

# ADM Chapter S5: JSA Higher-level sanctions

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## Introduction S5001 - S5005

S5001 This chapter gives guidance in respect of higher-level sanctions relating to new style JSA (hereafter referred to as JSA) and should be read with ADM Chapter S4 (JSA Sanctions). Guidance is provided on the meaning of terms and what considerations apply when determining what reduction period applies and the amount of the reduction.

S5002 A higher level sanction<sup>1</sup> is a reduction of JSA for a sanctionable failure by a claimant who

**1.** ceases paid work or loses pay through misconduct<sup>2</sup> (see S5071) **or**

**2.** for no good reason

**2.1** fails to comply with a requirement imposed by the Secretary of State under a work preparation requirement to undertake a work placement of a prescribed description<sup>3</sup> (see S5041et seq) **or**

**2.2** fails to comply with a requirement imposed by the Secretary of State under a work search requirement to apply for a particular vacancy for paid work<sup>4</sup> (see S5061) **or**

**2.3** fails to comply with a work availability requirement by not taking up an offer of paid work<sup>5</sup> (see S5061) **or**

**2.4** voluntarily ceases paid work or loses pay<sup>6</sup> (see S5081).

**Note:** See ADM Chapter S4: JSA Sanctions for the meaning of sanctionable failure. See ADM Chapter K2: Good reason for guidance on good reason and ADM Chapter R4: Claimant Responsibilities: Work Requirements for the meaning of paid work and guidance on work-related requirements and the imposition of requirements.

1 JS Act 95,s 6J; 2 s 6J(2)(d); 3 s 6J(2)(a); 4 s 6J(2)(b); 5 s 6J(2)(c); 6 s 6J(2)(d)

S5003 – S5005

## What is the reduction period S5006 - S5030

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### Sanctionable failure occurred on or after 27.11.19

S5006 Where the sanctionable failure is not a pre-claim failure (see S5021et seq), and the higher-level sanctionable failure occurred on or after 27.11.19, the reduction period is

**1.** 91 days where there has not been a previous higher-level sanctionable failure within 365 days of the current sanctionable failure **or**

**2.** 182 days if,

**2.1** within 365 days, but not 14 days, of the current sanctionable failure there is another higher-level sanctionable failure for which a 91 day reduction period was applied **or**

**2.2** within 14 days of the current sanctionable failure there is another higher-level sanctionable failure for which a 182 day reduction period was applied<sup>1</sup>.

**Note 1:** See ADM Chapter S4 for the meaning of sanctionable failure, current sanctionable failure, UC sanctionable failure and pre-claim failures and for the general principles on calculating reduction periods, when the reduction begins and ends and the amount of a reduction.

**Note 2:** The DM considers whether there has been another sanctionable failure within 14 days or 365 days of the current sanctionable failure to determine whether the higher-level sanction duration will be for 91 or 182 days. From 27.11.19 legislation<sup>1</sup> was amended to remove the 1095 day sanction which means the maximum duration of a single higher-level sanction can only ever be for 182 days. For guidance where the sanctionable failure occurred prior to 27.11.19 see S5008.

**Note 3:** In JSA all higher-level sanctions are for a fixed reduction period, there are no discretionary length sanctions.

**Note 4:** The TORP rules apply as normal, see guidance in ADM Chapter K4.

**Note 5:** Transitional provisions apply to end any 1095 day higher-level sanctions already imposed on an

award of JSA for failures that occurred prior to 27.11.19, and, since the date the reduction took effect, 182 days of that sanction has been served. See further guidance at S5009.

1 JSA Regs 13, reg 19

S5007 This means

**1.** a failure **must** be within 365 days of the previous most recent sanctionable failure in order to escalate to 182 days **or**

**2.** where there are two failures within 14 days of each other a sanction will be imposed for each failure, but the duration of the second sanction will not escalate but will be for the same duration as the previous sanction. See **Example 4**.

### **Example 1**

Jono claims JSA from 21.3.14 after leaving his job on 21.3.14. The DM determines he had no good reason for leaving his job. As this is the first higher-level failure a 91 day reduction period is applied.

