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Extraordinary housework: women and claims for sickness benefit in the early twentieth century

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Introduction

In the case of men, enforced idleness often becomes irksome and leads to a return to work, whereas the possibility of doing ordinary housework, or, at appropriate seasons, extraordinary housework, may induce women to stay on the funds for longer ¹

This statement comes from a 1914 inquiry into ‘excessive’ claims for sickness benefit in the very early years of the first UK national health insurance scheme. The inquiry was set up to investigate why claims for the benefit were so much higher than had been anticipated and, in particular, why claims by women were so high. The statement encapsulates some of the thinking at the time: that, although the sickness benefit scheme was intended for both men and women, women were unusual cases and their claims for benefit were to be treated with suspicion. Mistrust of claimants of sickness and incapacity benefits continued throughout the twentieth century and up to the present day. Recent government policy on incapacity benefits in the UK has concentrated on increasing the intensity of mechanisms to establish whether or not

people are genuinely incapable of work. The introduction of Employment and Support Allowance in 2008 narrowed the eligibility rules and introduced new tough tests so that large proportions of claimants are found to be fit for work. This has been accompanied, on the one hand, by government rhetoric that people should be 'saved' from the dependency of claiming incapacity benefits and, on the other, by a flood of media allegations that unsuccessful claimants are workshy scroungers. At the same time critics have argued that the mechanisms for assessing claimants are unfair.² Employment and Support Allowance is based on a combination of insurance based and means-tested benefits but its historical roots lie in the national insurance scheme devised by William Beveridge and implemented in the National Insurance Act of 1946. In turn, Beveridge's system of national insurance was built on the first UK national health insurance scheme, introduced in 1911. Although there were many changes in the structure and governance of the 1946 scheme, the principle that people should qualify for sickness benefits on the basis of a GP certificate of 'incapacity for work' was established in 1911.

The principle of national insurance benefits was to insure against a loss of earnings by waged workers. It was assumed that these workers were usually adult males, while children and married women were normally dependent on the male wage. Welfare state analysts have highlighted the weaknesses of this 'male breadwinner model' in social insurance schemes, which disadvantage people with disrupted patterns of earned income, usually women.³ Critics argue that this model took for granted married women's role as unpaid carers, leading to their dependence on men, to poverty and recourse to means-tested benefits in times of financial difficulty. While recognising the disproportionate effect of such schemes on many

women, there is often little discussion in the welfare state literature of the role of social insurance in protecting the income of women as workers in their own right. Gender and labour historians, on the other hand, have looked in more detail at women's participation in the paid labour market in the early twentieth century.⁴ In 1911, although many women were dependent on men, others, particularly working-class women, also participated in the paid labour market and, with the introduction of national health insurance, became eligible for benefits in their own right. Women's employment in the early twentieth century was higher than some commentators might expect: in 1911, for instance, around 37 per cent of women of working age were in employment, constituting around thirty per cent of the workforce.⁵ These figures disguise a considerable variation between unmarried and married women and between women at different stages of the lifecourse: 74 per cent of eighteen to nineteen year old women were in work, while only 23 per cent of forty-five to fifty-four year olds were.⁶ The data are also problematic, being based on occupation information in the census returns, which conceals a considerable amount of casual, informal and seasonal work.⁷ Such work was, never-the-less, crucial to the household budget.⁸

The 1911 national insurance scheme was clearly based on a male breadwinner model, reflecting societal norms at the time, namely that the male breadwinning family was a 'symbol of working class respectability'.⁹ In practice, though, for many households this was 'an ideal rather than a reality'.¹⁰ Although the male breadwinner model was a powerful symbol, the problems associated with using it as a basis of welfare provision was recognised in comments on some of the provisions of the

1911 Act at the time.¹¹ While much of the writing about the weaknesses of the 1911 scheme has focussed on the way in which it excluded women,¹² it is those women workers who were *included* in the scheme that are the focus of this article.

The article uses two sources of contemporary debate about the scheme to consider the way in which insured women were treated in their claims for benefit: both in relation to whether their status as ‘workers’ was questioned and to whether their claims to ill health were doubted. In an attempt to move beyond the political debate about the scheme and to look instead at its day-to-day implementation, the analysis is based on evidence presented to an inquiry into the scheme in 1914 and a series of reports of appeals regarding disputes about sickness benefits between 1914 and 1920.¹³ Before moving on to an analysis of this material, the article provides a brief outline of 1911 Act and these sources.

The 1911 National Insurance Act

The health insurance scheme introduced by the National Insurance Act 1911 was a compulsory scheme, whereby those, aged between sixteen and seventy, earning less than £160 a year, were required to make weekly contributions, supplemented by contributions by their employers and the state. In return they would receive sickness benefit for up to twenty-six weeks of certified sickness, followed by a less generous ‘disablement benefit’ if their sickness continued beyond twenty-six weeks. A lump sum maternity payment was also made to insured women and the wives of insured men. The scheme provided members with the right to treatment by a ‘panel’ doctor who was also responsible for providing the initial medical certification for sickness benefits. In most cases the scheme did not include hospital treatment.

