Of policies, policing and provision: compliance and productivity in welfare-to-work programmes in the USA and Europe

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EUSA Los Angeles
23-25 April 2009

Abstract
How different are European welfare-to-work schemes from American 'workfare'? This paper sets up a distinction between 'compliance' and 'productivity' orientations in programme design. It analyses communications between politics and administration in the conduct of schemes in the US, the UK and the Netherlands, identifying for each scheme the configuration of legal rights, performance management systems and financial arrangements. It is shown how institutional factors can explain why US 'workfare' is compliance-oriented, an orientation achieved by distinctive performance targets and budgetary structures. Different institutional possibilities and constraints characterise the development of schemes in the UK and the Netherlands, which mainly have a productivity orientation, reflected in performance targets and financial incentives which reward placement in employment.

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Introduction

How different are European countries from the USA in their approaches to welfare-to-work? In the eyes of many, the answer is 'very'. At the level of discourse, there are clear differences. Annesley (2003) argues that the policy debate around the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA,1996) was dominated by a moralising discourse that dwelt on the damage done to the work ethic and family life by the long-term receipt of AFDC. By contrast, in Europe worklessness is often portrayed as a social problem with its roots in 'exclusion', a state of affairs that people do not necessarily choose for themselves. This discourse is promulgated by the European Commission, notably in its recent conversion to 'flexicurity' (see e.g. CEC 2006) and its insistence that social protection can be 'a productive factor, ensuring that efficient, dynamic, modern economies are built on solid foundations and on social justice.' (CEC 2003: 3) In presenting these ideas, the USA serves as a 'contrast regime' (Jacobsson 2004: 360).

Moving from discourse to specific parameters of policy, commentators have drawn a distinction between welfare-to-work programmes that put 'work first', and 'human capital' programmes, which offer job-seekers training to improve their prospects of productive employment. Critical accounts of 'work first' programmes emphasise how benefit recipients may be pushed into low-paid, marginal work, whereas human capital programmes enhance skills and may produce better long-term outcomes (Handler 2003, Bruttel and Sol 2006). To some extent, programme rules signal whether a scheme is 'work first' or not, but it is also possible to read back from employment conditions to infer how welfare-to-work programmes will operate. Since the US labour market generates more offers of low-paid employment, a work-first approach is more viable than in Europe.

Or so the argument goes. But this contrast between the US and Europe can no longer be drawn sharply, if indeed it ever was quite so clear. Generally, work first policies have become more widespread. Several European countries have taken steps to create entry-level employment opportunities where remuneration is considerably below the standards established in mainstream collective agreements, and rules that allowed insured unemployed and disabled people to turn down low-paid jobs have been tightened or removed. Freedland et al (2007: 225) summarise their survey of several European countries as 'suggest[ing] a move towards increasingly coercive social security and labour market regimes, in which the freedom of the unemployed to choose their professional and vocational path is powerfully curtailed.' At the same time, their analysis of 'rights' and 'duties' to work is inconclusive about the ways in which the balance has shifted. Social security benefits have always been conditional on duties to take up work, and it is hard to know how strongly these are enforced in practice.

This paper proposes an alternative approach to comparing welfare-to-work schemes. Instead of focusing on the rules about whether a person must take up a job, it looks at

the conditions governing conduct while on benefit. Benefit recipients may be *offered* services such as job search assistance and training opportunities; they may also be *required* to perform activities such as attending interviews and courses. It is surely the way the scheme is weighted between productivity-oriented offers and compliance-oriented requirements which is of most comparative interest. A compliance-orientation may result in 'pushing people into jobs', but it will also produce benefit terminations which are not matched by (recorded) job entries, as people turn to family and friends, informal work or crime. A productivity-oriented system should not produce these outcomes: instead, welfare rights will be protected while entry into employment is facilitated.

This paper therefore endeavours to compare the extent to which welfare-to-work schemes in Europe and the USA are compliance-oriented or productivity-oriented. This focus for comparison calls for information about how schemes are designed and administered, rather than reading off predictions about schemes from political discourse or labour market conditions. This immediately presents a problem. Welfare-to-work programmes generally increase opportunities for differentiated treatment of benefit recipients and vest discretion in the administrators who make decisions about the programmes that a recipient will be assigned to. This discretion may be associated with either intensified compliance or with more productive policies. Since the workings of discretionary systems are notoriously difficult to research, it is hard to know which dominates.

For some commentators, discretion is a veil behind which coercion can hide (Diller 2000, Freedland and King 2003). This view tends to be held particularly by legal scholars who see the setting out of entitlements in clear rules and regulations as important to constituting welfare rights. A welfare administration operating in this 'legal-bureaucratic' mode can make authoritative judgments about compliance, but also has built-in mechanisms for controlling the arbitrary exercise of power, so its pursuit of compliance will be mitigated by constraints of legality and accountability. By contrast, an administration with wide discretion can make arbitrary judgments about compliance without being restrained by the law.

This reasoning suggests that we can compare welfare-to-work programmes by comparing their legal frameworks and identifying the residual discretion vested in administrators. However, this approach seems rather narrowly legalistic. It should be possible to find out something about the conditions shaping the exercise of discretion. Indeed, Diller himself, while vehemently attacking the discretionary provisions of PRWORA, notes that discretion is steered from above. 'The accretion of power by ground-level workers may suggest a weakening of control by central authorities. Central authorities, however, have ceded less control than it may appear. Although ground-level workers have much greater authority in relation to recipients, central decisionmakers structure and channel the discretion that is exercised' (Diller 2000: 1127). Similarly, Freedland and King (2003: 471) argue that discretion is steered politically: they highlight the impact of a 'moralistic, populist and censorious political discourse'.

Without dismissing the importance of discourse, the approach taken in this paper is to look at two more concrete ways in which discretion may be steered: through performance management and financial arrangements. Again, Diller, and Freedland

and King, acknowledge the importance of performance management. Diller notes that there has been a move towards 'entrepreneurial government', relying on incentives and targets rather than legal rules. 'Proponents of entrepreneurial government have argued that, rather than exerting direct authority over tasks performed by lower level workers, central administrators should identify desired outcomes and shape the incentive structure so that workers strive to achieve these outcomes.' (Diller 2000: 1175). Freedland and King (2003: 471) remark that performance management systems may lead administrators to abuse their authority, particularly in the face of 'efficiency targets, such as reducing the caseload number'. But it is necessary to look beyond the mere existence of a performance management scheme and see what targets it sets and what incentives it creates, before we can conclude that the existence of such a system necessarily means that the welfare-to-work programme has a compliance orientation.