### **Example 2**

On 2.7.14 Samara fails for no good reason to comply with a requirement to participate in the MWA scheme. This is her second higher level failure. A 91 day sanction was imposed for the previous failure on 28.4.14. As this is the second sanctionable failure within 365 days of the previous most recent sanctionable failure a 182 day reduction of period will apply to her JSA award.

### **Example 3**

Simon refuses without good reason to apply for a vacancy notified to him by his advisor. He is in receipt of JSA. The date of the failure is 20.4.15. Previous higher-level failures occurred on 22.2.14 and 10.10.14 which resulted in sanctions of 91 days and 182 days respectively. The sanction imposed for the sanctionable failure in question will be 1095 days. (See **Note 2** at K5006 and further guidance at S5008 regarding 1095 days sanctions for failures that occurred prior to 27.11.19).

### **Example 4**

On 3.6.19 Mufaza fails to take up, for no good reason, an offer of paid work which was notified to her by the work coach. As this is Mufaza's first higher-level sanctionable failure the reduction period will be for 91 days.

On 12.6.19 Mufaza refuses to apply for no good reason for a job notified to her by her work coach. This failure falls within 14 days of the most recent previous higher-level sanctionable failure on 3.6.19 so the reduction period will also be for 91 days.

On 1.11.19 Mufaza fails to apply for a job, without good reason, which was notified to her by the work coach. This is a higher-level sanctionable failure and falls within 365 days, but not 14 days, of the most recent previous higher-level sanctionable failure on 12.6.19. The reduction period will be for 182 days.

On 28.11.19 Mufaza again fails to apply for a job, without good reason, which was notified to her by the work coach. This is a higher-level sanctionable failure that occurred after 27.11.19 and falls within 365 days, but not 14 days, of the previous most recent higher-level sanctionable failure on 1.11.19. The reduction period will be for 182 days.

On 9.12.19 Mufaza fails to accept when offered a job without good reason which was notified to her by the work coach. This is a higher-level sanctionable failure that has occurred within 14 days of the previous most recent higher-level sanctionable failure on 28.11.19 for which a 182 day sanction was applied. The reduction period will also be for 182 days.

## **Sanctionable failure occurred prior to 27.11.19.**

S5008 Prior to 27.11.19, where a previous higher-level sanction had been imposed for 182 days or 1095 days within 365 days, but not 14 days, of the current higher-level sanctionable failure, a sanction could be imposed for 1095 days.

**Note:** From 27.11.19 legislation<sup>1</sup> was amended to remove 1095 days sanctions. See S5009 for guidance on how to end an existing 1095 day sanction.

*1 JSA Regs13, reg 19*

## **Ending an existing 1095 day sanction**

S5009 Where an award has already had a 1095 day sanction imposed for a higher-level sanctionable failure that occurred prior to 27.11.19, that sanction will terminate on either

- 1.** 27.11.19, where on that date, 182 days of that sanction has already been served **or**
- 2.** the date after 27.11.19 when 182 days of that sanction has been served.

**Note:** Any TORP will be adjusted to deduct any remaining days of the 1095 day sanction that has been terminated.

### **Example 1**

Lara had a 1095 day sanction applied to her award of JSA. This was applied from 6.5.19. The sanction terminates on 27.11.19 as Lara has already served 182 days of the 1095 day sanction on 27.11.19.

On 27.11.19 a total of 206 days of the 1095 day sanction has been served, therefore any TORP is reduced by 561 days.

### **Example 2**

James had a 1095 day sanction applied to his award of JSA. This was applied from 8.7.19. The sanction terminates on 5.1.20, the date when 182 days of the 1095 day sanction has been served.

Any TORP would reduce by 913 days.

S5010 - S5015

## **Failures determined out of sequence**

S5016 The period of the reduction will only escalate if there has been a previous sanctionable failure within 365 days, but not within 14 days, of the most recent previous higher-level sanctionable failure.

**Note 1:** A previous sanctionable failure means one where a decision to reduce benefit has been made. The date of the previous sanctionable failure is counted for the purposes of escalation but only where that sanctionable failure has led to a reduction period being imposed.

