

New conditionality in Australian social security policy

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Abstract

The past two decades have witnessed the application of new forms of conditionality to Australian social security policy. This paper argues that a distinctive feature has been the attempt to link receipt of government benefits to parental behaviour in order to address concerns about the welfare of children. With a view to providing a framework that can help to inform debates regarding the merits of these new forms of conditionality, this paper outlines the historical antecedents and philosophical framework of new conditionality. The paper also examines three pertinent Australian social security initiatives: the Maternity Immunisation Allowance, the Improving School Enrolment and Attendance through Welfare Reform Measure, and Compulsory Income Management. The paper concludes with some consideration of the potential pitfalls of new conditionality.

Keywords: social security, welfare, conditionality, rights, behaviour change

Introduction

Over the last two decades Australia has seen both extension and diversification of the use of conditionality in social security policy. Conditional welfare programs can take a range of forms, but in general terms require certain behaviours, or changes in behaviour on the part of prospective recipients in order to receive or to continue to receive government benefits. While conditionality has always been part of the welfare system, this paper contends that there are important distinctions between pre-existing (or 'basic') forms of conditionality, and the deliberate use of conditions to enact changes to social norms— what we term 'new' conditionality. In Australia, these have mainly been introduced in policies concerning children and workforce participation. This paper seeks to draw together a number of seemingly disparate policies into a framework that outlines the significance of new conditionality as a fundamental change in the nature of the citizen–state relationship. In doing so, we hope to lay the foundations for further debate and to contribute to the development of social security policy. There is an emerging literature on recent applications of conditionality in the Australian social security system (for example, see Carney 2006a; 2006b; 2011; Cowling 2009; Dwyer 2004; Henman 2006; 2011; Mendes 2013; Mendes et al. 2014; Nevile 2008; Sainsbury 2010; Veit-Wilson 2011).

While Australia has been active in introducing and trialling a number of new forms of conditionality involving the deliberate use of conditions to enact changes to social norms, particularly around children and parenting, there are several other countries that are currently experiencing similar developments. For example, behavioural requirements for out-of-work benefits are a common form of conditionality in the United Kingdom (UK) and there is also increasing use of the application of conditionality to lone parents, the disabled, and in social housing and homelessness policies (Watts et al. 2014). In New Zealand the government's 2012-13 welfare reforms involve the compulsory application of income management to recipients of youth payments unless they can demonstrate financial competence (Fletcher et al. 2013; Wynd 2013). The move to conditionality has extended from largely work-related issues to the use of conditionality and sanctions as tools to change other behaviours.

New conditionality and its historical antecedents

What do we mean by 'new conditionality'? This section will trace the historical oscillation of the social security system towards and away from conditional welfare, as a backdrop against which to view the novel features of new conditionality. We argue that while there have always been conditions of some kind attached to the receipt of government benefits and services, the specific form of conditionality we are looking at here has only really arisen in the last quarter of a century.

New conditionality is marked out from basic forms of conditionality in three respects. First, it seeks to alter pre-existing forms of behaviour. While payment of social security has always been conditional upon, for example, the

requirement to look for suitable paid work, the rationale is very different. While basic conditionality comprises a set of reactive measures aimed at minimising negative outcomes of welfare policy, new conditionality is a set of interventionist measures aimed at minimising negative precursors of welfare policy. New conditionality seeks to alter social norms and patterns of behaviour. Second, it is inherently paternalistic, insofar as it involves a claim by the government that it knows best how beneficiaries should behave in certain respects (Deacon 2004). Increasingly new conditionality is being considered for altering behaviour that has traditionally been regarded as private and that is difficult to measure, such as judgements about what amounts to good parenting. Thirdly, it is punitive in nature. New conditionality does not offer bonuses or additional benefits as incentives for changing behaviour, but instead demands that behavioural requirements be met on pain of monetary sanctions.¹

In truth, conditionality in some form originates with the welfare system itself. At its inception the social security system in Australia comprised an extensive set of conditionalities. The roots of the Australian national social security system extend back to 1908, when Commonwealth legislation was enacted to provide for age pensions (see Herscovitch and Stanton 2008). While the scheme was non-contributory, eligibility for the pension was conditional upon requirements of means, age, residency, race, and 'character.' The requirement of 'good character' meant that the pension could be denied on the basis of perceived immorality, and the Act denied the age pension to 'Aliens' – that is, non-residents as well as Aboriginals, non-Australian-born Asians, Africans, Pacific Islanders and New Zealand Maori (Department of the Treasury 2001: 68; Jordan 1989). At its outset, then, the social security system incorporated a broad range of conditionalities through which Government sought to regulate the behaviour and demographics of the national population. Some of these conditions persisted for many years. To remain with the example of age pensions, Aboriginals did not become eligible until 1942, and were still subject to criteria of 'character', 'intelligence' and 'social development' until the 1960s (Jordan 1989: 48).

The development of the social security system in Australia, however, was partial and haphazard until the 1940s. As Herscovitch and Stanton (2008: 54) have noted, 'the impact of the Second World War might have been expected to limit the scope for extending social security. In fact, the reverse occurred.' The sweeping range of welfare reforms in the 1940s extended the scope of the social security system to an unprecedented degree, and included the introduction of a child endowment (1941), a widow's pension (1942), a wife's allowance (1943), additional allowances for the children of pensioners (1943), and unemployment, sickness and 'special' benefits (1945). Crucially, although all of these policies maintained a level of basic conditionality, taken together they represent a move away from conformist policy and towards a system based on *entitlement*.

