

Chapter K2 – Good reason

Contents

Introduction	K2001
Time to show good reason	K2011
Reconsideration	K2015
The meaning of ‘for no good reason’	K2020
The ‘reasonable’ test	K2021
Advance notice of not attending an appointment or participating in a work-related activity.....	K2024
Evidence.....	K2031
Claimants evidence	K2036
Previous failures.....	K2041
Work experience	K2046
Specific examples which may be good reason	K2051
Complex needs	K2054
Victims of domestic violence	K2061
Child in distress	K2065
Mental health.....	K2071
Victims of harassment and bullying.....	K2081
Disadvantage	
Homelessness.....	K2091
Disability	K2101
Learning difficulties, poor literacy or numeracy.....	K2103
Substance abuse	K2106
Legal constraints	K2108
Domestic situations	K2111
Examples of what may be good reason in specific circumstances	K2115
Significant harm to health or unreasonable physical or mental stress where a claimant has failed to comply with a requirement to take up or apply for paid work, better paid work or more paid work	K2116
Significant harm to health.....	K2117

Unreasonable physical or mental stress	K2123
Consideration of claimant's health where claimant has left paid work.....	K2126
Sincere religious or conscientious objection	K2131
Other terms and conditions which affect a claimant's personal freedom and beliefs.....	K2136
Caring responsibilities	K2140
Temporary changes in circumstances	K2146
Circumstances that may show good reason for a failure to comply with a requirement to take up or apply for paid work	K2151
Restrictions on work search	K2156
Employment expenses.....	K2157
Child care expenses.....	K2161
Unreasonably high proportion of pay	K2164
Other circumstances that may amount to good reason	K2171
Attitude of claimants trade union.....	K2173
Possible return to previous employment.....	K2174
Laid off and short time workers	K2175
Decision of Employment Tribunal pending	K2177
Claimant already working.....	K2178
Temporary employment	K2180
Definite chance of other employment	K2181
Personal preference.....	K2182
Other more suitable people employed	K2183
Job vacant because of a trade dispute stoppage	K2184
Employment which the claimant has previously left.....	K2187
Objection to employer or fellow employees	K2189
Claimant does not have necessary equipment.....	K2192
Seafarers.....	K2196
Working time regulations.....	K2199
Anti-social behaviour order, community order or community disposal ..	K2201
Claimant given incorrect details of employment	K2202
Claimant change their minds.....	K2205
Other reasons	K2207
Circumstances that do not show good reason	K2211

National minimum wage.....	K2213
Circumstances that may show good reason where a claimant leaves paid work or loses pay voluntarily	
General.....	K2221
Self employment	K2224
Other circumstances that may show good reason	K2226
Terms and conditions of employment	K2231
Changing terms or conditions of employment and grievance procedures	
Employer changes terms and conditions	K2241
Police officers	K2244
Grievances	K2246
Work outside of agreed duties	K2249
Contracts Terms and Conditions	K2251
Short time and overtime working	K2256
Retirement and resignation	K2261
Early retirement.....	K2264
Leaving to take better paid or preferred employment	K2265
Leaving to take up training	K2267
Personal and domestic circumstances	K2271
Moving home.....	K2272
Relocation	K2278
Partner going abroad.....	K2279
Moving with parents	K2280
Financial difficulties	K2282
Living away from home	K2286
Long daily journey to and from work	K2288
Long or awkward working hours	K2289
Chances of getting other employment	K2291
Firm offer of other employment	K2296
Zero hours contracts	K2301
Circumstances that may show good reason where a claimant fails to participate in an interview relating to a work-related requirement	
Claimant raises issue of notification as good reason	K2371

Chapter K2: Good Reason

Introduction

K2001 This chapter contains guidance on good reason where the amount of an award of UC is to be reduced in accordance with relevant legislation¹.

Note: A sanction is a reduction in the amount of a UC award.

1 WR Act 12, s 26 & 27

K2002 This chapter does not include guidance on what amounts to a sanctionable failure. Guidance on

1. failing to comply with a requirement to
 - 1.1 take up an offer of paid work or apply for a particular vacancy
 - 1.2 losing pay and ceasing paid work voluntarily or by misconduct **and**
 - 1.3 participate in the MWA schemecan be found in ADM Chapter K3 - Higher level sanctions **and**
2. failing to
 - 2.1 participate in a Wfl (except for those claimants in the Wfl only group see ADM Chapter K6 (Lowest level sanctions))
 - 2.2 comply with a work preparation requirement **and**
 - 2.3 take a particular action under a work search requirement **and**
 - 2.4 comply with other interview or verification requirementscan be found in ADM Chapter K5 - Low level sanctions
3. failing to
 - 3.1 undertake all reasonable action under a work search requirement **and**
 - 3.2 be able and willing to take up workcan be found in ADM Chapter K4 – Medium level sanctions.