**Note 2:** For the definition of sanctionable failure, current sanctionable failure and detailed guidance on reduction periods see ADM Chapter S4 JSA Sanctions – General principles.

### **Example**

On 31.7.14 the DM is considering a case where Keiza failed to comply with a requirement to participate in the MWA scheme on 28.4.14 and decides a sanction is appropriate.

On checking, the DM finds there is a previous higher-level sanction recorded for a failure without good reason to apply for a job vacancy. This was decided on 30.6.14 for a failure that occurred on 26.6.14 and a 91 day reduction to Keiza's JSA was imposed.

The DM applies a 182 day sanction for the failure on 28.4.14 as there has been a previous higher-level sanctionable failure within 365 days which led to a reduction of JSA of 91 days.

S5017 – S5020

## Pre-claim failures

S5021 Where a failure (see **Note 2**) occurs before the claimant makes a first claim to JSA (known as a 'pre-claim failure') and the claimant

**1.** ceased paid work or lost pay through misconduct **or**

**2.** for no good reason

**2.1** fails to take up an offer of paid work **or**

**2.2** voluntarily ceased paid work or lost pay

that failure may not be counted for the purpose of determining the reduction period for a subsequent sanctionable failure<sup>1</sup>(see S5022).

**Note 1:** For the definition of pre-claim failure<sup>2</sup> see ADM Chapter S4 JSA Sanctions.

**Note 2:** A failure for this purpose is any pre-claim failure including a UC sanctionable failure under relevant legislation<sup>3</sup>.

1 JSA Regs 13, reg 19(2), JS Act 95, s 6J(3); 2 JSA Regs 13, reg 17; 3 reg 19(2)(b), UC Regs, reg 102(4)

S5022 Pre-claim failures can only be counted with previous higher-level failures for escalation purposes as long as the previous failure is

**1.** within 365 days, but not 14 days, of the current sanctionable failure **and**

**2.** the previous failure is not another pre-claim failure<sup>1</sup>.

JSA Regs 13, reg 19(1)

### Example 1

On 29.4.14 Jamilla is sacked from her job due to misconduct. She claims JSA on 29.4.14. On 19.5.14 the DM determines that Jamilla lost her job due to misconduct and imposes a reduction of 91 days for a first higher-level failure. On 4.3.15 Jamilla leaves a job because she doesn't like it and reclaims JSA from 4.3.15. The DM considers a sanction at the higher-level. The second failure is within 365 days of the previous failure but both occurred before she made a claim to JSA (i.e. both are pre-claim failures) and therefore the previous failure is not counted when determining the reduction period for the subsequent failure. The DM imposes a 91day reduction to Jamilla's JSA for the failure on 4.9.15.

### Example 2

On 5.8.14 Abdul refuses a job and the DM determines he has failed without good reason to accept paid work and imposes a 91 day higher-level sanction to his JSA award. On 17.12.14 he fails to apply for another job which is vacant and this time the DM imposes a 182 day reduction for a second higher-level failure as it occurred within 365 days but not 14 days of the first failure.

On 31.7.15 Abdul leaves a job because he is bored and re-claims JSA from 31.7.15. The DM determines Abdul left paid work voluntarily and without good reason and imposes a 1095 day reduction. The third failure is a pre-claim failure but is within 365 days, but not 14 days, of a previous higher-level failure which is not a pre-claim failure.

### **Reduction period for a pre-claim failure**

S5023 Where the sanctionable failure is a pre-claim failure (see S5021) the reduction period is reduced by the number of days between the date of the day

- 1.** after the date of the sanctionable failure **and**
- 2.** before the date of the claim to JSA<sup>1</sup>

except where S5024 applies.

1 JSA Regs 13, reg 19(3)

### **Example 1**

On 16.11.14 Sasha is sacked from her job due to misconduct. She claims JSA on 28.11.14. On 23.12.14 the DM determines that Sasha has lost paid work due to misconduct and imposes a higher-level sanction of 91 days for a first failure. The reduction period is reduced by 11 days, i.e. the period from 17.11.14 (the date after the failure) to 27.11.14 (the date before the date of claim to JSA).