The philosophy of entitlement as the normative basis for welfare was heavily influenced by the work of Marshall (1950). Marshall divided the idea of 'citizenship' into three parts – civil, political and social. While some have challenged the historical periodisation and evolutionist model adopted by

Marshall, the *content* of these analytical categories nevertheless remains useful in analysing relations of citizenship. It is his concept of social citizenship which entails

the whole range from the right to a modicum of economic welfare and security, to the right to share to the full in the social heritage and to live the life of a civilised being according to the standards prevailing in the society (Marshall 1950: 11)

that has been most influential in welfare philosophy, and it is the addition of this third right that was the distinctive feature of post-war citizenship. Because social rights are distributed on the basis of citizenship, the social right to welfare is both universal and unconditional. Although this trend towards a more liberal social security system deepened over the following decades, the 1980s saw the beginning of a sea change and the emergence of new conditionality. As Dwyer (2004: 267) notes, 'Fifty years on, the ideas that were central to these 'conceptual architects of the welfare state' are viewed by many to be both outdated and likely to exacerbate welfare dependency.' There is thus a historical oscillation between two poles that Mead (1997: 7) has called 'compassion' and 'control'. The pendulum of social security has swung both ways since its inception, in cycles linked to broader political and macroeconomic trends. In one sense, the emergence of new conditionality marks the latest swing of the pendulum back towards a system of control.

Although the cyclical character of social security reform may have paved the way for a return to conditionality, in order to understand the precise *form* of new conditionality we need to look towards broader international trends. New conditionality is also a product of the growing international recognition of the efficacy of the 'Conditional Cash Transfer' ('CCT') programs which have been implemented in Latin America and elsewhere. In such programs as Brazil's *Bolsa Familia* or Mexico's *Oportunidades* income transfers are provided on a conditional basis, usually involving access to basic services such as schooling, primary health care and nutrition (Barrientos 2009: 165). The *Oportunidades* scheme, for example, offered special cash payments (and in some cases food supplements) conditional upon regular attendance at school and preventative health care appointments (World Bank 2004). Although it was not punitive, the program could therefore be said to embody some of the distinctive characteristics of new conditionality, because it sought to alter pre-existing forms of behaviour, because of its paternalistic tendencies, and because of its focus on children.

The philosophical framework of conditional welfare

While the policies themselves can be traced to their early Australian and more recent Latin-American precursors, the philosophical framework of new conditionality owes more to contemporary North American thought, which is rooted in the lineage of social contract theory. At the centre of the philosophical framework is the idea of the 'social contract,' said to regulate the relationship between a state and its citizens. In its classical formation, the social contract involves the delegation of the 'social burden' to a sovereign entity – in this case,

the state. The contract, then, is the set of benefits, or *rights*, and concessions, or *duties*, each individual accepts in this transfer. That the benefits of citizenship are to some extent contingent upon the performance of minimum duties is widely accepted. The precise character and extent of those rights and obligations, however, is a much more open question. The particular conception of the social contract that underpins the rationale behind conditional social security derives from a philosophical position that has been characterised as ‘new paternalism’. Mead has argued for the ability of paternalistic policies to alleviate social poverty. ‘Paternalism’, for Mead, refers to ‘social policies aimed at the poor that attempt to reduce poverty and other social problems by directive and supervisory means.’ (Mead 1997: 2) By ‘directive’ he means that these policies not only seek to help the needy, but that they require some standard of behaviour in return, and by ‘supervisory’ he means that the implementation of the policy and the performance of its conditions are to be closely scrutinised.

Paternalism can be better elucidated by contrast with non-paternalistic policy (Mead 1997: 2). Traditional social policy has two main dimensions: first, social welfare programs, meaning cash and in-kind benefits, delivered on the basis of *entitlement*; and second, law enforcement, which is intended to deter antisocial behaviour by implementing punishment *after* the fact (Mead 1997: 3). Paternalist policies shift the focus in both of these areas. Rather than a philosophy of entitlement, paternalism emphasises the notion of the social contract: benefits that one receives from the state, such as welfare, are conditional upon the performance of behavioural requirements such as agreeing to look for work (Mead 1997: 3).

Paternalist policy seeks to enforce certain social norms through the conditionality of welfare policy. Because, for Mead, poverty is a function of *individual psychology*, rather than one of *structure*, altering the attitudes of poor people is a necessary part of the solution. Secondly, under new paternalism, the conventional function of law enforcement – of implementing punishment after the fact – is displaced to the paternalistic role of seeking to prevent wrongdoing: ‘misbehaviour is not just punished; it is pre-empted by the oversight of authority figures, much as parents supervise their families.’ (Mead 1997: 5) From the position of paternalism, then: ‘The idea of a social contract in benefit programs should be seen as an enforcement device Paternalist income programs ... use the benefits on which people depend as a lever to ensure compliance (Mead 1997: 5).

In Australia, the language of new paternalism has centred on the idea of ‘mutual obligations,’ that underpinned the Mutual Obligations welfare (or ‘workfare’) reforms enacted in 1998. This concept is reliant upon a similar conception of the social contract as Mead’s: because there is a social contract imparting ‘mutual obligations’ on both the state and beneficiaries, if beneficiaries fail to fulfil their obligations – in this case to have undertaken a certain amount of a particular kind of labour within the specified timeframe – the obligations of the state are discharged. The rationale of the scheme is to induce people to work using the mechanism of conditional social security. Goodin observes that ‘mutual obligation’ in the context of labour force participation is a ‘deft political slogan,’

because it invokes morally intuitive notions of fairness and reciprocity (Goodin 2002: 579). This perhaps can help to explain the moralistic tenor of the public discourse on conditional social security. It does not necessarily follow from these moral intuitions, however, that we must as a society endorse a workfare scheme, for as Goodin shows, it is neither the only way to structure our mutual obligations, nor is it the most compatible with the standard idea of the social contract (Goodin 2002: 579).