K2003 This chapter does not include guidance where

1. there is a sanctionable failure **and**
2. no reduction applies

as prescribed for in relevant legislation¹. In these circumstances the DM is not considering good reason.

1 UC Regs, reg 113

K2004 Good reason is not defined in legislation. DMs should take into account all relevant information about the claimant's individual circumstances and their reasons for any failures when considering whether to sanction a claimant for any failure which results in the award of UC being reduced (also see K2021).

K2005 Claimants will be given the opportunity to explain why they have not complied with requirements and it will remain the responsibility of the claimant to show good reason for any failure and provide information and evidence as appropriate to explain why they have not complied. The DM must decide whether they have enough evidence and information on which to base a reasoned decision.

Note 1: The meaning of to 'show good reason' takes its normal everyday meaning of proving or demonstrating. Once the Secretary of State can show there has been a sanctionable failure it is the claimant's burden of proof to demonstrate good reason. For full guidance on the meaning of sanctionable failure and burden of proof see ADM Chapter K1 – Sanctions - general principles.

Note 2: The DM should be mindful in every case of the 'prior information requirement' and be satisfied it has been met before considering good reason (see full guidance in ADM Chapter K1 – Sanctions – general principles). The 'prior information requirement' may be relevant both to whether the claimant has been validly referred to a specific work-related requirement and to whether there was good reason for not participating in it. It applies to any work-related requirement notified to the claimant where there is a threat of sanction for non compliance. Each case must be judged on individual facts, circumstances and merits.

K2006 Relevant legislation¹ provides for situations where the claimant can be excused their work-related activities (see guidance in ADM Chapter J3 - Work-related requirements). In those circumstances the claimant would not have to show good reason.

Note: At any time a discretionary easement can be applied to work related requirements if the claimant has needs that require it and complying with their work related requirements would be unreasonable for a temporary period of time depending on the individual needs (see further guidance in ADM Chapter J3 and also K2054).

1 UC Regs, reg 95 – 99

K2007 Any work-related requirements placed on claimants should be personalised according to their needs and individual circumstances taking into account any limitations or restrictions. An adviser should have provided adequate information and support to ensure the claimant can understand and meet those requirements. However a claimant may have

1. a change of circumstances, either temporary or permanent, **or**
2. unexpected or unforeseen problems may arise, i.e. a one off factor applies, **or**

3. exceeded the time an easement is allowed, e.g. in the case of domestic violence where the 13 weeks expires **or**
4. where DWP is unaware of the claimant's circumstances that would mean a claimant would have a reason to be excused work-related requirements and the work-related restriction has not been 'turned off', e.g. in a case where there is a child in distress, domestic violence or the claimant has complex needs after certain work-related requirements are imposed.

Note 1: There may also be cases where an advisor should have imposed an easement but failed to do so for some reason and the DM has to consider good reason. Some claimants may readily disclose complex needs however other claimants may be unwilling to reveal that they are experiencing difficult life events or personal situations and their needs may not become apparent until they provide their good reasons following a failure to comply (see K2054).

Note 2: It is only if the claimant does not fall within the easements within relevant legislation¹ or a discretionary easement cannot be applied or is not appropriate that the DM will consider good reason (see K2006).

Note 3: It should also be remembered that, because a claimant's circumstances can change, a requirement that was reasonable at the time they entered into their claimant commitment may no longer be reasonable at the time they failed to comply with a specific requirement.

1 UC Regs, reg 95 - 99

K2008 The following guidance in this chapter is to provide a framework for DMs to use when considering whether or not good reason is demonstrated and is not an exhaustive list of individual circumstances or criteria which provides good reason. In every case the DM should take into account all the individual facts and circumstances and consider the case on its own merits. The DM should not just consider one factor but should consider the overall picture of the claimant's individual circumstances in consideration of what is reasonable (see ADM K2021 et seq).

