to be a significant issue for colleges. Their wider ‘offer’ will be jeopardised if provision for claimants referred through conditionality is perceived as being ‘second rate’ or ‘second class’. This means that it should be subject to Ofsted inspection.

Question 4: What do we need to do to ensure that Jobcentre Plus advisers provide people with the best opportunities to improve their skills, whilst ensuring local decision-making and flexibility?

26. Assessment of a claimant’s skills needs will take place during a proposed initial diagnostic activity at the beginning of a new claim, and the final decision to mandate learning will apparently rest with the JCP adviser. Skills training for JCP staff in the following areas will therefore be fundamental to ensuring that claimants are appropriately supported:
- a. assessing claimants’ potential skills needs;
 - b. understanding the issues around re-engaging adults in learning, including the key factors of confidence and motivation, and what steps can be taken to address these;
 - c. understanding, and communicating effectively to claimants, why they are being referred to provision (either Next Step or training), and explaining precisely what they can expect from the next stage of the process and how it will contribute to their journey towards employment.
27. There are important lessons to be learned from the IES trials. The ‘light touch’ initial assessment undertaken by JCP staff was felt to be effective. However, there was limited understanding between JCP and Next Step advisers about the others’ roles, which doubtless contributed to the low levels of attendance at Next Step interviews. People will be more likely to attend provision willingly if they understand how it will help them to address their own goals. NIACE strongly recommends that there should be joint training for JCP, college and in advance of the introduction of the conditionality proposals.

Question 5: How can we best manage the process of asking people to return to a training course that they have previously left, in particular in relation to the

role of Jobcentre Plus, and the implications for the claimant and the college or training provider or Next Step provider?

28. Claimants / learners need to have agency in the system. As argued above, transparent processes need to be in place through which learners have a chance to say if they consider that the learning they are undertaking is not constructive. They also need appropriate support from the provider and JCP to value and persist with the learning they have been required to undertake.
29. Those who leave a learning programme before completing need to have an opportunity to have what they have done validated, with an orientation towards identifying what they have learned. To facilitate re-engagement, there needs to be flexibility so that people are not required to go back to the beginning and repeat learning.
30. NIACE is concerned about the lack of clarity in the proposals about the timescales that will govern the application of benefit sanctions, or the appeals process that will be in place to enable claimants to challenge any decision to apply sanctions. For example, what happens if a provider, Next Step or JCP work effectively with a claimant to restore attendance, only to have benefit sanctions for earlier non-compliance take effect?

Question 6: What information do providers (including Next Step) require in order to enable them to ensure that mandated learners are placed on the most appropriate provision?

31. There is a tension between a teacher/trainer/adviser's need to understand an individual's skills, employment history, circumstances and aspirations and an individual's right to privacy. This will include a need to be clear about important principles of data ownership and data security.
32. A second area concerns local labour market information so that providers can identify where realistic employment opportunities exist. It is important to recognise that teachers/trainers/advisers are not labour market economists and may need training or support to interpret labour market data and trends. Local Economic Partnerships have the potential to play a role here and BIS and DWP may wish to consider inviting them to contribute.

Question 7: What is the best way to ensure effective feedback takes place so that everyone gets the information they need with the minimal amount of bureaucracy?

33. The risks of administrative gaps and errors are borne overwhelmingly by the learner. Evidence from New Deal mandated provision suggests that overly-complex administrative processes can lead to people being denied benefits who have not actually missed classes. The current proposals need to guard against this.

34. Similarly, in the IES trials, the sheer volume of paperwork, including referral forms and consent forms, and the lack of electronic administration placed a large burden on Jobcentre Plus and Next Step advisers, which detracted from the time available for discussion with customers.
35. NIACE suggests that electronic forms of administration and standardised materials would save time and improve consistency. Staff across all the organisations involved also need training and guidance in the use of the systems, including training in good completion of forms, to minimise the time spent on this activity and the risks to claimants.

Question 8: What further steps do we need to take to ensure that claimants are clear about the requirements placed on them once they are referred to careers advice and / or skills provision and the consequences of failing to attend?

36. As stated above, NIACE is concerned that there may be a lack of balance in the proposals about where responsibility lies for ensuring that the claimant/ learner is able to comply with the conditionality placed upon them. Clear process maps and explicit statements are needed not only to explain to the claimants what is expected of them, but also to encourage their ownership of the whole claimant/learner journey. The incentives need to be applied as diligently as sanctions. NIACE urges that the role of lifelong learning accounts should not be neglected here as these could be an effective, learner-facing mechanism for supporting the learner journey and can provide a powerful common framework.

Conclusion

37. NIACE staff would be pleased to elaborate on any matter contained in this note. In the first instance, contact Dr Helen Plant (Helen.plant@niace.org.uk) or Alastair Thomson (Alastair.thomson@niace.org.uk).

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