Although it was a state scheme, the day-to-day administration was carried out by 'approved societies': friendly societies, trade unions and industrial societies, which were also able to provide additional benefits if they chose to do so. In 1914, 2608 societies had been approved to run the scheme, with memberships ranging from under a hundred to hundreds of thousands.¹⁴ When the scheme began in 1912, there were estimated to be 11.5 million members, of which 3.68 million were women.¹⁵

The National Insurance Act explicitly applied to 'all persons of either sex',¹⁶ however it contained rules which excluded many married women from the scheme. Married women were only entitled to be full members of the scheme if they could prove that they had worked before marriage and continued to work afterwards.¹⁷ Other married women could be 'voluntary contributors' and entitled to lower rates of benefit. Following a male breadwinner model of social insurance, the assumption, therefore, was that married women were dependents of their husbands unless they could prove otherwise. Recognition of married women's roles as workers was restricted to certain specific cases and they had to meet added conditions to prove their status. The rule about evidence of work before and after marriage is likely to have been particularly harsh for women whose employment was irregular or seasonal. Single women, on the other hand, were treated in the same way as men, although they paid lower contributions and thus were entitled to lower rates of benefit.

The 1914 report

Within a year of the implementation of the 1911 Act, concern was growing regarding the number of claims for sickness benefit, particularly those by women, which were proving to far exceed those predicted by the architects of the scheme. A committee was set up to investigate these 'excessive claims'. The committee consisted of representatives of the Insurance Commission, medical professionals, approved societies and trade unions. It met for seven months, hearing oral evidence from ninety-four witnesses and considering 1,500 pages of written evidence, from representatives of approved societies, the medical profession, local insurance committees and other experts. Its remit was to consider: 'whether the claims made upon the [insurance] funds ... were in excess of the claims, which under a proper system of administration, should have been made upon and allowed by them'.¹⁸

The concern with excessive claims was based on the actuarial assumptions underpinning the scheme, which had been made on the basis of claims, mainly by men, to the Manchester Unity during the late 1890s.¹⁹ The committee was aware that these assumptions may have been misplaced given the wide range of societies operating the new scheme and the considerable variation between societies based on their members and the types of occupations involved. While some societies were 'representative' of the insured population, others were associated with particular industries, or geographic areas, or had religious or temperance affiliations, while still others: 'appear to have had a peculiar attraction for persons of a particular occupation or habit of mind'.²⁰

The report recognised that this variation led to different definitions of 'incapable of work': for example, 'in relation to a man engaged in strenuous and exacting work

such as coal mining on the one hand and an ordinary member of a society largely composed of sedentary workers on the other'.²¹ It noted the discretion which societies had to make these decisions, although bound by law, as long as they were not 'capriciously' accepting or rejecting claims. However, the committee was also concerned with the 'proper administration of the scheme' and sought to investigate whether recommendations could be made to improve it by cutting out possible fraud or ineffectiveness in its day-to-day administration. The committee had a particular concern with claims by women and whether these were being settled appropriately. Its report provided detailed recommendations, including the creation of a better definition of the meaning of 'incapacity for work', clarity about payments in cases of pregnancy, improved monitoring of sickness certificates, improved procedures for sick visitors and the introduction of a system of medical referees to consider uncertain cases of alleged incapacity.²² A dissenting memorandum was included in the report, added by Mary Macarthur, a trade unionist activist who had pursued women workers' rights in a range of settings, and who represented the Women's Trade Union League on the committee.²³ Mary Macarthur strongly opposed any aspect of the conclusions which doubted women's claims or their ability to understand the insurance principle. Her view was that any 'excess' claims by women were entirely the result of women's poor health, poverty and difficult employment conditions. Mary Macarthur's perspective stressed the structural mechanisms behind women's claims for sickness benefits and her view of women as workers is useful in providing a contrast to some other views in the report. The value of using the report and its appendices as a source for investigating the attitudes to the scheme at the

time is that it provides a wealth of detail from a range of stakeholders at this early stage of its implementation.

Appeals to the Insurance Commissioners

The second source of material for this article is a collection of reports of decisions by the Insurance Commissioners on appeals relating to sickness benefits. The 1911 National Insurance Act stated that any dispute between members and approved societies should be dealt with internally according to the rules of the society but that appeals could be made (by either party) to the Insurance Commissioners.²⁴ Over the first ten years or so of the scheme, 142 appeal cases reached the Commissioners and details of these cases were reported in full.²⁵ After 1920, responsibility for appeals was passed to the newly formed Ministry of Health in England and Wales and the Board of Health in Scotland. Information about claimants in the reports is patchy - it is usually possible to determine their gender (70 per cent were men while 30 per cent were women) but not always possible to identify their age, occupation, health problem or marital status. There is a gender difference in the proportion of appeals about incapacity for work: 51 per cent of women's disputes were about incapacity for work, while only 34 per cent of men's were, with an equal proportion of men's cases concerning technical matters (for example, payment of benefit while a member was in hospital or disputes about contribution records). It is difficult to make any wider claims about the meaning of these figures, given the low numbers of total appeals and the unknown intervening issues which would lead to (or prevent) a case ending up at the Commissioners.