K2009 Good reason should be considered in all cases before a sanction is imposed taking into account individual circumstances and reasonableness. This approach provides sufficient discretion for the DM to make a decision based on individual facts and evidence rather than providing a prescriptive list of scenarios.

Note: The DM should be satisfied a sanctionable failure has occurred before considering whether the claimant can show good reason (also see guidance on the 'prior information requirement' and 'burden of proof' in ADM Chapter K1 – Sanctions – general principles).

K2010 Although authorised persons may act on behalf of the Secretary of State to impose requirements on claimants, e.g. third party providers for mandatory work schemes

such as the Wp, they do not have the authority to consider good reason. This remains a function of the DM to make an independent and impartial decision based on the facts and evidence and the individual circumstances of the case. (For further guidance on delegated and contracted out functions see ADM K1 – Sanctions: General Principles.)

Time to show good reason

K2011 There are no specified time constraints in UC for a claimant to show good reason for a failure.

K2012 DMs should give the claimant sufficient time to comment and to provide evidence appropriate to the particular circumstances of the failure. This should be flexible to reflect an individual's circumstances.

K2013 It is up to the DM to consider the merits of each individual case when setting a time limit to provide good reason but in most cases the benchmark should continue to be

1. 5 days, where the information is to be obtained by post (but also see **Note 1** if post is issued second class) **or**
2. depending on the individual circumstances of the case, less than 5 days where
 - 2.1 the DM can contact the claimant by phone or face to face (and the DM is satisfied that the claimant is clear about what they are being asked to provide and do not need to collaborate or provide further evidence) **or**
 - 2.2 where the claimant has agreed the preferred method of contact is by electronic means such as by text, email or their UC account (see note 2) **or**
3. longer than 5 days where the claimant
 - 3.1 needs to seek information or evidence from a third party **or**
 - 3.2 has an agent or representative **or**
 - 3.3 has a health condition or other temporary circumstances that prevents them from replying (e.g. a pre existing health condition that is relevant or existing caring or parental responsibilities that may be relevant).

Note 1: Reference to days is working days excluding Saturdays, Sundays and bank holidays. Allowance must be made for posting where a notification is made by post¹. Where the information is to be obtained by post the adviser should normally make some attempt to contact the claimant by telephone or face to face to inform that a letter they should respond to is on its way to them. If the notification goes out by second class post and a reply is likely to be returned by post, allowing more than 5 days may be more reasonable.

Note 2: If the claimant agrees to provide evidence face to face, by telephone or by electronic means the claimant must be informed of the consequences of not providing good reason by a certain time. A record of the evidence should be made for evidentiary reasons in the event the claimant asks for a reconsideration or subsequently appeals.

1 Interpretation Act 1978, s 7

K2014 The DM will then consider whether the evidence constitutes good reason taking into consideration all the facts and evidence particular to the individual circumstances and make rational decisions when considering sanctions which are responsive to both the individual's circumstances and the changing labour market. If the claimant can show good reason a reduction (sanction) will not be imposed.

Reconsideration

K2015 If the claimant provides information or evidence for good reason after the decision has been made to impose a sanction then the claimant can request a reconsideration of the decision. Any new facts and evidence received within the normal time limits for revision should not stop the normal revision rules coming into play when there are new facts and evidence which would alter the original decision¹, see guidance in ADM Chapter A3 (Revision) – also see further guidance at K2391.

1 UC, PIP, JSA & ESA (D &A) Regs, reg 14(1)(c); R(JSA) 2/04

K2016 – K2019

The meaning of 'for no good reason'

K2020 An award of UC can be reduced in the event of a failure for no good reason by a claimant which is sanctionable under relevant legislation¹. There is no material difference between the terms 'for no good reason' and 'without good reason' which appears in JSA legislation. Both refer to the absence of a good reason. 'No' and 'without' are not technical terms and so in ordinary usage in this context they mean the same thing. For example: 'she has no food' means the same as 'she is without food' and 'I have no motivation' means the same as 'I am without motivation'.

1 WR Act 12, s 26 & 27

The 'reasonable' test

K2021 Good reason is not defined in the law, but 'good cause' and 'just cause' are considered in case law. It includes facts which would probably have caused a reasonable person to act as the claimant did¹.