Budgetary structures and other financial arrangements may also steer discretion. Compliance calls for the investment of administrative resources, which may potentially be 'repaid' with benefit savings. If administration and benefit budgets are separate, so that benefit savings cannot be anticipated in administrative spending, expenditure on compliance may be blocked (even while political discourse declares its importance). Contracts with private providers may allow for innovations in financial arrangements which get around blockages created by budgetary institutions. For example, contracts may reward private investment to obtain 'results' in the form of outcome-based contract payments. The incentives created by this structure depend on what 'results' are rewarded.

This paper shows that comparison of the compliance- or productivity-orientation of welfare-to-work schemes is possible, by using the information contained in laws and regulations, performance management systems, and financial arrangements. In taking this approach, it also shows something else about how welfare-to-work schemes come to operate as they do. The compliance- or productivity-orientation of welfare-to-work schemes is not just the result of a political choice by a unitary government actor. The policy also depends on the availability of different modes of communication between the government and the administration. For example, devolved budgets which combine administrative and benefit expenditure into a single item are probably the strongest way to create a compliance orientation. But a compliance-oriented government may not have the option of budgetary devolution, and is therefore unable to implement its preferences in this way. Another example: legislation can spell out rules and procedures that allow administrations readily to enforce compliance; however, a government may not be able to pass this legislation due to conflict between the executive and the legislature.

This institutionalist perspective highlights that we should not think of a government with given preferences choosing the most effective mode of implementation. Some modes may be constitutionally available in some countries and not others. Some may be blocked or shaped by conflicts between arms or levels of government. Any administrative structure will be affected by information asymmetry. Uncertainty about 'what works' implies that powers should be delegated to those able to find the best ways to achieve the government's objectives; however delegation brings its own constraints in the form of limitations to the available designs of incentive structures for the delegate or agent.

Delegation and discretion

In the following discussion, it is argued that administrative discretion is shaped and channelled by a variety of controls, or more neutrally communications, coming from politics. We can get a good idea about how discretion will be exercised by looking at the different communications that street-level administrators receive. Laws and regulations are one mode for such communication, but there are two others which have been important in the design of welfare-to-work programmes. One is the performance measurement system that administrators work under, which sets targets and creates incentives. The other is the financial structure, particularly the way that any benefit savings from welfare-to-work programmes are treated in the budget. The orientation of the system towards compliance or productivity will depend on the settings of these three modes of communication.

Theories of delegation suggest that conflict is central to explaining how particular communicative settings come about, whether these are conflicts between the legislative and executive arms of government or between the executive and the bureaucracy. Huber and Shipan (2002) suggest a possible answer to the question of why politicians would choose to delegate discretion to bureaucrats rather than passing detailed laws about how welfare-to-work programmes should operate. We can predict compliance-oriented discretion if (a) we assume that that the preferences of the executive arm of government determine the way that the administration exercises its discretion, and (b) the executive wants more emphasis on compliance than the legislature and (c) that the legislature can prevent the passage of a compliance-oriented law. Discretion in this scenario emerges from constraints on the executive's ability to deploy the weapon of legality because of conflict with the legislature.

But the assumption that the administration is 'aligned' with the executive is hard to justify for a large unwieldy bureaucracy (it is more often applied to regulatory agencies). Another possible conflict is the familiar one of 'agency drift', where the administration pursues its own objectives rather than following the policy direction established by the government. Dunleavy (1991) has argued that administrators will endeavour to maximise the slack in their 'bureau' budgets but will be indifferent about the size of programme budgets (such as the level of benefit expenditure). If welfare-to-work takes more administrative effort than following legal-bureaucratic procedures, we can predict that the administration will not invest effort in helping people to take up work. The government might counter this by earmarking spending specifically for welfare-to-work programmes and allocating it according to results. Alternatively, a devolved administration could be allowed to manage a 'pooled' programme and bureau budget, which can create incentives to invest administrative effort in getting people off benefits.

In the absence of major conflicts in preferences, the government may choose to give wide discretion to the administration when there is uncertainty about the relationship between policy settings and desired outcomes (Huber and Shipan 2002: 88-90). This discretion will enable the administration to utilise its superior information to choose the best policies. However, the desired outcomes still need to be communicated clearly, which may be achieved through performance management. In principle, any policy preferences can be communicated through performance targets. However, this paper shows that in practice performance management systems tend to emphasise

outcomes or 'results'; in other words, they exhibit a bias towards productive outcomes. One explanation is that those who are involved in designing, regulating and auditing performance measures are technocratically-minded policy actors, and this influences the way that these systems work.

A government that faces conflicts in preferences with the administration, for example because the administration is under the control of local government or the social partners, may look to introduce private providers. Contracting-out may enable the government to combine performance management with stronger financial incentives than are available within the existing bureaucratic structure. It might seem that privatisation is a means of radical institutional reform that allows politicians to choose and implement their goals more freely than if they are working within existing implementation structures. However, managing the information asymmetry with private providers introduces its own limitations to what the government can do, if it is not to find the policy impeded by problems such as cream-skimming.

The political theory of delegated discretion suggests that discretion may be either compliance-oriented or productivity-oriented, depending on the preferences of the executive and the constraints created by conflicts with the legislature and/or the bureaucracy. Lawyers, by contrast, have tended to assume that discretion, by undermining rights, makes a system more compliance-oriented. One reason for this view is that legal modes of communication are regulated by courts and monitored by welfare rights organisations. This constrains the way that legal communications are used and helps to protect claimants' rights. However, this is not the only way in which welfare-to-work programmes are regulated and monitored. A feature of these programmes has been the intensity with which they have been evaluated. Evaluators monitor programmes and give verdicts on their outcomes, and the normative orientation of evaluation is strongly productivist. This bias is even more pronounced when private providers are involved. Information asymmetries and incomplete contracts limit the extent to which the government can communicate compliance-oriented preferences to private providers.