There is a tacit assumption in the popular rhetoric of the Mutual Obligations initiative that if one does not support workfare, then one is not committed to ideas of fairness and reciprocity. As Goodin has shown, this 'easy slide' is blocked by a simple enumeration of the other possible structural permutations (Goodin 2002: 591). Indeed, some of these other structures of mutuality are better, he argues, because they constitute a more appropriate response to the circumstances that give rise to reliance on social security: the advent of something that makes it hard for people to go on living without support. Because there have always been foreseeable contingencies of this nature, having a system of contingent mutual obligations makes sense (Goodin 2002: 591). Standard social security systems work on the principle that the strong help the weak in the anticipation that they may themselves one day be weak and require assistance. Workfare, on the other hand, does the opposite, demanding payment from the weak when they are weak (Goodin 2002: 592). The problem with this is that it tends to produce and reproduce relations of subordination: 'That is a strategic deployment of demands for reciprocity. It works by catching people when they are weak; and, by requiring them to pay immediately when they are hardly able to do so it keeps them that way.' (Goodin 2002: 592) The risk of policies that use the social contract as an enforcement device in this way, then, is that they may become systems that do less in the way of 'helping' social security beneficiaries, and more in the way of 'humbling' them, to borrow a phrase of Goodin's.

Citizens in potentia: child welfare and new conditionality

Child welfare has provided both the impetus and the political justification for the implementation of new conditionality in Australia. Each of the policies discussed in this paper purportedly targets children: the Maternity Immunisation Allowance (MIA) has encouraged parents to immunise their children; School Enrolment and Attendance Measure (SEAM) represents an attempt to increase child enrolment and attendance in schools; and income management schemes seek to ensure that parents are directing their income towards the basic needs of children in their care. Common to all these policies is, first, the use of new conditionality, and second, the goal of improving child welfare. While we acknowledge that there are indeed unacceptable levels of child abuse and hardship in Australia – including in the Northern Territory (NT), where the SEAM and the income management policies are primarily targeted – there is a need to evaluate critically whether welfare conditionality is the appropriate mechanism with which to address these problems. The logic of conditional welfare is that benefits received from the state are conditional upon the satisfaction of certain behavioural requirements. In

order to leverage changes to social patterns of behaviour then, the payment of benefits may be used as an enforcement device. One can appreciate the logic of applying this rationale to the problem of child neglect in the NT, for example: if child neglect is chiefly a problem of parental behaviour, then one can withhold – or at least direct – the state benefits paid to the parents in seeking to correct that behavioural pattern. This logic, however, is deceptively simple as there are complicating factors at play that relate specifically to children.

What is the relationship of children to the social contract? Given that they are not yet full citizens – in the sense that they are not subject to the same set of rights and responsibilities as adults – what is the nature of the state’s obligations to children? While his philosophy of entitlement was not extended to children *in toto*, in his 1965 *Social Policy in the Twentieth Century* Marshall (1965) argued that *social citizenship* was extended to children.

Thus, as ‘citizens *in potentia*,’ children enjoyed considerable social rights to education, social services, and a modicum of economic welfare and security (Cockburn 1998). Writing in the mid-twentieth century, however, Marshall’s seminal texts were primarily addressed at a society deeply riven by divides of social class, and have since been supplemented by the work of authors concerned to highlight the experiences of other groups, marginalised along the lines of race, gender and disability (Cockburn 1998: 100). Since the middle of the twentieth century there has been increasing recognition that children are embedded in the citizenship model, and that the state has obligations to uphold the rights of the child (for example, *United Nations Convention on the Rights of the Child*).

Given this increasing recognition of the rights of children, it is necessary to consider whether policies of new conditionality are the best way to address the problems of child welfare while also giving expression to both children’s rights and their status as citizens. From this perspective, punitivism is the most concerning feature of new conditionality. The policies discussed in this paper all attempt to address the welfare of children by leveraging behavioural change in the parents, on pain of monetary sanctions. However, this has the effect of making the satisfaction of the rights of children dependent upon the behaviour of their parents: if the parent fails to satisfy the behavioural condition, the child is penalised also. It is also worth considering the use of child welfare as a justification for the policies discussed in this paper. The welfare of children cuts to the heart of issues of morality, and an unfortunate side-effect of this is that the discourse has become emotive and moralising. As a consequence, policies may not have received the necessary scrutiny. Others may invoke children as a justification for achieving some other goal.

The beginning of new conditionality: the Maternity Immunisation Allowance

Given the long history of conditional social security in Australia,² how does one periodise *new* conditionality? While there is no neat way to delineate the precise historical boundaries, the re-introduction of the Maternity Allowance (MAT)

in 1996 and the subsequent attachment of immunisation conditions constitute a significant symbolic marker. The MAT also provides an appropriate starting point for our analysis because it has a history that stretches back almost to the beginning of the Australian social security system, and thus reflects the ‘swinging pendulum’ we have already described. The MAT was first introduced in 1912 as a non-taxable, non-means tested payment of five pounds, payable upon birth (Kewley 1973: 103). Like the early old-age pensions legislation, it was initially subject to significant racial criteria, although successive amendments removed these over the following decades. Economic circumstances led to the MAT being subject to an income test in 1931 (Kewley 1973: 112). As macro-economic conditions improved and the pendulum of social security began to swing towards a system of entitlement, the income test was abolished by the *Maternity Allowance Act 1943* (FaHCSIA 2006). Then, in 1978 the provisions for the maternity allowance were repealed (Daniels 2009).