Note: Good reason expresses the same concept as its predecessor good cause but in more modern language. Therefore the principles established for good cause apply

equally to the term good reason. The same approach is required when considering if a person 'for no good reason' failed to comply with a UC work-related requirement as applied to the consideration of good cause in other benefits such as JSA and ESA (also see K2020).

1 R(SB) 6/83

K2022 DMs should establish facts which would probably have caused a reasonable person in the same circumstances to act as the claimant did by establishing three key points,

1. what would it be reasonable to expect someone to do in the particular circumstances, i.e. was the action or failure to act preventable
2. what did the claimant do or fail to do that was different to what was the required action **and**
3. what was the claimants reasons for their action or failure to act as required.

Note 1: A distinction must be drawn between having a good excuse and having a good reason in law which is not about one moment in time but about a person acting reasonably in the light of all the facts and circumstances.

Note 2: The DM must also consider that a claimant is expected to take care in matters to do with the claiming and receiving of benefits. Failure to take such care cannot be good reason of itself however genuine or deserving an error or mistake may appear to be but consideration should be given to any complex needs the individual claimant might have that may impact their actions or omissions (see **Example 5** and **Example 2** at DMG K2058)

Note 3: DMs should consider what a reasonable person of the same age and experience would have done in the same circumstances in consideration of all the facts of the case and whether good reason can be shown (see **Example 5**).

Note 4: The DM should also be alert for any undisclosed personal issues, particularly complex needs, that could explain the failure, act or omission. It will not always be the case that, in a particular instance, such issues were a factor, but the DM must consider this possibility carefully in every case where such issues are evident. See **Note 2.** and further guidance at K2054 et seq.

Example 1

Jeremy is in the all work-related requirements group. He fails to attend an interview with his work coach on 26.8.15 at 10am.

On 1.9.15 a letter is sent to Jeremy to ask for his reasons for failing to attend the appointment. Jeremy telephones on 4.9.15 to say he got the date of his appointment mixed up with another appointment as it was around the bank holiday. He thought his next appointment was on 2.9.15.

Jeremy is a single non-householder and lives with his parents. Records show that he had also been notified of a requirement to participate in a Wp appointment with his provider on 2.9.15.

The DM decides Jeremy cannot show good reason for the failure to comply. It is reasonable in his circumstances to have expected him to take due care regarding his appointments as he was aware when accepting his claimant commitment of his responsibilities to attend interviews as required and that his benefit could be affected if he did not. He has been claiming UC for over 6 months and has regularly attended appointments with his work coach fortnightly on a Wednesday morning. It is reasonable that he should have known of his obligation to attend on 26.8.15 as it was his normal fortnightly work-search review appointment.

Also see further guidance at K2351 for further guidance and examples of circumstances that may show good reason where a claimant fails to participate in an interview relating to a work-related requirement

Example 2

Ada is in the all work-related requirements group. She fails to attend an interview at the UC outlet on 27.8.15.

On 28.8.15 the work coach phones Ada who gives the reasons for her failure to attend the appointment the previous day.

Ada is very upset and distressed on the phone at having missed her appointment as she is aware it could affect her benefit. She explains that she has been particularly stressed over the last few days and she completely forgot about the appointment. She has severe financial problems as her ex husband has been failing to meet his maintenance payments. She is a single parent and has three children aged 5, 6 and 8 and not only has all her regular bills and food to buy but also new school uniforms for the new term next week. Yesterday she received a letter to say her electricity supply would be cut off due to failure to pay the bill and she had been rushing around panicking and contacting the electric supplier to make some arrangements for payment. She had a very stressful phone conversation with her ex husband regarding his non payment of the maintenance and had visited her parents to try and loan some money to help her pay the electric bill until her husband pays her the arrears of maintenance that she is due.

In her stressed state she had completely forgotten about her appointment at the UC centre.

The DM considers whether Ada has good reason.

On checking claim records Ada has no previous non-compliance and has always attended appointments as required.

The DM considers Ada can show good reason for the failure to comply. Her anxiety and domestic circumstances had contributed to her failure to forget about her appointment. Her first priority had been to ensure her electric supply remained connected which is reasonable in her circumstances and she had made very effort to re book the appointment the following day.

Also see further guidance at K2061 et seq and K2071 et seq for the consideration of good reason in the event of domestic emergencies and mental health issues.

Example 3

Britney is in the all work-related requirements group. She is a single non householder who lives at home with her mum and her brother. She has been claiming UC for more than 6 months and is participating in the Wp scheme.