### **Example 2**

Duncan claims JSA from 26.8.14 after leaving his job on 22.8.14. The DM determines he had no good reason for leaving his job. As this is a first higher-level failure a 91 day reduction is applicable. The reduction period is reduced by 3 days, i.e. the period from 23.8.14 (the date after the failure) to 25.8.14 (the date before the claim to JSA).

### **Reduction period for a pre-claim failure where paid work is for a limited period**

S5024 Where the sanctionable failure is a pre-claim failure and relates to paid work that was due to last for a limited period, the reduction period will

**1.** begin with the day after the date of the sanctionable failure **and**

**2.** end with the date on which the limited period would have ended minus the number of days beginning with the day after the date of the sanctionable failure and the day before the date of claim to JSA<sup>1</sup>.

**Note:** Limited period means a specific period which is fixed in advance, for example a short term contract. If the employment was due to end 28 days after the person left that employment then the maximum period of reduction which could be imposed would be for 28 days.

1 JSA Regs 13, reg 19(3)(b)

**Example:**

Emily is a dancer and has a 6 month contract with a cruise company from 1.9.14 to 28.2.15. She voluntarily leaves her contract on 4.1.15 and claims JSA on 12.1.15. The DM determines that Emily left her employment voluntarily and for no good reason. This is a first higher-level sanctionable failure and a 91 day sanction would normally apply. Emily's contract was due to finish on 28.2.15. The reduction period actually imposed is for 48 days which is the period from the failure to the end of the contract minus the period between the failure and the date of claim to JSA.

S5025 – S5030

## Failures for which no reduction applies S5031 - S5040

[Regular or reserve forces](#) S5032

[Redundancy](#) S5033

[Strike](#) S5034

[Trial periods](#) S3035 - S5040

S5031 No reduction may be made where the sanctionable failure in question

**1.** is a failure to

**1.1** apply for a particular vacancy **or**

**1.2** take up an offer of paid work

where the vacancy is because of a strike arising from a trade dispute<sup>1</sup> (see **Note 2** and S5034)

**2.** occurs because the claimant ceases paid work or loses pay and the following circumstances apply

**2.1** the claimant's work search and work availability requirements are subject to limitations imposed in respect of work available for a certain number of hours

**2.2** the claimant takes up paid work or more paid work that is for a greater number of hours **and**

**2.3** the claimant voluntarily ceases that paid work or more paid work or loses pay within a trial period<sup>2</sup> (see S5035)

**3.** is that the claimant voluntarily ceases paid work or loses pay because of a strike arising from a trade dispute<sup>3</sup> (see **Note 2**)

**4.** is that the claimant voluntarily ceased paid work as a member of the regular or reserve forces (see S5032) or loses pay in that capacity<sup>4</sup>

**5.** is a pre-claim failure (see S5021 – S5024) and the period of the reduction is the same as or shorter than the number of days beginning with the day after the date of the sanctionable failure and ending with the date of the claim to JSA<sup>5</sup>

**6.** is that the claimant voluntarily ceases paid work because the claimant has

**6.1** been dismissed because of redundancy after volunteering or agreeing to be dismissed (see S5033)

**6.2** ceased work on an agreed date without being dismissed in pursuance of an agreement relating to voluntary redundancy **or**

**6.3** been laid off or kept on short-time as provided for in relevant legislation<sup>6</sup> and has complied with those requirements<sup>6</sup>.

**Note 1:** The circumstances in **2.1, 2.2 or 2.3** apply when a claimant has restrictions on work search and availability and tries out work in excess of those limitations and then ceases that work or loses pay in the trial period (see S5035).

**Note 2:** See ADM Chapter R4 Claimant Responsibilities: Work Requirements for guidance on work search, work-related requirements and paid work and ADM Chapter K3 for guidance on trade disputes.

1 JSA Regs 13, reg 28(1)(a); 2 reg 28(1)(b); 3 reg 28(1)(d); 4 reg 28(1)(e); 5 reg 28(1)(c);  
6 reg 28(1)(f), ER Act 1996, s 148

## Regular or reserve forces

S5032 Regular or reserve forces has the same meaning as in relevant legislation<sup>1</sup> (see further guidance in ADM Chapter K3).