The MAT was reintroduced on 1 February 1996 and the history of the MAT since that time is indicative of the return to a system of control, involving the attachment of an age-appropriate immunisation requirement to its receipt. The 1990s had seen important policy discussions about low immunisation rates and the impacts both on individual children and in terms of the externalities imposed by a child not being immunised – it is estimated that in 1989/90 only 53 per cent of 0–6 year-old children were fully immunised. In 1993 the National Immunisation Strategy recommended a number of strategies and reforms which included setting immunisation targets (NHMRC 1993). In 1997, the Minister for Health and Aged Care announced the ‘Seven Point Plan,’ including that social security payments were to be linked to immunisation (Wooldridge 2007). Thus, the attachment of the immunisation conditions to the MAT in 1998 occurred in the context of a set of policy reforms oriented towards altering pre-existing behavioural patterns that had contributed to low immunisation rates.

Since the linkage of immunisation to payment, the MAT has undergone several changes that have led to it becoming increasingly punitive. The first involved the restructuring of the MAT from 1 January 1998 into two payments – the MAT and the Maternity Immunisation Allowance (MIA), with different conditions for eligibility.³ The MIA is a non-income tested, non-taxable payment that provides a bonus payment to parents who immunise their children. An individual is eligible for the MIA if they meet the residency requirements, has at least 35 per cent care of the child, and the child is fully immunised.⁴ Shortly after the announcement of the MAT restructuring in 1998 new requirements were introduced for recipients of the Childcare Assistance Rebate (CAR) and the Childcare Cash Rebate (CCR). From this date, payment of the CAR and CCR – both of which were replaced by a new payment called the Child Care Benefit (CCB) in July 2000 (FAC 2006–2011: s1.2.4) – became conditional upon proof of age-appropriate immunisation (FAAct 1999). Thus, while the MIA was offered up as an *additional payment* supplementing the income of eligible families, it was soon augmented by the *punitive* measures of the CCB. This trend has expanded in more recent years. From 1 July 2012, the MIA was replaced by the addition of new conditions for receipt of the Family Tax Benefit (FTB) Part A supplement: age-appropriate immunisation

must be proved, and a third immunisation check at the age of twelve months was introduced in addition to the checks at ages two and five (Buckmaster 2012).

The bundle of immunisation initiatives introduced in the late 1990s are generally regarded as successful and as enjoying a broad acceptance throughout Australian society. Certainly, there is evidence that they have been effective at increasing immunisation rates (Lawrence et al. 2004; Salmon et al. 2006). In regard to the social acceptance of these policies, several points should be noted. First, the introduction of the MIA as a supplementary or 'bonus' payment that could be received on top of existing benefits at the time may have helped to smooth the introduction of the later, more punitive policies. Second, comparatively speaking, the paternalistic claim of the government here is less contentious than those of later policies, because many parents already believe in the merits of immunisation – although this may have weakened in recent years. Third, immunisation is an easily observable and quantifiable phenomenon that enjoys broad scientific consensus. Finally, the punitivism of these policies was to some extent checked at the point of introduction by a provision in the legislation for certain exemptions. In particular, s 6(3) of the FFAct 1999 states:

The child meets the immunisation requirements if a recognised immunisation provider has certified in writing that he or she has discussed with the adult the benefits and risks of immunising the child and the adult has declared in writing that he or she has a conscientious objection to the child being immunised.

The framework also provided for a range of other exemptions, such as medical contraindication.

At its beginning, new conditionality in Australia represented a promising new mechanism through which the architects of social policy might be able to address the wicked problem of immunisation. However, while it is often regarded as having been effective at increasing immunisation rates, it is important to note the potential social costs of the increasingly punitive trajectory of the MIA and CCB policies. In particular, the risk of new conditionality is that those who suffer social and economic disadvantage and are least equipped to meet the conditions are also those upon whom the punishment will fall most heavily. Lawrence and colleagues (2004) conducted a study of the reasons for incomplete immunisation and found that 42 per cent of the incompletely immunised cases had not been completely immunised because the parent disagreed with immunisation or was concerned about it and 31 per cent had received a medical recommendation against it or an illness at the time of immunisation. Assuming that all of these cases pursued and received a valid exemption, there remained 27 per cent at risk of monetary sanctions. The group at risk of monetary sanctions were more likely to be single parent households, have a health care card, have low income, and to have a larger than average number of children. Given the rising costs of child care and the potential impact of the 2012 reforms to the FTB Part A, more research is needed into how far the stress and difficulties of social and economic marginality act as obstacles to achieving full immunisation in one's children where there is a will to do so.

The current Government (2015) has indicated an intention to tighten procedures for exemption from requirements for vaccination. The Minister for Social Services has announced that from 1 January 2016 the only grounds for exemption will be medical. The Minister emphasised that ‘... more needs to be done to ensure we protect our children and our community from preventable diseases.’ (Morrison 2015).

The Improving School Enrolment and Attendance through Welfare Reform Measure (SEAM)

In 2009, the Government announced a new initiative called SEAM that locates parental responsibility for school attendance within a welfare conditionality framework.⁵ Under this policy the receipt of a wide range of income support payments is conditional upon parents ensuring their children meet the state requirements for school enrolment and attendance (*Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008*).