On 5.8.15 Britney fails to take part in an interview with her Wp provider as required. The provider confirms Britney made no contact to let them know she could not attend the appointment.

A letter is sent to the claimant on 25.8.15 to invite her to provide good reason for the failure.

On 27.8.15 she phones to give her reasons for the failure to comply. She states she failed to attend the interview with the provider as her mum is going through a difficult time at present and the family is threatened with losing their home. The bailiffs are due to come on 1.9.15 to evict them and she is very worried about their future and was trying to provide support to her mum.

The DM considers whether Britney can show good reason.

On checking claim records Britney has a history of previous non-compliance and has failed to participate in interviews with the Wp provider before but no sanction had been imposed as the claimant was sick with minor ailments on both previous occasions and the DM determined she had good reason.

Records also show she attended her normal fortnightly work-search review with her work coach at the UC outlet on 10.8.15 and 24.8.15.

On this occasion the DM decides Britney cannot show good reason for the failure to comply. Whilst it is reasonable Britney would have some natural degree of concern for her family situation, as a single non-dependent in the household there is very little she could do to change the situation. It is her Mum's responsibility as the householder to sort the domestic problem out.

Britney can provide no evidence that she had to provide any specific kind of support or assistance for the family on 5.8.15 which meant she could not meet her obligation as a jobseeker to attend the appointment with the provider. She would have received a notification from the provider informing her she had to contact the provider if for

any reason she could not attend, as a failure to do so could affect her benefit, therefore, it is not unreasonable to have expected her to phone the provider to tell them she could not attend on the day and rearrange the date and time.

Example 4

Drew was required to attend an appointment to discuss progress with her provider by way of participation in the Work Programme on 10.12.16. She was adequately notified of the requirement and the consequences of non participation.

Drew says in her good reasons that she made a mistake with the date and ringed the wrong day on the calendar. This was a genuine mistake and she contacted the provider to re arrange the appointment when she realised her mistake.

A claimant has a responsibility to attend to his/her affairs with due diligence and care which equally applies to cases where the claimant makes a mistake about an appointment.

Drew therefore cannot show good reason for failing to participate in the Work Programme interview. She had a duty of care in the claiming of and receiving of benefits and it is reasonable to have expected that she should have taken care to correctly record the date and time of the relevant appointment knowing that a failure to participate could result in a sanction of her benefit.

Drew could provide no evidence to suggest there were any mitigating or exceptional circumstances that contributed to the mistake.

Example 5

Adam is required to attend an appointment with his work coach on 16.4.18. He was notified of the appointment time, date and place on 14.4.18 in the 'To Do' in his on line journal.

Adam says he forget about the appointment. He is currently undergoing treatment for drug misuse and depression which leads him to be forgetful and confused.

Adam's labour market activity shows several late attendances and failures to attend in the last couple of months.

The DM decides Adam has complex needs and can show a good reason for the failure on this occasion as his health condition has impacted his ability to function normally. The DM refers the case back to the work coach to consider interventions that may assist Adam until he is well enough to cope independently (see further guidance on complex needs at K2054 et seq).

K2023 The general rule for taking each incidence on its own merits and considering all the facts and evidence should be applied. Consideration of all the evidence should be made on

1. the balance of probabilities **and**
2. whether the evidence is inherently improbable in the circumstances

Note 1: The evidence given by the claimant is direct evidence and cannot be dismissed without contradictory or conflicting evidence to show that it is self-contradictory or improbable or it so implausible it cannot be probable (i.e. it is inherently improbable).

Note 2: See ADM Chapter A1 (Principles of decision making and evidence).

Example

Theo has 2 children aged 7 years and 2 years who live with their mother. He is claiming UC. Theo is selected to participate in the MWA scheme and is sent a letter on 7.5.14 notifying him of the requirement to attend a 4 week placement with a Community Furniture company on Tuesday 13.5.14.

On 12.5.14 Theo phones the placement provider to say he cannot start the placement on 13.5.14 as he has accepted responsibility to assist the mother with the childcare of his 2 children, taking the 7 year old to school and minding the 2 year old throughout the day so the mother can work. The provider raises a sanction doubt and refers it to JCP to consider good reason.

The DM considers whether Theo has a good reason for failing to participate in the MWA scheme on 13.5.14.

There are no agreed childcare restrictions on Theo's Claimant Commitment and if he was solely responsible for care of the youngest child during the day then he would not be available for work.