It is clear, from their small number, that these cases were a tiny proportion of the total number of disputes about sickness benefit in this period. The format of the first level internal appeal procedures varied considerably from one approved society to another but usually involved some form of review of the case by ‘umpires’ or ‘adjudicators’. The diversity of appeal procedures and the difficulties of making it through them was commented on in the 1914 report and also emphasised by Mary Mcarthur in her dissenting memorandum.²⁶ Those claimants who had the tenacity to continue to appeal as far as the Commissioners were clearly in the minority. This is not to suggest that the cases heard by the Commissioners were necessarily the most difficult, the most convincing, or the most desperate. More recent research on access to justice suggests that the mechanisms that enable some people and not others to engage in dispute mechanisms are complex but that information and legal advice makes a difference.²⁷ One striking aspect of the cases that did reach the Commissioners was that most appellants had legal representation of some kind. It is not clear how this was funded but it is probable that representation was provided either through trade unions or on a voluntary basis through ‘poor man’s lawyers’.²⁸ We know little of the routes that led these individual sickness benefit claimants to this legal advice, although it is apparent from some cases that they had been assisted by their doctors, family members or employers. So, while we must recognise that these cases cannot be representative of the wider body of decisions about sickness benefit, the diversity of the cases, both in terms of their content and their protagonists (insofar as this information is available) suggests that they were not systematically atypical.

The views of the claimants are largely absent from these reports. The narratives of their experiences were moulded by the appeal process, firstly through the legal representatives whose role was to present their case within a legalistic framework and secondly, through the minds of the Commissioners whose reports contain the versions of the evidence which they regarded as important.²⁹ Nevertheless the cases have the advantage of providing considerable detail of the background to the appeals and, for the purposes of this article, an insight into the thinking of the decision makers at various levels.

Women as workers

The whole tenor of the 1914 report was that women were different from men. The report's remit to look at 'excessive claims' had been shaped by the concern that too many women were claiming sickness benefits. The main focus of the report was on excessive claims, rather than on claimants' status as workers, accepting therefore that anyone who was a member of the scheme was a 'worker' in the full sense of the term. Some of the discussion of women's 'excessive claims' showed gendered assumptions about women's role in the labour market. Although the committee tried hard to avoid generalisations, it distinguished between 'a man in good regular employment', from 'a woman in low-paid employment who has never thought about sickness insurance'.³⁰ The committee believed that women were more likely to be new to the principle of insurance and therefore to be tempted to claim in order to get back the money that they had paid in. Despite this, the committee found little evidence to support claims of a high level of 'fraud' in the system, but more likely a

temptation to maximise benefits by over-claiming, particularly by extending the amount of time on sickness benefit. The report noted that payments of sickness benefit were higher in proportion to many women's wages than payments to men as a proportion of their wages (although failing to note that women also paid disproportionately higher contributions).³¹ Thus it was implied that it was financially more worthwhile for women to claim to be sick. It also noted that men were more likely to have dependents relying on their wages while women 'especially domestic servants of the poorer classes' had only themselves to support.³² This view failed to take account of the crucial contribution of young women workers' wages to wider family finances, undermining their status as genuine workers.³³

Mary Macarthur's dissenting memorandum dismissed these assumptions, arguing instead that the early experience of the Act '[revealed] the condition of the mass of working women, and the effect which their low wages have upon their health – questions which, up until now, have been almost totally neglected ... the Act has shown the country what poverty really means.'³⁴ Here Mary Macarthur emphasised women's low wages and poor working conditions, representing a view of women as workers with an important contribution to make to the household income.

In the reports of appeals there are several cases which called into question a woman's status as a worker, perhaps reflecting distrust of working women by the approved societies. Some of these concerned married women, while others concerned single women and their role as contributors to the household income. Married women were only entitled to be members of the scheme if they could establish their status as workers.

The complexity of this rule is illustrated by Case 49 which eventually ended up at the court of appeal.³⁵ This case, which concerned whether or not a married woman was 'employed', included considerable debate by the appeal court judges as to the meaning and interpretation of the legislation. In the final appeal court decision (which went against the claimant) the judges expressed 'regret' that the Act was worded in such a way as to distinguish between a married woman who had a contract of employment and a married woman who was 'ordinarily employed' but not actually in work at the time of a claim, thus requiring married women to jump through an additional hoop to establish their status as workers. This suggests that the Commissioners and judges in this case were at pains to assume that women, who were clearly working by any common sense understanding of that term, should be treated as 'workers', but that they were constrained by the wording of the legislation.

Other cases in the appeal papers made reference to women's status as workers. Case 5 concerned a forty-five year old woman who was married but separated from her husband.³⁶ According to the case record, it appears that she did not have a history of paid employment but had recently started working after her husband's desertion. The decision by the society to refuse her benefit was based upon several grounds: that she had 'wilfully' misstated the facts of her case (ie that her husband had left her); that she had been observed carrying out household duties; that she had been found fit for work; and that her 'right to be insured was very doubtful'.³⁷ The Commissioners decided that different matters were under question, focusing solely on her capacity for work and her alleged failure to inform the society of her existing medical condition. The question of her marital status and her alleged

fraud in relation to her work history appeared by this time to have been settled between the claimant's solicitor and the society.