In the following discussion, the administrative structures for welfare-to-work programmes in three countries are reviewed. In each country, institutional arrangements raise different issues. In the US, the key conflicts are marked out between the legislature and the executive (Congress and the President) on one hand, and between the federal government and the states on the other. It is shown that all three modes of communication between politics and administration are found, but there has been a shift away from outcome-oriented performance management, which was accompanied by extensive evaluation research, with the adoption of new budgetary arrangements which dominate the relationship between the federal government and the states.

In the UK, the key relationship is between the government (since the executive dominates the legislature, no distinction is made) and the administration. The government has to overcome informational asymmetries favouring the administration to achieve its goals. Legal communications have been directed towards compliance goals, while performance management has been adopted to promote productive goals. Notable also is the government's lack of flexibility in the use of budgetary arrangements to pursue its goals in welfare-to-work.

In the Netherlands, the changing relationship between the government and the social partners has been the key factor in reforms to the institutional structure of welfare-to-work as they have affected insured people. It is only a slight exaggeration to say that the government sought to replace the existing social partner-dominated administration. It has done this in part by bringing in private providers of employment services, working under contracts designed to produce employment 'results'. Welfare-to-work programmes have also been extended for social assistance recipients. There central government has regarded the municipalities as agencies susceptible to a high degree of 'drift', which it has sought to manage primarily by changes in budgetary arrangements.

The United States

The passage of PRWORA in 1996 was the culmination of two significant changes in the relationship between state and federal political actors in US welfare-to-work policy. One change was signalled by Congressional agreement on new legislation on welfare, where in previous years welfare-to-work schemes had been adopted under the waiver provisions of old legislation. The other change came from the rise of the 'states' rights' movement. The combined impact of these changes was that work participation requirements were explicitly spelled out in legislation, yet, at the same time, more discretion was delegated to state administrations. This curious combination of legislative stringency and delegated discretion arose from the way that different modes of communication were used. Although the legislative framework became more oriented towards work participation, this was done by specifying work requirements as performance measures, not as legal-bureaucratic rules to be followed.

The changes to the three modes of communication outlined above can be summarised as follows. First, legal-bureaucratic communications which constituted individual claimant rights were reduced with the removal of 'entitlement language' from welfare provision, which, *inter alia*, curtailed the scope for judicial regulation and monitoring. Second, the role of performance management was substantially changed. Under the waiver programme, the outcomes of schemes – specifically, their impact on welfare recipients' participation and earnings – had to be evaluated. Under PRWORA, certain performance targets had to be met: most importantly, a target for the proportion of recipients participating in work schemes. This shifted the preformance focus from outcomes (recipient incomes etc) to outputs (numbers on schemes). Third, budgetary communications were changed significantly too, with a shift from matching federal funding under AFDC to block grants under TANF. The availability of block grants was tied to performance measures, whereas previously matching funds had been tied to compliance with legal-bureaucratic arrangements (checks on identity, family circumstances and means) for ensuring that payments were only made to eligible recipients, which were audited by the federal authorities.

In AFDC, there were strict rules on eligibility in some respects (eg the application of means tests) but not on requirements for mothers to actively seek and be available for work or to participate in education and training programmes. Instead, states could introduce such measures under waivers, where they were evaluated according to outcomes. Furthermore, mothers had an entitlement to assistance until their youngest child was 18. This provision was removed by TANF, but it was not replaced with a

corresponding rule about entitlement based on work participation. Instead, it was transformed into a rule about the aggregate indicators that a state administration has to work within. These indicators provide that everyone with a continuous claim of two years should be entered into a work programme, but this is subject to a 'caseload reduction credit' meaning that some recipients can be exempted. Similarly the cumulative five-year limit on federal cash assistance is accompanied by some flexibility: states can allow up to 20% of the caseload to fall outside this limit (Diller 2000; Handler 2003: 231). The federal law reduced its legal communications about the rights (and duties) of individuals, making their basis for qualifying for benefits less certain, while increasing its monitoring of administrations.

Under TANF, work participation requirements are expressed as a formula which relates the performance target that a state has to achieve to the aggregate evolution of its caseload. The 'caseload reduction credit' operates such that the level of participation in work programmes that states have to achieve to obtain their federal grants falls as the welfare rolls fall. After 1996, there was a substantial increase in lone mother employment and a reduction in numbers on the welfare rolls. One consequence was that many states no longer had to implement and enforce welfare-to-work measures to receive block grants. By 2005, only 11 states had to engage more than 10% of welfare recipients in work activities (Crisp and Fletcher 2008: 7). Some states have used this leeway to move away from compulsory workfare. Washington State discontinued its work-for-benefits programme, and high-profile schemes have also ended in New York and Wisconsin (Crisp and Fletcher 2008: 11).

Why did states discontinue their work programmes when they could? One possibility is that they were not productive: they did not raise recipients' earnings prospects sufficiently. However, we can expect that states would evaluate not productivity but cost-effectiveness, ie whether the spending on programmes paid for itself in reduced future benefits. Thus both employment outcomes and 'diversion' effects, where programmes cause people to leave welfare without entering employment, would be valued by states. The evidence assembled by Diller (2000) suggests that states invested heavily in deterrence and diversion activities, aiming to stop people making an initial claim for welfare and getting them off as fast as possible. Work programmes are not necessarily cost-effective methods of diversion, compared with investing more in administrative checking on claims, imposing requirements to attend meetings with case workers, and establishing other bureaucratic procedures that make claiming more difficult.

In the 2005 Deficit Reduction Act, which finally reauthorised PRWORA, Congress 'recalibrated' the caseload reduction credit, rebasing it at 2005 levels and thereby eliminating states' accumulated credits. Without credits, states must place half of all cases with adults and 90 percent of two-parent families in work activities (US HHS n.d.). It also tightened the rules for verifying compliance, particularly regarding the definition of 'work activities' and the reporting of hours of work.