Theo chose to assist the mother of the children instead of him or the mother making other arrangements to enable Theo to fulfil his obligations as a single jobseeker. He had agreed to be available to start work immediately and therefore it was reasonable to have expected him to be available to start the placement on 13.5.15. It was the responsibility of the children's mother to arrange alternative childcare whenever her own arrangements broke down.

Theo presumed that by phoning the placement provider he had resolved the difficulty. The DM considered that Theo had been given clear warning of the possible consequences of failing to participate in the MWA scheme. He would have received the notification regarding the placement on 10.5.15 which would have given him and the children's mother time to make alternative arrangements for childcare from 13.5.15.

The DM decides Theo cannot show good reason for the failure and goes on to consider a higher-level sanction.

Advance notice of not attending an appointment or participating in a work-related activity

K2024 The DM should consider whether it would have been reasonable to expect a claimant to give prior notice they cannot attend or participate in a work-related activity. DMs have the flexibility to consider prior notice of non participation in any circumstance is not required where they believe it was unreasonable to expect the claimant to have done so.

K2025 Examples of when it may be unreasonable to expect the claimant to have given advance notice are where the claimant

1. (or an immediate or close family member) has suffered a sudden serious illness or was hospitalised **or**
2. lacked access to any means of making contact (e.g. they had no mobile phone credit and no reasonable access to any other means of contacting the work coach or provider, such as a friend's phone or a public phone) **or**
3. was not made aware of the requirement to give advance notice if they could not attend or participate in the required activity.

Note: This list is not exhaustive. The DM should consider each case on its own facts and individual circumstances. Even though a claimant may have been physically able to give advance notice, it may still not have been reasonable to expect them to have done so at the time of the failure. For example, a parent whose child is seriously ill may have access to a phone but it may still be unreasonable to expect them to think of calling their work coach (or a provider) as relevant in the particular circumstances (see **Example 4.** at K2113).

K2026 – K2030

Evidence

K2031 The DM should seek further evidence where it is considered necessary in order to

1. clarify reasons **or**
2. seek further evidence

as sufficient proof to justify good reason.

Note: A record of all evidence relied upon to reach a decision should be recorded for evidentiary reasons and a copy should be available in the event of reconsideration and/or appeal. Also see guidance on the 'prior information requirement', the burden of proof and evidence in ADM Chapter K1 – Sanctions – general principles.

K2032 This could involve

1. writing to or telephoning the claimant or an advisor or provider
2. asking advisors to interview claimants when they next sign on

3. acting on an indicator from the advisor to investigate further especially where there is compelling or contradictory evidence that may require further enquiry.

Note 1: The DM should not expect the claimant to incur any costs to provide further evidence. The claimant may have in their possession letters or documents which could be provided to clarify the claimant's account of events (for example; a letter or text message confirming a hospital or dental appointment or a repeat prescription for medication).

Note 2: Where evidence is not available the DM has to make a decision using the 'balance of probability' which involves the DM deciding whether it is more likely than not that an event occurred, or that an assertion is true (for full guidance on the balance of probability see ADM Chapter A1 – The principles of decision making and evidence).

Example 1

Alfie is required to attend a work focused interview on 6.10.15. He fails to do so.

On 15.10.15 Alfie provides his reasons for failing to attend the work focused interview. He says he was attending an appointment at his daughter's school and it over ran. His daughter had been absent from school for 2 weeks due to ill health and he was required to attend an interview with the head teacher regarding her absence.

It is the responsibility of the claimant to let the work coach know if he cannot attend an interview and he has accepted his claimant commitment which requires him to attend and take part in interviews as required.

The DM accepts it is reasonable to accept that Alfie had an obligation to attend the interview at school about his daughter's absence but considers whether the failure could have been prevented and whether the claimant acted reasonably in the circumstances, i.e. did Alfie know of the appointment at school in advance and so could have made alternative arrangements. Alfie had prior notification of his work focused interview appointment and would have known in advance that the 2 appointments clashed.

On this occasion before the DM determines whether Alfie can show good reason for the failure he decides he requires further information to clarify the position.