While it is only recently that income support payments have been made conditional upon school enrolment and attendance, it is important to note that school enrolment and attendance has been compulsory in Australia since the 1870s (Campbell 2014). In introducing the *Education Amendment (School Attendance) Bill 2009* to the Legislative Assembly of New South Wales (NSW), the then Minister for Education and Training observed that in NSW, the ability of the state to impose a monetary fine on parents of children who did not regularly attend school dates back to at least 1917.⁶

The idea of linking school attendance to welfare is not without precedent. This approach has been pioneered throughout Latin America in CCT schemes. As Behrendt and McCausland (2008: 9) have noted, ‘State governments (who have responsibility for welfare programs in the US) began experimenting with programs linking families’ welfare payments to their children’s satisfactory school attendance in the 1980s’. The difference between those schemes and SEAM being that in the US school attendance is a condition of eligibility (Behrendt & McCausland 2008: 11).

On 21 June 2007, the then Minister for FaHCSIA stated that the Government would be ‘[e]nforcing school attendance by linking income support and family assistance payments to school attendance for all people living on Aboriginal land’ (Brough 2007). SEAM was announced in the 2008-09 Commonwealth Budget, and was trialled in six NT communities from January 2009, and in selected Queensland locations since October 2009 (DEEWR 2009). In November 2011 the expansion of SEAM in the NT to several new locations was announced (Garret et al. 2011). In 2013 the Government decided to implement a new model, called the Improving School Enrolment and Attendance through Welfare Reform Measure (SEAM), commencing in March 2013, and implemented in four phases in 52 schools in 23 NT communities by 2015 (Australian National Audit Office 2014).

One simply cannot omit from any discussion of the SEAM policy – nor indeed from discussion of new conditionality in Australia – consideration of the NT

Emergency Response (NTER), the context in which it was deployed. In June 2007 the Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse released the *Little Children are Sacred Report*, (Wild & Andersen 2007), which had the effect of launching child welfare in the NT as an issue of immediate priority and sparking nationwide debate. The various Government emergency responses to the issues arising out of this debate have been termed the NTER, and have been a subject of great controversy ever since their implementation.

While proper discussion of the NTER is well beyond the scope of this paper, it does provide a useful backdrop for analysis of the SEAM policy: the merits or otherwise of the Government's approach to the NTER aside, this context does make it apparent that SEAM is an interventionist policy that seeks to alter pre-existing behavioural patterns. Later, in a media release in November 2009, the Minister of FaCHSIA stated that '[t]he Government is committed to progressively reforming the welfare and family payment system to foster responsibility and provide a platform for people to move up and out of welfare dependence.' (Macklin 2009). Thus, the SEAM policy seeks to address deficiencies of school enrolment and attendance rates by leveraging behavioural reform in parents – that is to say, fostering 'responsibility'. Note also the paternalistic rationale that underpins the SEAM policy: it is the *welfare of children* that is perceived to be at stake. While there are those who disagree with the assumption made about the ability of education to help people 'move up and out of welfare dependence,' there is a broad social consensus as to the value of education.

Finally, it is punitive: SEAM involves the layering of new conditions over the top a range of existing benefits – each of which already has their own set of conditionalities – leading to a process of escalation whereby requirements for the benefit become ever more onerous: it is like a 'layer cake' of complexity and disadvantage. Parents whose children do not meet the State requirements for enrolment and attendance can potentially have their income support payment suspended.

However, suspension of income payments is something of a last resort. In the first instance, the legislation requires parents to produce evidence that their children are enrolled in school, and schools to report on attendance rates (*Social Security (Administration) Act 1999*, s 124F; s 124K). If these requirements are not met, then either an 'enrolment notice' or an 'attendance notice' may be given. An enrolment notice sets in motion a 14-day initial period for the parent in question to 'give the secretary evidence ... that the child is enrolled at a school as required by a law of a State or Territory.' An attendance notice specifies that where a child is failing to attend school as required by the laws of that state, the parent must 'take reasonable steps ... to ensure that the child attends school', and must do so within a specified period of at least 28 days. Failure to comply with either an enrolment or attendance notice within the specified period will result in the suspension of the parent's income security payment for up to 13 weeks. If the parent complies then the payment will be reinstated and arrears paid (*Social Security (Administration) Act 1999*).

Three caveats to this provision should be made. First, explanatory material (Dickson & Hutchinson 2010: 6) and the comments of Ministers make it clear that cancellation is an extreme measure and would only be used if the gamut of other available measures – including ‘Centrelink work[ing] with the family to try and resolve it’ – was exhausted. Second, the legislation contains discretionary provisions under which the Secretary may choose not to suspend the payment where the parent has a ‘reasonable excuse’ or can show ‘special circumstances’ (*Social Security (Administration) Act 1999*). Finally, the relevant government department has stated that parents whose children do not meet the requirements in spite of the best efforts of the parents will not be penalised (Dickson & Hutchinson 2010: 6).

The Australian National Audit Office (ANAO) concluded that ‘Overall, the administration of SEAM has been mixed’ and that ‘... there remains scope to improve SEAM’s effectiveness through strengthening key aspects of service delivery and performance reporting arrangements’ (ANAO 2014: 15–16). The ANAO went on to observe:

Nearly 2,500 parents were identified as within scope of SEAM in 2013 and enrolment details were obtained covering more than 90 per cent of children. Of these parents, around 10 per cent had payments temporarily suspended, but promptly restored, indicating that a significant proportion of enrolment activity is simply requiring parents who had already enrolled their children to contact the Department of Human Services (DHS) (the Australian government department responsible for the payment of social security benefits). As a result, whether SEAM has stimulated an increase in underlying enrolment levels is not readily identifiable (ANAO 2014: 16).