Why did Congress seek to reassert work participation requirements, instead of leaving the states to make their own policy choices, based on cost-effectiveness? In other words, having established a clear incentive to control spending through the budgeting structure (the block grant), why did Congress add a further communication in the form of performance management? One answer is that work participation

requirements were costless to Congress. There was no financial reason not to express a policy preference for work participation, since it would fall to the states to meet the cost of complying. Indeed, if they failed to comply, proportions of the block grant could be withheld by the federal government. Another answer is that work participation requirements are a rhetorical restatement of the productive goals of PRWORA; rhetorical because the budgeting structure gives the strongest signal and produces a compliance orientation. We can see that the financial relationships between levels of government in the US did not create an incentive for productive policies. At the level of state governments, the block grant created an incentive to adopt cost-effective compliance-oriented policies, notably deterrence, mitigated perhaps by recognition that the costs of destitution might appear locally in other forms. At the level of the federal government, a political preference for work requirements could be expressed regardless of whether they were cost-effective.

It is interesting to contrast the way in which administrators' discretion is fettered and directed by budgetary communications under PRWORA with the communications which governed the prior waiver programmes. The waiver programmes waived requirements about spending money on verified cash payments to recipients in favour of allowing states to divert funds to work-related programmes. States obtained block grants for these programmes, rather than continuing to obtain matching funding. This gave states a financial incentive to get people off benefits and into work. Thus the financial arrangements were very similar to those operating under PRWORA; the contrast is in the ways in which the exercise of discretion by state administrations was monitored and evaluated.

Evaluation calls for definition of valued outcomes, and the desired outcomes from waiver programmes were defined in a distinctive way. Among politicians, the desired outcomes could include diversion, deterrence and detection of unfounded claims as well as increased employment rates and earnings. However, only the latter outcomes were 'admissable' in evaluation studies. A comprehensive study by Bartik (1995) of performance measurement in welfare-to-work programmes shows how administrations were steered by measures with a 'positive sum' orientation. Measures used include rates of entry into employment and 'follow-up' employment, hourly and weekly earnings at follow-up, entry into employment with health insurance coverage, and reductions in benefit grants due to employment. Reductions in benefits not linked to employment do not feature. It was taken as given that the performance indicators must be designed to measure how the administration 'adds value'.

For researchers, measuring added value presented difficult technical problems. It is hard to work out exactly what the impact of programmes really is, given that many people will leave benefits without the aid of programmes (the 'deadweight' issue). Research findings under the waiver programme produced their own controversies, particularly about the relative merits of 'human capital' programmes that offered training versus those that focused on getting people quickly into work (the former were claimed to produce more sustained long-term benefits, but the measurement of long-term effects is even harder to separate from confounding influences). Critics also argued that programme results were distorted by cream-skimming, and controlling for cream-skimming and deadweight effects became the main preoccupations of researchers.

Thus there were debates and differences within the frame of productivity-oriented research on welfare-to-work. The disagreements over 'work first' policies may have been fuelled by a sense that these were more likely to 'harass' people into leaving benefit, even though this did not count as a positive result unless it was accompanied by a transition into work. Discussions about sanctions were also fitted into this 'value-added' framework, with researchers evaluating their effect on recipients' eventual levels of welfare (see eg Moffat 2002). In this debate, sanctions leading to low income counted as a negative outcome. Thus politically controversial features of waiver programmes were fitted into processes of scientific evaluation, shaping policy towards productive outcomes.

The considerable effort invested in evaluation research at this time might be taken to suggest that the delegation was motivated by uncertainty, with policy-makers endeavouring to use demonstration projects to obtain information about which policy settings would produce the desired outcomes. However, evaluations were also a control mechanism. The design of evaluations can be seen as a strategy by federal technocrats to restrain the impact of anti-welfare political feeling in the states. The Department of Health and Human Services funded several major evaluation projects (Greenberg et al 2003: 359-60). Requiring states to comply with evaluation research designs and frame their initiatives in value-adding terms would restrain them from taking drastic measures to reduce welfare rights.

The design of evaluations also suggests that the federal government wanted information about 'what worked' but that it did not want to place discretion in the hands of street-level administrators who were under the control of state governments. For example, in some of the leading evaluation studies, administrators were required to assign people to programmes randomly, instead of being able to exercise their judgment about where to direct participants (a judgment which they could, in principle, exercise productively or coercively). Evaluating states' 'demonstration' projects allowed for methodological innovation, with evaluators, notably the MDRC, pioneering the use of experimental methods adapted from the natural sciences (Friedlander and Burtless 1995: vii). Leading figures at MDRC such as Judith Gueron became strong advocates of experimental methods, particularly random assignment. More generally, the federal system produced an abundance of 'experimental' material, with different states, and localities within states, adopting programmes which could be compared (Greenberg et al 2003). Advocates of research-based approaches sought the formulation of 'pilot' or 'demonstration' projects which would generate data.

However, the opportunity to use these data to set federal parameters to ensure that states had to implement 'productive' programmes was closed off by PRWORA. Gueron (1999: 26) noted that 'the 1996 law, with its combination of block grants and the end of the Section 1115 waiver process, dramatically changed the funding and incentive structure that supported random assignment studies in the past. While block grants create pressure on states to figure out what works, the politicization of the welfare debate pushes in the opposite direction.' The welfare debate was 'politicized' in the sense that rules on rates of participation in work schemes were imposed for reasons independent of their potential value-added (and without any requirement to monitor or evaluate their value-added). A major review of evidence by MDRC in 1993 had come out largely against compulsory participation in schemes as a condition

for receiving benefits (workfare), but this was ignored. Policy-makers' aims had swung strongly towards a compliance orientation.

Did block grants create pressure on states to figure out 'what works', as Gueron suggested? Not exactly. States had other incentives and constraints to respond to: specifically, those arising from the transition from matching to block grant funding. Whereas scientific evaluation and performance measurement systems focused on employment results, the management of block grants created incentives to achieve reductions in caseload by any means. States had little reason to concern themselves with what happened to people once they left benefits, a fact reflected in the inadequacy of state-level data on the fates of welfare recipients. State information systems show lower employment rates and higher numbers leaving for 'unspecified' reasons than survey data generated by independent studies.

The evolution of welfare-to-work programmes in the USA allows us to compare two modes for steering delegated discretion: through the use of performance indicators and evaluations, and through budgetary controls. It is clear that the two modes operate quite differently. Some of the visibility and accountability that lawyers find in the legal-bureaucratic system is also present in a performance indicator-based system. By contrast, the steering of discretion by budgetary communications has led to a strong compliance-orientation and a reduction in welfare rights.