The case is interesting because it shows that the approved society made several assumptions about the claimant's status as a worker, implying that her whole case was fraudulent in its desire to refuse her benefit. It was only when the Commissioners insisted on testing the relevant legal arguments that her alleged marital status, her apparent fraudulent work status and the question of housework were removed from the equation. By the time of the appeal, the claimant had a solicitor representing her. Although we know nothing of the solicitor's role in the case, we can surmise that he enabled her to focus her case on the relevant legal arguments. The case appears to provide insight into the decision making process at the time, that approved societies may have been making assumptions about the working status of married women and perhaps especially that of 'deserted' women. The 1911 Act did include special provisions for deserted women, treating them effectively in the same way as widows.³⁸ However, Case 5 seems to indicate that the attitude of the approved societies to such women was influenced by the negativity with which they were sometimes viewed in society, and an expectation that it was her husband's responsibility to maintain her.³⁹

Case 84 concerned the rule against married women being entitled to benefit unless they were in work.⁴⁰ In this case the woman was a worker and a member in her own right but, at the time of her marriage, was unable to work because of health problems. She was disqualified from benefit because she was not in work at the time of her marriage. The Commissioners held that this was a legally correct decision, based on the case law established by the Court of Appeal case, discussed above.

However, it regretted the formation of the rule which was to prevent benefit from being paid to 'a person whose normal occupation was employment and who was temporarily prevented from continuing to be employed after marriage solely by reason her state of health'.⁴¹ This case illustrates the Commissioners' support of the principle of a working married woman, but, as with the Court of Appeal case, they were constrained by the legislation.

Case 23 was another one where the approved society appeared to have decided at an early stage that the claimant was a malingerer and therefore assumed that every aspect of her case was fraudulent.⁴² The claimant in this case was an unmarried woman, who lived with her mother and whose earnings were meagre and irregular. These aspects of her claim were not alluded to again but may well have formed the background to the society's view of her primarily as not in the paid labour market. The case concentrated instead on the evidence supporting her claim to incapacity and the society's view that the claimant was a malingerer and suffering, if anything, from hysteria: 'Our opinion is that this is an hysterical subject and, like the suffragettes, she is going to get what she wants'.⁴³ The Commissioners based their decision solely upon the medical evidence provided by each side, and, in the end they came down on the side of the claimant, whose 'lamentable condition of health must have been obvious to any person who saw her'.⁴⁴ It is not clear why the society felt the need to refer to the suffragettes in its statement, but this comment was made in February 1914 when the militant suffragette campaign was still in full flow. One interpretation could be that the society was hostile to the suffragettes' cause (or means) and to women's position in the public sphere in general, and saw efforts by women to improve their position in society as a sign of trouble making.

Case 51 also brought into question a woman's status as a worker.⁴⁵ In this case a single woman was in hospital and the question concerned whether her parents could be considered to be her dependents and thus entitled to her benefits. There are several such cases, illustrating the importance of young women's wages to the household income, another role for women's work which has often been overlooked.⁴⁶ Case 86 concerned a widow whose daughter was in an asylum: could the mother be considered to be a dependent and therefore entitled to her daughter's sickness benefit?⁴⁷ The Commissioners decided that she could. Another concerned a single woman who lived with friends and argued that her earnings contributed to the household income, as her relationship was similar to that of an adopted daughter. In this case the Commissioners agreed that her host family were 'dependents' and so entitled to benefit (Case 75).⁴⁸ In these and other cases like them, the Commissioners emphasised that the relationship of dependency was a 'question of fact' which had to be considered in every case, rather than any assumed relationship between parents and their adult children.

These cases suggest that the Commissioners, in their quasi-legal role as arbiters in disputed claims, treated women's claims for benefit in gender-neutral terms, treating women as workers in their own right and were concerned only with discovering the 'facts' of the case. However the detail in some of the disputed cases also suggests that societies did not always do this, relying instead on assumptions about women and using a range of types of hearsay evidence to make decisions about their status. The way in which this evidence was used can also be found more clearly in the disputes about women's [in]capacity for work and in the difficult question of how this could best be established.

Women's claims and the definition of incapacity for work

All sickness and incapacity benefits require some of definition of 'incapacity' or 'work limitation' and mechanisms to assess claims. Even today different countries do this in different ways: some use a medical model of disability and assess claimants according to their level of impairment, while others consider wider social elements which take account of the real-world barriers that people with disabilities and health problems face, reflecting a social model of disability.⁴⁹ The history of sickness benefits in the UK shows frequent attempts by policy makers to find better and more 'objective' methods of assessment. The problem of how to define incapacity for work was highlighted in the 1914 report and it considered at length the difficulty of deciding whether the test of incapacity should be based on the claimant's 'usual' occupation or whether people should be expected to consider alternative work.⁵⁰ The report was particularly concerned with how to assess women's capacity for work but concluded that the main reason for the excess claims by women was that usually they were genuinely ill and that it was only the introduction of the insurance scheme that had brought the levels of this illness to light. Mary Macarthur's dissenting memorandum stressed that this was the only matter to be considered seriously. Noting that many low waged women had not been voluntary members of sickness schemes before 1911, she explained:

What was the use of a doctor telling a woman that she was incapable of work, and ought to stay at home, when he knew that she was uninsured and had to earn her children's bread from day to day? Now the doctor feels free to certify

that the woman must in the public interest, as well as in the interest of her own recovery, regard herself as incapable of work ⁵¹