There is an implicit assumption that the behaviour of parents is at the heart of the problem – as the policy’s critics have pointed out, however, the causes of truancy can involve other, non-behavioural factors (Cowling 2009: 4). Among these, of course, are structural factors that the policy not only fails to address, but that it potentially aggravates. For instance, poor school attendance may be correlated with parental neglect, but it is also correlated with socio-economic status (Behrendt & McCausland 2008: 27–28).

Compulsory Income Management in the Northern Territory

The third policy examined in this paper is income management as it operates in the NT. Income management involves placing restrictions upon the ways in which a portion – in most cases half – of an individual’s income support payment can be spent. Income managed funds cannot be withdrawn in cash and are not allowed to be spent on alcohol, tobacco, pornography or gambling. Income management does not reduce the total amount of money received.

Government-imposed management of income was first introduced in 2007 into parts of the NT and in 2010 was extended to cover the entire NT. It was

introduced as part of the Australian government's response to the *Little Children are Sacred Report* (Wild & Andersen 2007). The government response is known as the NT Emergency Response (NTER) and consisted of 35 measures, one of which was Income Management, termed NTER Income Management (Brough 2007).

The NTER Income Management scheme applied in a compulsory fashion to all income support recipients living in some 500 prescribed Indigenous communities, and covering about 70 per cent of the NT Indigenous population (Yu et al. 2008). The selection of the particular areas meant that virtually all of those subject to the NTER Income Management were Indigenous,⁷ and as a consequence the legislation needed to limit the application of the *Racial Discrimination Act* and NT anti-discrimination legislation. This was subject to significant criticism, including from the Australian Human Rights and Equal Opportunity Commission (2008) and the United Nations (Anaya 2010). Others have argued that it was a necessary policy in order to protect children and women (see e.g., Langton 2015).

The NTER Income Management operated until August 2010, at which time it was replaced with New Income Management. New Income Management (NIM) differs from the previous measure in several respects. First, it covers all areas of the NT, not only prescribed Indigenous communities, and therefore is applicable to all people who qualify, irrespective of race. Second, it applies in a mandatory fashion to a narrower range of income support recipients. Central to the design of NIM was that it could be implemented in a way that allowed for restoration of the *Racial Discrimination Act*. While income management applies to both Indigenous and non-Indigenous income support recipients in the NT, as of December 2013, over 90 per cent of those subject to income management were Indigenous (Bray et al. 2014a).

Under NIM there are several sub-programs of income management, all but one of which are compulsory. The compulsory measures are the Disengaged Youth measure; Long-term Welfare Payment Recipients Measure; Child Protection Income Management; and Vulnerable Welfare Payment Recipients measure. There was also a Voluntary Income Management measure, which is not considered a form of conditionality in the context of this paper.

The Disengaged Youth and Long-term Welfare Payment Recipient measures are targeted at income support recipients of working age who had been receiving payments for three or more of the last six months for people aged less than 25 years, and for one or more of the last two years for people aged 25 years and older. Vulnerable Income Management applies to those not subject to the Disengaged Youth and Long-term Welfare Payment Recipient measures, and who are determined by Centrelink to be vulnerable or who meet criteria that automatically place them on income management. The automatic triggers for being placed in Vulnerable Income Management were introduced in July 2013 and include receiving an Unreasonable to Live at Home Payment, those under 16 years of age receiving a Special Benefit, and young people receiving a Crisis Payment on release from prison. Child Protection Income Management applied to people who come into contact with child protection authorities and whom

those authorities assess would benefit from income management. The proportion of income support payments subject to income management is 50 per cent, except for those subject to Child Protection Income Management, who as a group constitute an income management rate of 70 per cent.

In March 2015, there were 20,655 people in the NT subject to income management, of which 79 per cent were on the Disengaged Youth or Long-term Welfare Payment Recipient measure, 17 per cent were on Voluntary Income Management, and the remaining four per cent were on one of the other New Income Management measures (DSS 2015).

The various forms of compulsory income management have been justified in terms of the protection of children and women. For example, in announcing the NTER, the then Minister for Families, Community Services and Indigenous Affairs The Hon. Mal Brough MP announced 'welfare reforms to stem the flow of cash going toward substance abuse and to ensure funds meant to be for children's welfare are used for that purpose' (Brough 2007). This suggests that the perceived cause of child abuse and neglect is parents (and other carers of children) spending income support payments on substance abuse rather than on meeting the needs of children. It also clearly articulates that income support benefits are provided for the purpose of meeting children's needs.

The objectives of NIM in the Social Security (Administration) Act 1999 include to reduce immediate hardship and deprivation by ensuring that the whole or part of certain welfare payments is directed to meeting the priority needs of ... the recipient's children ... to ensure that recipients of certain welfare payments are given support in budgeting to meet priority needs ... to reduce the amount of certain welfare payments available to be spent on alcoholic beverages, gambling, tobacco products and pornographic material ... (*Social Security (Administration) Act 1999*).

The government's rationale is further expanded: 'Government's have a responsibility – particularly in relation to vulnerable and at risk citizens – to ensure income support payments are allocated in beneficial ways. The Government believes that the first call on welfare payments should be life essentials and the interests of children.' (Australian Government 2009: 1).

While the operationalisation of income management in terms of preventing expenditure on prohibited items reflects its legislative objectives to 'reduce the amount of discretionary income available for alcohol, gambling, tobacco and pornography' (Australian Government 2014: 11.1.1.30), in policy terms the objectives are expressed as increasing expenditure on essentials such as food, clothes and rent (Macklin & Snowdon 2009).