The United Kingdom

Compared with the US, welfare-to-work measures in the UK have been implemented by a central government executive which is not constrained by political conflict with the legislature. We do not find the legislature restraining the executive by writing detailed laws; indeed, the general tendency in social security is for legislation to become less detailed, with the executive making extensive use of delegated legislation. What we find instead are issues with the way that the executive – specifically, ministers – exercise control over the administration. In the following discussion, these issues divide into two groups. First, there is the standard question of how to align bureaucratic performance with the objectives of the Secretary of State for Work and Pensions. Second, there is the influence of conflict and competition within cabinet: specifically, how the allocation of resources to welfare-to-work may be determined in the light of other spending priorities, and the role of the Treasury in influencing this through budgetary arrangements.

It might seem at first sight that the Secretary of State should have few problems controlling agency drift, given that there have been no evident limits on the government's ability to put in place the legislation and regulations it chooses. However, what we find is that, under Labour, ministers sought to achieve their objectives in part by moving away from bureaucratic instructions towards a performance management approach. This contrasts with the approach taken under the Conservatives, where bureaucratic procedures were relied upon. A key benefit reform from the Conservative era was the introduction in 1996 of Job Seekers Allowance (JSA), which formalised the conditionality of benefit receipt in individualised Jobseekers Agreements, as well as further reducing insurance benefits (Walker and Wiseman 2003: 9). The primary orientation was towards compliance, and the primary means were legal communications with the bureaucracy. The reforms tightened

centralised control over procedures. 'Interventions by the state were both more exacting and more carefully scripted than before' (Considine 2001: 38).

The Labour government elected in 1997 also used legal-bureaucratic means to achieve its welfare reform goals. The programme of extending a 'work focus' to other categories of benefit recipient than the unemployed was implemented partly by the standard legal method of changing the eligibility conditions for benefits and levels of entitlement. For lone parents, the age of the child at which the parent is exempt from participation requirements is being lowered in stages. Incapacity benefits were also reformed: the legal content of changes in eligibility conditions is limited, but entitlement has been reduced for some people early in their claim.

However, the government also used other means to implement welfare-to-work policy. Walker and Wiseman (2003: 10) remark that, '[o]nce in power, Labour rapidly came to believe that the machinery of government frustrated their goal of work-oriented reform.' The government was able to push through changes in the working practices of the public bureaucracy, introducing a new performance management system. Following on recommendations made by John Makinson, a senior publishing executive, the government introduced an incentive scheme for staff in Jobcentres (later, after merger with the Benefits Agency, Jobcentres Plus, JCP). Under this scheme, district teams receive bonuses related to the performance of their offices. Performance is evaluated with reference to the targets set by the government for the Agency as a whole, which are defined on five dimensions: job entry, customer service, employer outcome, business delivery and 'fraud and error'. These dimensions are a mixture of process and results targets. Job entry is the major 'result'. The 'business delivery' dimension includes a number of process-oriented criteria around such things as accuracy of benefit payments, timely booking of interviews, and following-up on failure to attend interviews (Burgess et al 2004: 9-12). Thus incentives were created both to ensure claimants' compliance with benefit rules and to achieve productive outcomes in the form of employment.

The public employment service was put under further pressure to produce employment 'results' by creating competition with private providers. For example, since 2000, the government has run a scheme called Action Teams for Jobs, where teams can earn a flat fee of £2000 for each job entry (Casebourne et al 2006). Initially the scheme involved 40 Jobcentre Plus teams and 24 from the private sector, enabling the performance of public and private sector teams to be compared and evaluated. The emphasis on systematic evaluation is reminiscent of the 'waiver phase' in US welfare-to-work policy.

The government also had to navigate some conflict within the Labour Party about the compliance aspects of welfare-to-work policy. There was division between those who adopted a 'moralising' discourse, arguing that the legitimacy of the welfare state was undermined by evidence that some people abused its provisions, and those who wanted to see a clear departure from the policies of the previous Conservative government. The issue presented the dilemmas of the 'Third Way' in microcosm. One way in which the Third Way could be made concrete was by involving voluntary and community organisations in the welfare state. This was reflected in the first contracts to deliver welfare-to-work services, where Labour showed a preference for not-for-profit and voluntary organisations over commercial firms (Peck and Theodore 2001:

442). The government also defused potential conflict over the 'work first' thrust of its measures by adopting two major policies to 'make work pay', introducing a national minimum wage and greatly extending the availability of in-work benefits through tax credits.

At first sight, there is little scope in the UK for the government to use budgetary arrangements to communicate its welfare-to-work preferences to the administration. Money for the incentive schemes described above had to be found within existing administrative budgets, which constrained their scope. The basic financial structure was that benefit payments were financed under their own budgetary heading, while welfare-to-work programmes received separate cash allocations. Furthermore, these allocations were not put on a permanent footing. The first major welfare-to-work initiative, the New Deal, had an explicitly temporary basis, as it was funded by a windfall tax on the excess profits of privatised utilities. The subsequent issue of how much money to allocate to welfare-to-work helps to account for the curious drive to switch towards private providers, as will now be explained.

Whereas the first welfare-to-work contracts had favoured the voluntary sector, as explained above, from 2000 onwards the government experimented with more strongly incentivised arrangements with private for-profit firms. This presents a puzzle, as private providers were viewed with suspicion by many of the government's own MPs, and their involvement would therefore seem to invite, rather than deflect, political controversy. There was concern that private providers sometimes had strong incentives to deem benefit recipients as failing to cooperate when they were referred to employment and training schemes. Such failures would be notified to JCP and could result in benefit sanctions being imposed. This concern focused particularly on Employment Zones (EZs), which the government initiated in 2000. Private contractors in EZs are allocated funding equivalent to 21 weeks of benefit payments, so that they make a profit if they place claimants before 21 weeks are up (Griffiths and Durkin 2007: 17). Conversely, contractors are liable for a 'malus' deduction for up to five weeks if people are still on benefit when the 21 weeks are up (the EZ contract runs for up to 26 weeks). This apparently created an incentive to expel uncooperative participants. By removing such people from the programme, providers could reduce the risk of incurring malus charges, as well as providing information to JCP that could lead to loss of benefits.