Macarthur was arguing that there had been no variation in the prevalence or severity of women's illnesses or an increase in malingering since the introduction of the scheme, but that for the first time these women could afford to be ill. A major concern of the main report was how to deal with women whose doctors had certified them as incapable of work but who were suspected of continuing to carry out housework, as the quotation at the start of this article illustrates. This concern that women would be tempted to claim sickness benefit in order to get on with other domestic tasks can be seen in the appendices to the 1914 report. Mr Sanderson of the Amalgamated Association of Card, Blowing and Ring Room Operatives, described how he saw the problem:

There is an impression among women that if they are incapable of work in the mill they are entitled to benefit. They seem to have the opinion that although they can do work in the home – say where there are four or five children and there is considerable work to be done – they are still entitled to benefit.⁵²

When questioned later about his view of the meaning of incapacity for work, Mr Sanderson argued that the definition ought to be 'incapable of doing usual occupation' and that this would apply to men as well as women. However, he believed that there should be a special form for women which should also state that she was incapable of doing housework.⁵³ This view clearly takes a gendered

approach, where men were to be assessed on their capacity for paid work, while women were subject to a tougher test which recognised what later feminists came to label as ‘the second shift’.⁵⁴ Mary Macarthur had already identified this phenomenon in 1914, as ‘the treble strain’, adding child-bearing to the ‘strains’ of ‘wage earning and household drudgery’.⁵⁵ The main 1914 report recognised the difficulties of using housework as evidence of capacity for work but concluded that societies ‘should educate their women members to appreciate the necessity of abstaining from prohibited housework’ not only because it will aid their recovery but also ‘to have a deterrent effect [on claiming benefit]’.⁵⁶ It did not provide any advice on who would do the housework instead.

The appeals cases provide examples of the use by societies of ability to perform housework as evidence of capacity for work. The Commissioners believed that the questions which they had to address were ones of evidence and ‘fact’: ie whether or not the claimants were incapable of work for the relevant period. The legislation itself is neutral in this sense. There is nothing in the 1911 Act to say that the question of ‘incapacity for work’ should be dealt with differently according to gender. However, by reading the cases more closely, we can see that there were unwritten assumptions about the different expectations of men and women. Case 5 referred to the woman being observed ‘crushing salt’, while Case 2 concerned a woman observed ‘carrying coals’.⁵⁷ In Case 39, the society’s decision to refuse benefit was based on evidence by a sick visitor who had visited the claimant’s home and ‘raised a suspicion in [the superintendent’s] mind that [she] was doing housework’.⁵⁸ The Commissioners upheld the claimant’s case on the grounds that, ‘even if she had been engaged in housework (of which there really was no evidence

whatsoever) ... it does not follow that she was not incapable of work'.⁵⁹ The Commissioners' scepticism of sick visitors' evidence is also apparent in Case 110.⁶⁰ This case concerned a woman who had claimed sickness benefit and then disablement benefit. Her benefit was stopped after a sick visitor observed that she was 'doing her own shopping and light household duties'.⁶¹ The Commissioners were critical of the use of the sick visitor's evidence, preferring the evidence of the GP and the report by the medical referee and allowed the appeal:

We do not wish to be understood as suggesting that the conclusions of a sick visitor necessarily require confirmatory medical evidence in all cases. There may be cases in which the evidence of capacity obtained by a sick visitor is so strong as to justify a Society in ignoring a medical certificate. In the present case however the evidence of the sick visitor is so slight that in itself no conclusion can be based on it.⁶²

These cases do not in themselves constitute an argument that the performance of household duties was routinely used to invalidate women's claims for sickness benefit. However, they do suggest that it was common for approved societies to use the evidence of sick visitors to question women's claims. In the 'housework' cases the Commissioners did not doubt the societies' right to consider evidence of inappropriate household activities but they often questioned the status of that evidence. The Commissioners tended to prefer the evidence of 'medical men', with a strong emphasis on societies' requirement to weigh up medical evidence from the family doctors against any conflicting evidence from sick visitors or medical referees.

This can be illustrated by Case 122 where it was the claimant who attempted to use her *inability* to carry out household duties to support her claim, providing evidence from a niece who helped her with the housework.⁶³ In this case the Commissioners dismissed this evidence in favour of ‘medical’ evidence which supported the society’s view that she was fit for work.

The Commissioners were not entirely gender neutral. Other decisions show that a claimant’s gender was relevant to the Commissioners’ view of what kind of work a claimant might be expected to do. So, in considering whether a claimant might be able to do ‘light work’, in the case of women, they refer frequently to ‘light housework’, while with men, this is more likely to be work as a tailor, caretaker or messenger (Case 74⁶⁴), the work of a ‘general man in a grocer’s shop’ or clerical work (Case 140⁶⁵). These different expectations of women and men probably reflected their view of gendered differences in the labour market opportunities at the time. While this may well have been a realistic observation, it never-the-less shows that considerations of ‘capacity for work’ took account of social differences which were wider than a simple medical assessment of impairment.