1 JSA Regs 13, reg 28(2); Armed Forces Act 2006, s 374

## Redundancy

S5033 Redundancy has the same meaning as in relevant legislation<sup>1</sup> (see further guidance in ADM Chapter K3).

1 JSA Regs 13, reg 28(2); Employment Rights Act 1996, s 139(1)

## Strike

S5034 Strike has the same meaning as in relevant legislation<sup>1</sup> (see further guidance in ADM Chapter K3).

1 JSA Regs 13, reg 28(2); Trade Union and Labour Relations (Consolidation) Act 1992

## Trial periods

S5035 For guidance on trial periods see ADM Chapter K3.

S5036 – S5040



## Fails to comply with a requirement to undertake a work placement of a prescribed description S5041 - S5060

[MWA scheme](#) S5042 - S5060

S5041 It is a failure for no good reason to comply with a requirement imposed by the Secretary of State under a work preparation requirement to undertake a work placement of a prescribed description that gives the DM the provision to reduce benefit at the higher level<sup>1</sup>.

1 JS Act 95, s 6J(2)(a)

### MWA scheme

S5042 The Mandatory Work Activity Scheme (MWA scheme)<sup>1</sup> is a prescribed placement for a sanctionable failure not to comply with a work placement<sup>2</sup> (see S5002 **2.2.1**).

1 JSA Regs 13, reg 29(1); 2 JS Act 95, s 6J(2)(a);

S5043 The MWA scheme means a scheme, known by that name, provided in arrangement with the Secretary of State that is designed to provide work or work-related activity for up to 30 hours per week over a period of 4 consecutive weeks with a view to assisting claimants to improve their prospects of obtaining employment<sup>1</sup>.

**Note 1:** See the guidance in ADM Chapter K3 for further guidance on what constitutes a failure to comply in the MWA scheme. The guidance for UC failures applies equally to failures for JSA.

**Note 2:** See the guidance in ADM Chapter S7 (Low-level sanctions) for other placements and employment schemes, e.g. Work Programme, sector-based work academies, Skills Conditionality.

1 JSA Regs 13, reg 29(2)

### End of MWA scheme

S5044 The MWA scheme ends on 31.3.16. Therefore the cut-off date for claimants starting MWA provision is 31.3.16 which means there will be no claimants taking part in the scheme after 27.4.16.

**Note:** The last date a claimant can participate in the MWA scheme is 27.4.16.

S5045 As MWA providers have 20 working days in which to start the claimant on a placement, the final date for work coaches to refer a claimant to the MWA scheme, including for any 'balance of time', is

1.3.16.

**Note:** If a claimant fails to participate after 1.3.16 they cannot be re-referred to the scheme for any 'balance of time'.

### **Example**

Leo is referred to the MWA scheme and is required to participate in a 4 week placement on 22.2.16.

Leo fails to participate in the scheme on 7.3.16.

The DM determines Leo has a good reason for the failure to participate in the scheme on 7.3.16 due to illness.

There is no sanctionable failure and although the claimant has only completed 2 weeks of the 4 weeks placement Leo cannot be referred to the scheme to complete the balance of time as it is passed the deadline of 1.3.16 for referrals to the MWA scheme.

### **Effect on sanctions**

S5046 DM action should be undertaken as normal following current processes for considering a sanction for any failures to participate in the MWA scheme received with a date of failure to participate on or before 27.4.16.

**Note:** Any sanction referrals received with a date of failure to participate in the MWA scheme after the relevant last date a claimant can participate in the scheme should be cancelled.

S5047 The period of sanction applied will not be affected by the end of provision date. Any sanction will run to a date after the provision has ended until the duration of the sanction period ends as normal. If the claimant leaves benefit during the period of the sanction, any balance of sanction will be applied to a new claim to JSA following the normal rules for sanctions. It is the date of failure which is the important date the DM has to consider and that must occur on or before the last date for participating in the scheme (i.e. 27.4.16).

### **Example 1**

Mark is referred to the MWA scheme and is required to participate in a 4 week placement from 29.3.16.

Mark fails to attend to start the placement on 29.3.16.