In practice, JCP's desire to receive such information was countered by the knowledge that providers who removed participants from their programmes could be cream-skimming. When the concerns of welfare rights groups were raised in Parliament, by the Liberal Democrat representative on the committee reviewing EZ regulations, the Minister replied that contractors 'know and understand how we expect the sanctions regime to be applied and the degree of flexibility and understanding that must be applied to people who face significant and particular barriers to work.' (Minister for Work 2004, Column 12) The implication is that JCP is not receptive to 'letter of the law' compliance information from providers. Since providers have their own incentives to deem a person uncooperative, any resulting bias has to be countered by establishing working relationships with providers which discourage them from cream-skimming and limit their responsiveness to the incentive to expel people.

As in other areas of British public policy, much of the drive for the involvement of private providers in welfare-to-work schemes came from the Treasury. One motive for Treasury to involve the private sector, beyond the desire to put competitive pressure on public bureaucracies to be more efficient, was that private contracting could also be used to ensure that welfare-to-work programmes did not establish entrenched claims on public spending regardless of their effectiveness. The risk that schemes might not 'pay' could be shifted to the private sector.

The preference for the private sector and the preference for time-limited rather than permanent spending commitments came together in an initiative to adopt 'invest to save' funding of welfare-to-work programmes. 'Invest to save' is a budgeting mechanism whereby departments can bid for extra funds for programmes that will bring future savings for other parts of the fisc. For example, extra resources for fraud detection were obtained by the Department of Work and Pensions using an 'invest to save' rationale. The process involved moving funds from 'annually managed expenditure' (AME) which is driven by commitments and therefore includes social security benefits, to 'departmental expenditure limits' (DEL) which are fungible amounts subject to cash totals. Welfare-to-work programmes would seem to be natural candidates for the mechanism, but only if ways could be found to ensure that savings really were achieved and demonstrated. The risk was that up-front expenditure on programmes would be made while subsequently commitments to pay benefits could not be escaped if programmes failed.

This risk could be shifted onto the private sector if private providers could be found who were prepared to accept 'payment by results' contracts. A report by David Freud (2007) advocated that a substantial increase in funding for welfare-to-work could be achieved on this basis. Only employment 'results' would count, so the policy had a productive orientation. Because of the cream-skimming risk noted above, providers would not be rewarded if their welfare-to-work programmes served to reveal doubtful claims and caused people to leave benefit without entering recorded employment. Thus the desire to shift the 'invest to save' risk, which meant that private providers had to be found, also shaped the policy towards productivity rather than compliance.

As it is turning out, it seems likely that the private sector will not accept the risk of these contracts in the economic downturn (Timmins 2009, Timmins and Barker 2009). The government will either have to contract for places on a fee-for-service basis or reduce its commitment to provide schemes for long-term unemployed people. If results-oriented thinking dominates, then the latter is possible, as the returns to investment in welfare-to-work probably fall in economic downturns, as there are more work-ready people available to take up vacancies.

In summary, the involvement of private providers in welfare-to-work programmes under Labour gave the programmes a productivity orientation, contrary to the fears of some commentators. The proximate reason is that providers were given contracts which rewarded employment results, rather than benefit savings. One explanation for this contractual structure was that the government was concerned about cream-skimming. If providers were rewarded for providing information leading to benefit terminations, they would be inclined to 'breach' less cooperative or less well-organised benefit recipients, and this would improve their own performance results.

This is not to imply that the private sector cannot be involved in the administration of a compliance-oriented welfare-to-work programme. In Australia, compliance with the 'Mutual Obligation' relies on 'Work for the Dole' placements arranged mainly through the voluntary sector. Providers must keep records of attendance and communicate 'breach information' to the benefit authority, which may apply sanctions for 'participation failures'. However, the contractual structure is that providers are paid for services, not for results, so they do not have strong cream-skimming incentives (Mabbett 2009). In the case at hand, we can see the converse of this: the UK Treasury's desire to shift risk through payment-by-results contracts also dictated that the contracts must be oriented towards productivity rather than compliance.

The Netherlands

The politics of welfare-to-work reform in the Netherlands involve not just legislative-executive and central-local political relationships, but also relationships between the government and the social partners. From the 1980s onwards, the Dutch welfare state has come under ongoing pressure for reform arising from high levels of expenditure and high rates of inactivity among the working age population. Critics have argued that institutional relationships between the government and the social partners have contributed to these problems. They claimed that employers and unions had misused the system to subsidise the process of reducing and restructuring industrial employment. Employers had sought to place people on disability benefits to avoid redundancy costs, and unions had cooperated in this. '[T]he intimate ties between sectoral industrial relations and payroll social security were deployed as an institutionalised support structure, allowing the social partners to externalise the costs of economic adjustment onto the social security system' (Hemerijk 2003: 245).The result was that, by the start of the 1990s, 'the role of social partners in the administration of social insurance [..] was seen as a major barrier for realizing the policy objectives of central government' (van Berkel and van der Aa 2005: 333). Dominant among these policy objectives were the need to increase employment creation and reduce long-term benefit receipt among working-age people. The focus of measures towards the latter objective was on tightening up conditions for qualifying for benefits, but, by the 1990s, welfare-to-work programmes were also on the agenda.

Huber and Shipan (2002: 191) suggest that, in corporatist systems, the need for detailed legislation is reduced because it is possible to resolve conflicts during the implementation process. The converse of this argument would be that, if the interests of the government and the social partners diverged, the government would seek legislative authority to direct the administration according to its preferences. Somewhat surprisingly in the light of institutionalist arguments about the difficulty of welfare state retrenchment, there have been a number of clear and significant cuts in provision (Vis et al 2008). These cuts have been implemented by coalition governments with members drawn from across the political spectrum, and political parties have sometimes paid a high electoral price for participating in governments which have undertaken unpopular measures. For example, the tightening of the rules on eligibility for disability benefits contributed to electoral losses for both the Christian Democratic (CDA) and Social Democratic (PvdA) coalition partners in 1994.