The DM phones Alfie to ask him;

- (a) did he have prior notification of the date and time of the appointment at his daughter's school and if he can provide evidence if possible, i.e. a letter, and
- (b) if he did have prior notification, why he did not either,

- (i) phone the UC outlet in advance to tell the work coach about the interview at his daughter's school in order to rearrange the work focused interview for a different time and date or
 - (ii) make an attempt to change the date and time of the interview at school or
- (c) if indeed he had no prior notification of the interview at school, when it over ran why he didn't immediately contact the UC centre to let the work coach know why he had missed his work focused interview.

Example 2

Cilla failed to participate in a Wp interview on 17.8.15. She is in the all work- related requirements group and is a single householder who lives alone.

On 1.9.15 Cilla sends in a letter stating that on 17.8.15 she had severe stomach cramps and could not get out of bed to attend the appointment or indeed to phone the provider to tell them she could not attend as required.

The DM considers whether Cilla had good reason for the failure.

Records show that on several previous occasions Cilla failed to participate in interviews as required due to minor ailments and provided no medical evidence of her sickness.

On this occasion the DM writes to Cilla to ask her to provide medical evidence of her sickness on 17.8.15 (also see guidance at K2041 and K2042 regarding previous failures and Example 2 at K2042.)

K2033 – K2035

Claimant's evidence

K2036 A claimant's statement, whether oral or in writing, is evidence. It is often the best evidence and sometimes the only evidence available, even after further enquiries. The evidence given by the claimant therefore cannot be dismissed without contradictory or conflicting evidence to show it is

1. self-contradictory **or**
2. improbable **or**
3. so implausible it cannot be probable (this is where it is very unlikely that what has been asserted can be true, i.e. inherently improbable).

For full guidance see ADM Chapter A1 – The principles of decision making and evidence.

Example 1

Jaydn fails to attend a Wfl. His explanation is that he had flu but he did not visit his doctor and has no evidence to support his statement of good reason.

From a health point of view it would be appropriate and common sense for Jadydn to refrain from attending the office if he did indeed have flu, as it could be passed onto other people, and general medical advice would be to refrain from attending a place of employment.

The Secretary of State has no evidence to suggest this was not a good reason on Jaydn's part and in his circumstances. There is no evidence that does not lend support to the credibility or plausibility of Jaydn's account of events and no previous history of non-compliance with his obligations as a jobseeker.

The DM should therefore accept Jaydn's evidence as a true account of events and accept good reason.

Example 2

Joyce is in receipt of UC and is in the AWRR group. She has been participating in the Work Programme employment scheme since 29.6.16.

On 13.9.17 Joyce fails to turn up to attend an appointment with her provider. The DM is satisfied Joyce was adequately notified of the appointment and there was a sanctionable failure. The onus of proof therefore shifts to the claimant to show good reason.

In her good reasons Joyce says she cannot reasonably be expected to attend the work programme when she is repeatedly experiencing extensive periods of starvation due to living on benefits.

The DM considers Joyce's account regarding 'starvation' is improbable. Starvation is the most extreme form of malnutrition and it is inherently impossible Joyce is suffering from such an extreme condition. Joyce is in receipt of full payment of UC. The DM does not accept Joyce can show good reason for the failure based on the reason given for the failure.

K2037 – K2040

Previous failures

- K2041 Each case should be looked at on its individual merits though past behaviour can be taken into account. If the claimant has a record of previous failures the DM may consider that those failures impact the credibility of the evidence presented to support the claimant's reasons for a current failure. The DM should consider how likely is it that

1. a claimant happens to have a problem coinciding with when they are required to comply with some activity that will help them into paid work, more paid work or better paid work **and**
2. it would happen twice or more than that.

Note 1: It is for the DM to identify patterns and trends in a claimant's behaviour when considering a claimant's reasons for a failure in consideration of all the facts of the individual case. The DM should also be mindful of any complex issues the claimant may have. See guidance at K2054 et seq.

Note 2: Past non-compliance is not always an indication that the claimant doesn't have a good reason for the failure under consideration. It is important to bear in mind that people's health conditions may fluctuate frequently and vary significantly for both mental health & physical health conditions if the claimant raises health issues in his good reasons.

Note 3: The DM should also be mindful that because a claimant's circumstances can change, a requirement that was reasonable at the time they entered into their claimant commitment may no longer be reasonable at the time they failed to comply with a specific requirement.

Note 4: It is not always appropriate to draw an adverse inference where a claimant is unable to produce evidence. Regard has to be had to the reason, or probable reason, that the evidence cannot be produced just as regard has to be had to the probable reason for a refusal to produce evidence that does exist. For full guidance on evidence see ADM Chapter A1 – The principles of decision making and evidence (see Example 2 (Alpa) at ADM K2036).