Income Management is designed to improve the wellbeing of children not only via changing expenditure in order to shift consumption to benefit children, but also by changing parental behaviour. The objectives of the *Social Security*

(Administration) Act 1999 (s 123TB) include the aim of NIM to ‘encourage socially responsible behaviour, including in relation to the care and education of children’, and various policy statements articulate that one of the mechanisms for behavioural change is through stabilising peoples’ lives and communities and reducing the harmful impacts of alcohol and other drugs.

A distinctive feature of compulsory income management is that it is aiming to change community level outcomes by reducing problem drinking and alcohol-related violence and reducing rates of financial harassment. This has been used to justify the subjection of a substantial proportion of people in certain communities to income management.

The other significant mechanism relating to behavioural change that is built into the policy is the possibility that people on the Disengaged Youth and Long-term Welfare Payment Recipient measures can obtain an exemption from income management. Exemptions from compulsory income management are granted to people with dependent children if they are able meet two criteria related to responsible parenting and the absence of financial vulnerability. In regard to school-aged children, responsible parenting is assessed by reference to the frequency with which children attend school, and for pre-school aged children responsible parenting is assessed by criteria including participation in early childhood services or care, and having vaccinations and health checks. The exemption criteria must be satisfied for all children under the responsibility of the parent.

Although income management was introduced in response to concerns about child abuse and maltreatment and generally poor outcomes for children, and much of the discussion of the policy objectives is in terms of improving outcomes for children – and protecting women from violence and abuse – over half of those subject to income management do not have dependent children (Bray et al. 2014a: 58).

The most comprehensive evaluation of NIM (Bray et al. 2014a; 2014b) determined that compulsory income management had not changed spending patterns or the incidence of running out of money for food. It found no evidence of improvements in financial wellbeing, reductions in financial harassment, or improved financial management skills, and at the community level there was no improvement in wellbeing, including for children. Bray and colleagues (2014b: i) also established that ‘rather than building capacity and independence, for many the program has acted to make people more dependent on the welfare system.’⁸

The potential behavioural change mechanism of exemptions does not appear to have been effective, with only a very small number of exemptions having been granted.

At around the time income management was introduced into the NT, a trial of a different model of income management was implemented in parts of the Cape York region of Queensland as part of the Cape York Welfare Trials. It has subsequently been introduced, in 2008, on a ‘trial basis’ in two areas of Western Australia – in metropolitan Perth and the Kimberley region. In the Western Australia trials compulsory income management applies in selected child

protection cases. From July 2012, income management was introduced on a trial basis in five geographic areas (known as Place Based Income Management) across Australia, in October 2012 to Anangu Pitjantjatjara Yankunytjatjara (APY) Lands in remote South Australia, and in April 2013 to the Ngaanyatjarra (NG) Lands, Laverton and Kiwirrkurra in remote Western Australia (see Bray et al. 2014a).

While the income management policies currently operating in Australia share a common core of restricting what a proportion of an individual's income support payment can be spent on, they differ in important respects, including the criteria and mechanisms that result in people being placed on income management.

The Australian forms of income management are designed according to a model that punishes people who exhibit certain behaviours (e.g., children not attending school or not having their needs met). While there are some elements of the income management policies that are designed to reward socially desired behaviour (e.g., exemptions policy for NIM) or to improve financial management skills and develop a savings pattern (financial counselling and the matched savings scheme payment), the 'carrot' element of the policy is much less prominent than the 'stick' element. The exception to this is the Cape York Income Management measure, which involves an agreement between the FRC and the individual and applies income management only when other approaches have not worked, and income management is applied in the context of case management and the provision of services.

Conclusion

Although there have always been conditions of some kind attached to the receipt of government benefits and services, over the last quarter of a century new forms of conditionality have emerged in Australia and other countries. These 'new conditionality' measures differ from basic forms of conditionality in three respects. First, they are interventionist measures aimed at minimising negative precursors of 'welfare'. Second, they are inherently paternalistic and aim to alter behaviour that has traditionally been considered private. Third, they are punitive, and as such differ from conditional cash transfers, which are being widely used in a number of countries.

A number of examples of this new conditionality have been introduced or trialled in Australia and further forms are being actively debated. The welfare of children has provided both the impetus and the political justification for their introduction. This paper has considered three Australian policies, the Maternity Immunisation Allowance, which aims to increase immunisation rates of children, the School Enrolment and Attendance Measure, which aims to increase child enrolment and attendance in schools, and income management, which seeks to ensure that parents are directing their income towards the basic needs of children in their care. A distinctive feature of these policies in Australia is that they attempt to address the welfare of children by leveraging behavioural change in the parents, on pain of monetary sanctions.

An assessment of the value of these policies ultimately depends upon whether they are effective in bringing about the desired behavioural changes and whether they improve child wellbeing. This evidence base will need to be built on rigorous evaluation and will only emerge over time. Our initial assessment is that the evidence base as to the effectiveness of these Australian policies provides a mixed result. The policies linking the receipt of child-related benefits to immunisation have largely been successful in increasing immunisation rates and there do not appear to have been significant unintended negative consequences. In contrast, the new conditionality in the areas of school attendance and responsible parenting appear to have been largely ineffective – in the case of income management they have been expensive to the taxpayer and have increased dependence on the welfare system.