The PvdA survived its electoral setback to participate in the 'Purple' coalition of left and right parties, headed by Wim Kok (1994-2002). However, Hemerijk (2003) argues that the party then pursued institutional reforms rather than engaging in further 'programmatic' cuts in benefit levels and eligibility conditions. A major impetus to institutional reform came from a critical national audit office report on social security administration, which was taken up in Parliament with the formation of the Buurmeijer Commission, an all-Party parliamentary inquiry, in 1993. The televised hearings had a considerable public impact and prepared the ground for a parting of the ways between the Social Democrats and the trade unions. The inquiry recommended that the administration of social insurance should be removed from social partner control and placed under an autonomous administrative agency, and this was done in a succession of measures in the 1990s. At the same time, the Kok government marked out its direction for social security reform with the slogan 'jobs, jobs, jobs'. Much of the discourse was productivist, in that it was claimed that institutions dominated by labour market 'insiders' had taken actions which led to the exclusion of potentially productive people from employment. However, there was also a compliance overtone: the suggestion was that many of those receiving unemployment and disability benefits did not really qualify and should be pressed to return to employment.

The government engaged in a succession of administrative reforms to social insurance, eventually (in 2002), drawing all the insurers into a single public body, the UWV, a measure described as 'the biggest nationalisation since the Second World War' (Struyven and Steurs 2003: 17). It also privatised parts of the system, placing more of the costs of sickness absence and disability directly onto employers. Other steps in the legal-bureaucratic mode were taken in the area of disability criteria and assessment. A succession of changes to rules and practices in the assessment of disability have been adopted to try to reduce the numbers on benefit. Consistent with its view that the existing insurance arrangements externalised costs onto the public fisc, the government considered the possibility of privatising the whole insurance system, including the assessment of the entitlement to benefits. This was proposed in one round of reform proposals (SUWI 1), but rejected because of the difficulty of creating appropriate incentives for correct administration and financial control. Financial reforms, such as cash limits on benefit expenditure, were also ruled out.

Steps in the legal-bureaucratic mode related to welfare-to-work included the 1996 Fines and Measures Act (*Wet Boeten en Maatregelen*, WBM) which spelled out rules about job search activity and defined 'suitable work' that could not be refused without penalty (Sol and Hoogtanders 2005: 159). However, other decisions about how welfare-to-work programmes would be implemented have pointed much more towards a productive orientation. This is particularly a result of the decision to privatise provision, which can be understood as one result of the conflict between the government and the social partners over social insurance.

A reform of the Public Employment Service (PES) had been launched in 1991 with social partner participation. This reform was intended to reorient the service towards providing placement services for recipients of social security benefits, leaving the provision of mainstream services (purchased by employers and used by employed as well as unemployed people) to the expanding private employment agencies. However, this reform was deemed a failure in an official report in 1995. According to Hemerijk and Vail (2006: 75), '[t]he social partners were furious about the [report's] critique,

which led the ambitious Social Democratic Minister of Social Affairs and Employment, Ad Melkert, to seek alternative solutions rather than patching up incipient corporatist arrangements.'

Melkert introduced a new mode of financing for the PES, creating a 'purchaser-provider split' in which the five predecessor organisations of the UWV purchased services from the PES as provider. This created elements of payment-by-results (Hemerijk 2003: 256). Competition was initially limited, with only 20% of reintegration funds available for contracting with other providers than the PES, but this limitation was lifted in 2000 (Sol and Hoogtanders 2005: 143). An open market in which the remains of the old PES tendered to provide services alongside private competitors was implemented in the Work and Income Implementation Structure Act (*Structuur Uitvoering Werk en Inkomen,* SUWI) which came into force in 2002. New providers were able to enter the market, including those who had developed their business base in temporary agency work. These providers could, in theory, facilitate reintegration through their location as intermediaries in a more flexible labour market. The idea was that, by requiring the insurers (later, UWV) to tender openly for contracts, practices which had kept benefit claimants out of the labour market would be combatted.

Reforms to Dutch employment services have come to the attention of researchers because extension of private provision has been accompanied by a strong orientation towards 'payment by results' or 'no cure, no pay' as it is often called in the Dutch debate. Furthermore, in the earliest rounds of contracting, private providers were not required to go through a prescribed set of procedures with claimants. The 'trajectory' (the set of measures available to claimants) was up to the provider to determine, subject only to the requirement that there should be a personal interview and a plan for reintegration. Critics pointed out that providers could 'park' claimants for whom the costs of finding a job are expected to exceed the reimbursement payable. Expert commentators have been critical of the performance of the Dutch employment quasi-market, pointing out that there is evidence of cream-skimming and poor service provision to those who are hardest to place (Tergeist and Grubb 2006; Grubb 2004; Sol and Hoogtanders 2005: 164).

In summary, the reforms to employment services created a highly productivity-oriented system in which providers played little role in ensuring that benefit recipients were complying with rules on seeking and being available for work. One possible explanation is that the government was concerned to make privatisation a success by ensuring that providers could enter and adopt strategies that achieved 'results' even if this involved cream-skimming and 'parking'.

Hemerijk's (2003: 264) verdict on the reforms is as follows: 'All social insurance arrangements now operate under one public roof, whereas the reintegration of the [un]employed and disabled workers is the responsibility of private organisations. […] Unmistakably these reforms have re-established political primacy in the area of social security.' This assessment of 'political primacy' is made with reference to the social partners, whose role is clearly much diminished. But the reliance on private contractors for welfare-to-work schemes can be seen as bringing its own constraints on the ability of the government to implement policies in accordance with its preferences. Compared with, say, the British JCP performance management system,

which rewards compliance effort (reflected in 'business delivery' targets) as well as employment results, the Dutch structure only rewards results. This has created its own set of policy problems, notably cream-skimming and quality control. The government is dependent on refining financial mechanisms to combat cream-skimming, and has also turned to market mechanisms for quality control, for example by promoting choice for service users.

In summary, the political discourse around welfare-to-work in social insurance was ambiguous, but the policy as implemented has proved to be productivity-oriented. It is a different story in social assistance, where central government has been able to use changes in budgetary arrangements to create new constraints on local authorities, and market mechanisms play a much smaller role. At the beginning of the 1990s, social assistance benefits were largely financed on a case-by-case basis by central government, but central government gradually introduced block grant elements to create financial incentives for more rigorous administration (Mabbett and Bolderson 1998). By 2007, the financing mechanism had fully shifted to a block grant.