Although it is difficult to make direct comparisons between cases, it is useful to look at Case 82, which concerned a fifty-six year old male former miner who had ‘lumbago and rheumatism’.⁶⁶ The society and the Commissioners agreed that he was severely restricted in the work that he could do and would only be able to do ‘light work’ from home. Since the Commissioners could not envisage what work this might be, they concluded that he was incapable of work. On the other hand, in Case 129, which concerned a sixty-eight year old woman who was unable to continue in her former work as a nurse because of ‘rheumatoid arthritis’, the Commissioners felt

that she 'could do various forms of remunerative work such as light housework, a little cooking or as a needlewoman'.⁶⁷ Although the medical circumstances of these two claimants may not be comparable, it is notable that the Commissioners did not consider light housework as an option for the man.

While the issue of housework was only raised in women's cases, similar types of evidence might be used to prevent men from successfully claiming. The 1914 report gave the example of a man who 'beguiled the tedium of his leisure by tending his pigs' while claiming benefit, the implication being that 'tending pigs' was evidence of capacity for work⁶⁸ and in an appeal case (Case 17) a society attempted to use evidence of 'walking about' against a man's claim of incapacity.⁶⁹ However, as we can see from the quotation at the start of this article, women were considered to be particularly susceptible to the joys of housework.

Conclusion

The evidence from these two documentary sources on the early development of the 1911 sickness insurance scheme suggests that, despite the apparently gender-neutral status of the scheme, approved societies made gendered assumptions about women's relationship to the labour market (particularly in the case of married women) and used assumptions about women's domestic responsibilities in their search for evidence about capacity for work. The appeals cases, although hardly representative of the much wider claiming environment, provide a useful lens on the day-to-day workings of the scheme. They show us that, despite cumbersome mechanisms available to them, some of the poorest and most

disadvantaged people managed to challenge decisions, bringing along with them legal representation and medical evidence to support their cases.

The detail in these cases gives us information about some of the practices of societies' decision-making processes and confirm the findings of more recent work on social security, which show that decision-makers used their own informal assumptions about claimants, including assessments of deservingness, to come to conclusions about benefit entitlement.⁷⁰ These street-level decisions were likely to be affected by gendered beliefs about the role of women and work and the underlying suspicion of married women workers as deviant. At the appeal level, those hearing the cases tried to make objective assessments of the evidence in front of them, dismissing hearsay evidence and tangential arguments and doing their best to stick to the legal requirements of the scheme. Again this confirms findings from research on more recent versions of social security appeals, which show appeal bodies making efforts to legalise decision-making and favouring more formal types of evidence.⁷¹ As Mashaw argues, this is not to suggest that those hearing appeals make better decisions, rather, it reflects their different role in the adjudication process, including their access to more detailed evidence and the different values inherent in a legalised process. Bureaucrats, on the other hand, are required to make many more decisions in an efficient and cost-effective manner.⁷²

In this sense, the difference in approach between the frontline decision makers and the appeals process is unsurprising. The approved societies had a financial interest in not paying out more benefits than necessary, which could have emphasised unsympathetic decision making. However they also had an interest in retaining members in their scheme, which, as noted in the 1914 report, could also

have led to over-generous decision making. ⁷³ While the decision makers at the appeal level did not have a direct financial interest in minimising benefits payments, they did have an interest in ensuring that the sickness benefit system was not abused, and regarded their role as providing advice to approved societies:

societies will welcome a series of Reports which may serve as precedents for their guidance in the future, and may at the same time illustrate the principles and procedure which should govern the decision of disputes between societies and their members.⁷⁴

What these sources reveal is that, although the legislation was gender-neutral (except in regard to married women), it is likely that day-to-day decision making involved more complex ideas about the roles of men and women in the labour market. It is also likely that questions of 'incapacity for work' involved gendered assumptions about what men and women could be expected to do. In particular the obsession with women's household responsibilities appears to have been important in some decisions about women's capacity for work.

The question of women and housework continued throughout the early twentieth century and into the 1970s. Whiteside argues that the issue became particularly dominant during the 1930s, citing the popular press describing married women as the worst 'benefit spongers'.⁷⁵ Later variations of sickness benefits included the notorious 'household duties test' (mirroring Sanderson's suggestion from 1914) in the Housewives Non-contributory Invalidity Pension. This short-lived benefit was introduced in 1975 but was consigned to history by a European equalities directive in 1984. Since then benefits have been technically gender-neutral, although recent debate on incapacity benefits has dwelt on the increasing

claims by women, especially lone parents, and has been described as ‘the feminisation of incapacity benefit’.⁷⁶

The appeals papers and the appendices to the 1914 report give us an insight into the day-to-day decision making processes which cannot be found in the legislation alone or in the political debates about the national insurance scheme. Although the voices of the claimants are still largely absent, it is clear that there were at least some people who did not accept negative decisions submissively, but who were willing and able to put considerable time and possibly financial resources into defending their claims. Further research might unearth archives which would give us more background to these everyday experiences.

¹ National Health Insurance Joint Committee, *National Health Insurance: Report of the Departmental Committee on Sickness Benefit Claims under the National Insurance Act. Cd. 7687* (London, HMSO, 1914), 14.