On 7.4.16 the DM decides that Mark cannot show a good reason for the failure to participate on 29.3.16 and a 91 day sanction is appropriate as this is Mark's first higher-level sanctionable failure.

Mark was last paid JSA up to 4.4.16. His benefit week ending day is a Monday. The sanction runs from 5.4.16 to 4.7.16.

## **Example 2**

Alejandro is referred to the MWA scheme and is required to participate in a 4 week placement on 15.2.16.

Alejandro fails to participate in the scheme on 22.2.16. The DM determines Alejandro has good reason for the failure to participate in the scheme on 22.2.16 due to a family bereavement.

On 1.3.16 the work coach refers Alejandro to the MWA scheme to complete the balance of time on his placement starting on 31.3.16.

Alejandro fails to participate in the scheme on 11.4.16.

On 28.4.16 the DM determines Alejandro cannot show a good reason for the failure to participate in the MWA scheme on 11.4.16 and a 182 days sanction is appropriate as there has been a previous higher-level sanctionable failure within 365 days of the current sanctionable failure.

Alejandro was last paid JSA up to 22.4.16. His benefit week ending day is Friday.

The sanction runs from 23.4.16 to 21.10.16.

S5048 – S5060

## **Fails to comply with a requirement to take up or apply for paid work S5061 - S5070**

S5061 Legislation provides that a failure is a sanctionable failure where a claimant fails without good reason to comply with a

**1.** requirement imposed by the Secretary of State under a work search requirement to apply for a particular vacancy for paid work<sup>1</sup> (see S5005 **2 2.2**) **or**

**2.** work availability requirement by not taking up an offer of paid work<sup>2</sup> (see S5002 **2 2.3**).

**Note 1:** For detailed guidance on paid work and the imposition of work search and work availability requirements see ADM Chapter R4 Claimant Responsibilities: Work Requirements.

**Note 2:** For detailed guidance on what constitutes a failure for the purposes of **1.** and **2.** see Chapter ADM K3 (K3051 – K3059).

1 JS Act 95, s 6J(2)(b); 2 s 6J(2)(c)

S5062 It is for the DM to consider in every case where there is a failure, whether the claimant had good reason. For detailed guidance on good reason see ADM Chapter K2: Good reason. The guidance for UC failures applies equally to failures that occur in JSA.

S5063 – S5070

## Misconduct S5071 - S5080

S5071 Legislation provides that a failure is a sanctionable failure where a claimant by reason of misconduct

**1.** ceases paid work **or**

**2.** loses pay<sup>1</sup> (see S5002 **1.**).

**Note 1:** For failures due to misconduct the claimant will not have an opportunity to show good reason for the failure but will be given the opportunity to provide facts and evidence for consideration by the DM.

**Note 2:** For guidance on paid work see ADM Chapter R4 Claimant Responsibilities: Work Requirements.

1 JS Act 95, s 6J(2)(d)

S5072 A sanction should only be imposed where the claimant

**1.** acted or failed to act as alleged **and**

**2.** behaved in such a way that it amounted to misconduct **and**

**3.** lost paid work or pay through the misconduct.

**Note:** For guidance on what the DM should consider in misconduct cases see ADM Chapter K3 (K3066 - K3191). The guidance for UC failures applies equally to failures for JSA.

S5073 – S5080

## Leaving paid work or losing pay voluntarily S5081 - S5082

S5081 Legislation provides that a failure is a sanctionable failure where a claimant voluntarily and without good reason

**1.** ceases paid work **or**

**2.** loses pay<sup>1</sup> (see S5002 **2 2.5**).

**Note:** For guidance on paid work see ADM Chapter R4 Claimant Responsibilities: Work Requirements. For detailed guidance on good reason see ADM Chapter K2: Good reason.

1 JS Act 95, s 6J(2)(d)

S5082 For detailed guidance on what the DM should consider where a claimant has left paid work or loses pay voluntarily see ADM Chapter K3: Higher level sanctions (K3221 – K3287). The guidance for UC failures applies equally to failures for JSA.

**The content of the examples in this document (including use of imagery) is for illustrative purposes only**