Central government also sought to promote welfare-to-work provision for social assistance recipients. A requirement to contract out 70% of employment service provision was imposed on the municipalities in the SUWI Act of 2002, at the same time as it was imposed on UWV. However, the municipalities lobbied against the contracting-out requirement, and in 2006 it was dropped. It has also been found that, where municipalities do contract-out, they make little use of payment-by-results (Tergeist and Grubb 2006: 17, 47).

The explanation of why contracts with private providers play a different role in the social assistance system lies in the budget constraint on municipalities. The block grant places the full marginal cost of claims on the municipalities, which creates a strong incentive to spend resources on compliance. This contrasts with the situation in the insurance system, where UWV has no direct financial interest in sanctioning claimants (Struyven and Steurs 2003: 22). As noted above, private contractors with contracts which reward employment results have incentives to 'park' customers, rather than going through procedures which will generate information about participation failures.

To some extent, this problem can be countered by designing contracts in which private providers must go through specified procedures, and where rewards are weighted to ensure that all claimants in the cohort receive services (as in 'accelerator' models – see Grubb 2004). However, as in the British case, there remains a potential problem with the private providers' incentives to supply information. If the private provider is dependent on the recipient's cooperation to achieve its targets, it has an incentive to raise the threat of sanctions and seek to enforce obligations to cooperate. However, from the perspective of the benefit paying authority, this incentive may be too strong to produce reliable information. The public authority needs to ensure that any denial of benefits is legal, and this may make it reluctant to act on information supplied by providers (Sol and Hoogtanders 2005: 159).

At the same time, there is evidence that Dutch municipalities use some of the 'diversion' strategies identified by Diller in the US states. McGonigal and van Paridon (2008) examine the changes in administration that occurred in Rotterdam and

The Hague between 2003 and 2006. They found that there has been an increased emphasis on administrative measures to reduce fraud, leading in particular to the denial of more claims at the initiation stage. In Rotterdam, new claimants were visited, whereas previously initial claims handling had been left to the CWI. In The Hague, there was a significant increase in the proportion of initial claims being denied. They suggest that the focus of administration had shifted, from helping people to find jobs to reducing the numbers dependent on social assistance (McGonigal and van Paridon 2008: 11, 16).

Conclusion

The argument of the paper is that institutional arrangements create distinctive opportunities and constraints on how welfare-to-work programmes can be implemented, and these in turn shape the orientation of the programmes towards compliance or productivity. One mode of implementation relies on rules and regulations. This 'legal bureaucratic' mode can be used to 'script' contacts between the administration and the benefit recipient, and thereby establish a strong emphasis on compliance with rules. It is possible to use this method in implementing welfare-to-work schemes, but it is not the dominant mode.

This paper has shown that there are several methods for shaping the incentive structure of the administration to promote welfare-to-work. One is to adopt a performance management scheme to reward administrators for achieving desired results. These results may be outputs (e.g. numbers participating in programmes) or outcomes (numbers entering employment). The rewards at stake may be personal or organisational and will depend on budgetary arrangements. These arrangements may allow (anticipated) benefit savings to be invested in increased provision of welfare-to-work services, but they may also be invested in other types of administrative effort, notably 'diversion'.

One might imagine politicians choosing from the menu of incentive designs to arrive at the arrangement that best suits their goals, including the relative weighting of productivity and compliance. However, the three country cases discussed here suggest that politicians do not have a free choice from the menu. The most powerful compliance-oriented budgetary arrangement is to give a lower level of government a block grant out of which to pay for benefits, work schemes and other administrative costs. This arrangement has been established in the US and in Dutch social assistance, but not in the UK. There has been occasional discussion of the possibility of devolving social security budgets to local level, but this is blocked. It requires appropriate political conditions: in the US, the states' rights movement; in the Netherlands, the marginality of social assistance created by the wide coverage of the insurance system.

One of the most striking features of the case studies is that performance management schemes very often reward employment outcomes, rather than reductions in caseloads or exits from benefits. This creates a productive, rather than a compliance orientation, because sanctions and denials of benefit are not rewarded unless they contribute to an entry into recorded employment. The most extreme case of an employment results-oriented system was the one in operation in Dutch social insurance, where the emphasis on results meant that cream-skimming and parking was tolerated. The reasons why Dutch politicians chose this strongly productive orientation can be seen

to lie in their conflict with the social partners, which they have sought to manage by promoting private provision.

The UK has also adopted performance management, but without such a strong bias towards privatisation. Indeed there are examples where the public provider competes with the private sector on a more-or-less level playing field. This suggests that politicians had a relatively free hand to design an incentive structure that met their goals, without being constrained by other political conflicts. However, the government's studied neutrality regarding public and private provision and declared focus on 'what works' produced its own constraints. It was keen to legitimate its approach to provision by ensuring that programmes were properly evaluated, putting welfare-to-work under the sustained scrutiny of the evaluation research community. The emphasis on evaluation indicates that there is significant uncertainty about the relationship between policy settings and outcomes, which, according to delegation theory, points to the desirability of granting discretion to bureaucrats. The argument here is that the presence of an evaluation community constrains the exercise of discretion as well as justifying it. Evaluation imposes a strong productivity-orientation which is reflected in the design of performance management systems.

The evaluation research undertaken in the UK was strongly influenced by its US counterpart, which had thrived under the waiver programmes that operated prior to PRWORA. The requirement on states to evaluate systematically the outcomes of welfare-to-work measures allowed under 'waivers' of federal rules and requirements can be seen as a control mechanism by the federal technocracy, which promoted technical policy analysis. PRWORA changed all that, creating a structure where the states have strong incentives to adopt a compliance-orientation and where they are relatively unconstrained by legal communications from the federal government which have previously constituted basic welfare rights.

In summary, the USA has turned out to have the institutional potential for a strongly compliance-oriented system, while both the UK and the Netherlands have tended towards more productivity-oriented arrangements. Thus, to some extent, the received view on the contrast between Europe and the USA is upheld. However, it is also clear that European countries are not institutionally immune to compliance-oriented welfare-to-work policies, although the institutional opportunities and constraints are quite different in the UK and the Netherlands.

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