While there has been extensive discussion of these new forms of conditionality, at this stage the numbers subject to income management and SEAM at any point in time is relatively small, around 25,000. There are currently a range of other forms of new conditionality aimed at improving child wellbeing that have recently been introduced in Australia, either on a national basis or which are being trialled in certain geographic areas of Australia, and possible further measures are being actively discussed. For example, in 2011 the requirement was introduced that four-year old children receive a health check in order for their parents to receive the Family Tax Benefit Part A Supplement (DHS 2011). The Australian Government in 2014 commissioned Andrew Forrest to review policies around Indigenous Jobs and Training. The Forrest Review (2014) included a series of recommendations related to social security policy, several of which are new conditionality type policies which Forrest recommended apply to all Australians. These included applying financial penalties to parents whose children do not meet school attendance requirements, preventing income support recipients from withdrawing any of their benefits as cash, and preventing the purchase of alcohol, gambling, and illicit services and gift cards. Income management would apply to 100 per cent of government benefits.

There is the potential for individual parents to be subject to a significant number of different behaviour-related conditions. These must be met in order for them to receive government benefits, or to receive benefits without restrictions being imposed upon how and what they spend their benefits on. The combined impact of the layering of a range of different forms of conditionality could be substantial. Under the current Australian policies – including those being trialled in specific geographic regions – a parent with dependent children could, in principle, be obliged to meet activity requirements (for instance, seeking employment or, in the case of a single teenage mother, returning to school), health checks for a four-year old child, the SEAM measure for school aged children, as well as income management. Combined, these policies mean that receipt of government benefits is tied to a number of aspects of their parenting and imposes restrictions on how they spend their government benefits.

An important feature of these policies is that they require the involvement of non-government professionals such as teachers and schools, social workers and

health professionals, and the willingness of these groups to comply willingly with the requests or requirement to cooperate with the government social security agency. This is complicated by the Federal nature of the Australian system, with the Commonwealth Government having responsibility for social security and the state and territory governments retaining primary responsibility for the delivery of most health, school education, and child welfare policies.

There are a number of issues concerning the application of new conditionality in Australian social security policy that policy makers will need to examine when considering the potential extension of new conditionality. These include:

- The potential combined impacts of being subject to multiple conditionality policies, which could have a substantial (negative or positive) impact upon the lives of parents;
- The role of education, health and caring professionals in determining whether income support recipients should be sanctioned;
- Whether the conditionality results in stigmatisation (particularly given geographical targeting);
- The effectiveness of the punitive 'stick'-type policies as compared to policies that reward desired behaviour;
- Whether these types of policies can be effective at a community level by changing social norms;
- Whether the new conditionality results in some highly vulnerable families disengaging from the social security system; and
- The implications of having different social security rules according to where people live (the Australian social security system has historically applied largely the same set of rules to people in the same circumstances living in different geographic areas).

While there is little doubt that new forms of conditionality will continue to be experimented with both in Australia and internationally, it will be important to consider the implications of 'new conditionality' for how 'entitlements' traditionally provided by legislation in Australia are now to be viewed, and the implications for the nature of the citizen–state relationship. It will also be necessary to assess the effectiveness and efficiency of any new regime – whether 'conditionality' is necessary for desirable goals to be achieved or whether they can be met or exceeded in other ways.

Acknowledgments

An earlier version of this paper was presented at the 2012 Australian Institute of Family Studies (AIFS) Conference, *Family Transitions and Trajectories*, Melbourne, Australia, 25-27 July and at the 22nd Foundation for International Studies in Social Security (FISS) Conference, “Social Security East and West: Common Challenges, Distinctive Solutions”, at the Chinese University of Hong Kong on 8 June 2015. The authors are grateful for the comments received on the paper from conference participants. The authors would also like to thank two anonymous referees for helpful comments on an earlier draft of this paper.

Endnotes

- ¹ Clasen and Clegg (2007) distinguish between three types of conditionality: conditions of category; conditions of circumstance; and conditions of conduct. New conditionality fits within their classification of conditions of conduct. It is also related to the concepts of ‘soft’ versus ‘hard’ paternalism. ‘Soft’ paternalism refers to the idea that governments are justified in intervening in individual decision making only when the individual is making decisions which are involuntary or ill-informed. ‘Hard’ paternalism refers to the idea that governments are justified in intervening in circumstances in which the individual is acting both knowledgeably and voluntarily (see Thomas & Buckmaster 2011).
- ² For discussion of the historical development of family payments in Australia, see Whiteford, Stanton and Gray (2001).
- ³ The Maternity Payment replaced the MAT for children born or adopted from 1 July 2004, and then was renamed the ‘Baby Bonus’ on 1 July 2007. See FAC (1996–2011).
- ⁴ The immunisation requirements are set out in the *A New Tax System (Family Assistance) Act (FAAct) 1999*. While under the original Act the MIA was a single payment for children aged 18–24 months, on 1 January 2009 the MIA was split into two payments to be paid for full immunisation at the ages of 18–24 months and 4–5 years (Yeend & Daniels 2008).
- ⁵ Although the *Social Security (Administration) Act 1999* uses the term ‘schooling requirement person’, the term ‘parents’ is used here for two reasons: first, for the purposes of readability, and second, for consistency with the existing literature on SEAM.
- ⁶ Parliament of NSW, Legislative Assembly, Hansard, 23 September 2009: 18057.
- ⁷ *There was a very limited range of reasons for which a person could be exempted from the NTER Income Management.*
- ⁸ A summary of evaluation reports of the NTER (including income management) up until 2012 is provided by Altman and Russell (2012). Other studies include Bielefeld (2012), Mendes (2013) and Cox and Priest (2012).

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