² Jackie Gulland, ‘Ticking Boxes: Understanding Decision Making in Employment and Support Allowance’, *Journal of Social Security Law*, 18/2 (2011), 69-86.

³ E.g. Mary Daly and Katherine Rake, *Gender and the Welfare State*, (Oxford, Polity, 2003); Ruth Lister, ‘She Has Other Duties’ - Women, Citizenship and Social Security’ in *Social Security and Social Change: New Challenges to the Beveridge Model*, ed. Sally Baldwin and Jane Falkingham (Hemel Hempstead, Harvester Wheatsheaf, 1994); Susan Pedersen, *Family, Dependence, and the Origins of the Welfare State: Britain and France, 1914-1945* (Cambridge, Cambridge University Press, 1993); Diane Sainsbury, *Gender, Equality and Welfare States* (Cambridge,

Cambridge University Press, 1996); Pat Thane, *Foundations of the Welfare State*, 2nd ed. (London, Longman, 1996).

⁴ E.g. Angelique Janssens, 'The Rise and Decline of the Male Breadwinner Family: An Overview of the Debate', *International Review of Social History*, 42, Supplement S5 (1997), 1-23.

⁵ Gisela Bock and Pat Thane, eds. *Maternity and Gender Policies: Women and the Rise of the European Welfare States 1880s-1950s* (London, Routledge, 1991), 16.

⁶ Pedersen, *Family, Dependence, and the Origins of the Welfare State*, 37.

⁷ *Ibid*, 39.

⁸ Elizabeth Roberts. *A Woman's Place: An Oral History of Working-Class Women 1890-1940* (Oxford, Blackwell, 1984), 136; Selina Todd, *Young Women, Work, and Family in England 1918-1950* (Oxford, Oxford University Press, 2005).

⁹ Sara Horrell and Jane Humphries, 'The Origins and Expansion of the Male Breadwinner Family: The Case of Nineteenth-Century Britain', *International Review of Social History*, 42, Supplement S5 (1997), 51.

¹⁰ Selina Todd, *Young Women, Work, and Family*, 226.

¹¹ Pat Thane, 'Visions of Gender in the Making of the British Welfare State: The Case of Women in the British Labour Party and Social Policy 1906-1945' in *Maternity and Gender Policies: Women and the Rise of the European Welfare States 1880s-1950s*, ed. Gisela Bock and Pat Thane (London, Routledge, 1991), 98.

¹² E.g. Pat Thane, 'The Making of National Insurance, 1911' *Journal of Poverty and Social Justice*, 19/3 (2011), 211-19.

¹³ *Report of the Departmental Committee on Sickness Benefit Claims*; National Health Insurance Commission (England). *Reports of Decisions on Appeals and Applications under Section 67 of the National Insurance Act 1911 and Section 27 of the National Insurance Act 1913 Cd. 7810*, (London, HMSO, 1915) [cases 1-24].

———. *Reports of Decisions on Appeals and Applications under Section 67 of the National Insurance Act 1911 and Section 27 of the National Insurance Act 1913 Part II Cd. 8040*. (London, HMSO, 1915) [cases 25-48].

———. *Reports of Decisions on Appeals and Applications under Section 67 of the National Insurance Act 1911 and Section 27 of the National Insurance Act 1913 Part III Cd. 8239*. (London, HMSO, 1916.) [cases 49-72].

———. *Reports of Decisions on Appeals and Applications under Section 67 of the National Insurance Act 1911 and Section 27 of the National Insurance Act 1913 Part IV Cd. 8474*. (London, HMSO, 1917) [cases 73-102].

———. *Reports of Decisions on Appeals and Applications under Section 67 of the National Insurance Act 1911 and Section 27 of the National Insurance Act 1913 Part V Cmd. 134*. (London, HMSO, 1919). [cases 103-142]. Hereafter references to the cases from these volumes will be referred to by case number alone.

¹⁴ *Report of the Departmental Committee on Sickness Benefit Claims*, 5.

¹⁵ Sir William Beveridge, *Social Insurance and Allied Services*, Cmd 6404. (London, HMSO, 1942), 25.

¹⁶ *National Insurance Act 1911*, s2.

¹⁷ *Ibid.*, s44.

¹⁸ *Report of the Departmental Committee on Sickness Benefit Claims*, 2.

¹⁹ *Ibid.*, 32.

²⁰ *Ibid.*, 5.

²¹ *Ibid.*, 6.

²² Sick visitors were employed by societies to visit and monitor claimants, or as Whiteside describes, to 'spy' on them. Noel Whiteside, 'Private Agencies for Public Purposes: Some New Perspectives on Policy Making in Health Insurance between the Wars', *Journal of Social Policy* 12/ 2 (1983), 177.

²³ *Ibid.*, 78; For further information on Mary Macarthur, see Angela John, 'Macarthur, Mary Reid (1880-1921)' *Oxford Dictionary of National Biography*, (Oxford, Oxford University Press, 2004).

²⁴ *National Insurance Act 1911*, s67.

²⁵ National Health Insurance Commission (England) *Reports of Decisions on Appeals and Applications Parts I-V*.

²⁶ *Report of the Departmental Committee on Sickness Benefit Claims*, 56 and 85.

²⁷ E.g. John Baldwin, Nicholas Wikeley and Richard Young, *Judging Social Security* (Oxford, Clarendon Press, 1992); Hazel Genn, *Paths to Justice: What People Think and Do About Going to Law* (Oxford, Hart, 1999).

²⁸ Tamara Goriely, 'Gratuitous Assistance to the 'Well-Dressed': Debating Civil Legal Aid in England and Wales from 1914 to 1939', *International Journal of the Legal Profession*, 13/1 (2006), 41 - 67.

²⁹ John Conley and Willam O'Barr, *Just Words: Law, Language and Power*. (Chicago, Chicago University Press, 1998).

³⁰ *Report of the Departmental Committee on Sickness Benefit Claims*, 10.

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- ³¹ See Thane, *The Making of National Insurance*.
- ³² *Report of the Departmental Committee on Sickness Benefit Claims*, 48.
- ³³ Selina Todd, 'Breadwinners and Dependants: Young Working-Class People in England, 1918-55', *International Review of Social History* 52/1 (2007), 57-87.
- ³⁴ *Ibid*, 86.
- ³⁵ Davidson v New Tabernacle (Old Street Congregational) Approved Society [1916] 2 K.B. 80.
- ³⁶ *Reports of Decisions on Appeals and Applications, Part I*.
- ³⁷ *Ibid.*, 13.
- ³⁸ *National Insurance Act 1911*, S44(14).
- ³⁹ Marjorie Levine-Clark, 'From 'Relief' to 'Justice and Protection': The Maintenance of Deserted Wives, British Masculinity and Imperial Citizenship, 1870-1920', *Gender and History*, 22/2 (2010), 302-21.
- ⁴⁰ *Reports of Decisions on Appeals and Applications, Part IV*.
- ⁴¹ *Ibid.*, 220.
- ⁴² *Reports of Decisions on Appeals and Applications, Part I*.
- ⁴³ *Ibid.*, 63.
- ⁴⁴ *Ibid.*, 63.
- ⁴⁵ *Reports of Decisions on Appeals and Applications, Part III*.
- ⁴⁶ Selina Todd, 'Breadwinners and Dependants'.
- ⁴⁷ *Reports of Decisions on Appeals and Applications, Part IV*.
- ⁴⁸ *Ibid*.

⁴⁹ Organisation for Economic Co-operation and Development (OECD), *Sickness, Disability and Work: Breaking the Barriers. A Synthesis of Findings across OECD Countries* (Paris, OECD, 2010).

⁵⁰ For further discussion of this, see Jackie Gulland, “Fitting Themselves to Become Wage-Earners”: Conditionality and Incapacity for Work in the Early 20th Century’, *Journal of Social Security Law*, 119/2 (2012), 51-70.

⁵¹ *Report of the Departmental Committee on Sickness Benefit Claims, Appendix*, 320.

⁵² *Ibid.*, 2.

⁵³ *Ibid.*, 13.

⁵⁴ Arlie Hochschild, *The Second Shift: working parents and the revolution at home* (London, Piatkus, 1989).

⁵⁵ *Report of the Departmental Committee on Sickness Benefit Claims*, 79.

⁵⁶ *Ibid.*, 73.

⁵⁷ *Reports of Decisions on Appeals and Applications, Part I.*

⁵⁸ *Reports of Decisions on Appeals and Applications, Part II*, 108-109.

⁵⁹ *Ibid.*

⁶⁰ *Reports of Decisions on Appeals and Applications, Part V.*

⁶¹ *Ibid.*, 265.

⁶² *Ibid.*, 266.

⁶³ *Reports of Decisions on Appeals and Applications, Part V.*

⁶⁴ *Reports of Decisions on Appeals and Applications, Part IV.*

⁶⁵ *Reports of Decisions on Appeals and Applications, Part V.*

⁶⁶ *Reports of Decisions on Appeals and Applications, Part IV.*

⁶⁷ *Reports of Decisions on Appeals and Applications, Part V.*

⁶⁸ *Report of the Departmental Committee on Sickness Benefit Claims*, 9.

⁶⁹ *Reports of Decisions on Appeals and Applications, Part I*.

⁷⁰ Eg Evelyn Brodtkin and Malay Majmunder, 'Administrative Exclusion: Organizations and the Hidden Costs of Welfare Claiming', *Journal of Public Administration Research and Theory*, 20/4 (2010), 827-48; Sharon Wright, 'The Street-Level Implementation of Unemployment Policy' in *Understanding Social Security*, ed. Jane Miller (Bristol, Policy Press, 2003).

⁷¹ E.g. Baldwin *et al*, *Judging Social Security*; Jerry Mashaw, *Bureaucratic Justice: Managing Social Security Disability Claims*, (New Haven, Yale University Press, 1983).

⁷² Mashaw, *Bureaucratic Justice*.

⁷³ *Report of the Departmental Committee on Sickness Benefit Claims*, 26.

⁷⁴ *Reports of Decisions on Appeals and Applications, Part I*, piii.

⁷⁵ Whiteside, 'Private Agencies for Public Purposes', 175

⁷⁶ Peter Kemp and Jacqueline Davidson, 'Gender Differences Amongst New Claimants for Incapacity Benefit', *Journal of Social Policy*, 38/4 (2009), 589-606.