Example

Alpa fails to attend his normal work search interview at the Jobcentre on 31.10.17. He has a history of previous non compliance attending interviews.

Alpa rings his work coach on 1.11.17 and explains he started with severe stomach pains and vomiting during the evening of 30.10.17.

He has no previous recorded history of a stomach related condition.

He says he was still in pain and being sick at the time of the Jobcentre appointment and was unable to leave the house. He says he didn't think about his jobcentre appointment at the time, he had been awake all night being sick and in pain and was really worried about this. He was trying to speak to his doctor to see if he should go there or to hospital.

He was also concerned he would run out of credit on his mobile phone.

When he eventually got through to his local surgery he was advised to go to A&E as there were no appointments available to see his own doctor on that day.

He contacted a friend to drive him to A&E where he was given pain medication and an ultrasound scan. He was told to rest for a couple of days and avoid certain foods, and advised to see his GP after 48 hours if the condition persisted.

Alpa tells the work coach he does not have any documentary evidence of his A & E visit but says his friend who drove him to A & E could vouch for him if required. The hospital should have sent notes of his visit to his GP but his GP would charge him for a letter to confirm this.

He does however have the medication that was given to him at the hospital and he can show a text confirmation of the appointment he has made to see his GP on 2.11.17.

The DM accepts on the balance of probabilities Alpa has good reason for his failure to attend. There is no contradictory evidence that does not lend support to the credibility or plausibility of Alpa's account of events. He can provide confirmation of the prescribed medication and a follow up appointment with his GP. If required confirmation of events could be sought from the hospital, his doctor or his friend.

K2042 The DM should not automatically accept good reason even if the reasons given for the failure would in isolation normally support good reason. The DM should be satisfied that the good reason is valid by seeking supporting evidence especially where there is compelling or contradictory evidence that may require further enquiry. It is not unreasonable for the DM to ask the claimant to provide written evidence to support their reasons for a failure, for example, medical evidence from a doctor or a letter to provide evidence of another appointment but also see K2118.

Example 1

The DM receives a sanction referral from the MWA provider. Lee has failed to start his placement on the scheme. The evidence shows that this is the fourth consecutive failure by Lee to engage in the MWA scheme. Previous failures are documented as allowances for a period of sickness, a period of sickness for his elderly mother and a period of sickness for his daughter.

On this occasion he states he felt too ill to attend on the start date. The DM asks Lee to provide written medical evidence to support his illness. Lee replies saying he did not seek medical attention and did not visit his doctor on this occasion. He says it was a headache and he went back to bed to sleep it off. There is no evidence of a known underlying or pre-existing physical or mental condition.

The DM decides that it is inherently improbable that on four consecutive occasions he cannot start his MWA placement on the required day due to illness of either himself or a close relative and he can provide no written evidence.

The DM considers that it was reasonable in the circumstances to have expected Lee to contact the provider on that morning and rearrange the start date for the following day.

The DM determines Lee failed to participate without good reason in the MWA scheme and imposes a 91 day sanction for a first higher level failure.

Example 2

See example 2 at K3022. Cilla has had previous occasions where she has failed to participate in a required interview as part of a work related requirement due to sickness. The DM decides on this occasion to request medical evidence and writes to Cilla to ask her to provide evidence of her sickness on 17.8.15.

On 18.9.15 Cilla provides a letter from her doctor which confirms that on 20.8.15 when she had felt able she had attended an emergency walk in centre where they had given her medication for severe stomach cramps and subsequently she had been admitted to hospital for further tests and treatment.

Even though Cilla had not sought medical help until 20.8.15, she lived alone, and on the balance of probabilities, with the sequence of events that meant she subsequently ended up in hospital, the evidence gave credence to support that she had been suffering the stomach cramps on 17.8.15 and was unable to attend the Wp appointment as required, and had been too ill to phone on the day of the interview.

The DM accepts that Cilla can show good reason for the failure on 17.8.15.

Example 3

Ava fails to attend her normal work search interview. The evidence shows that this is the fifth time Ava has failed to attend at the appointed time. Previous failures are documented as two periods of sickness, attending a family funeral, she was late due to road works and looking after her elderly sick mother.

Ava fails to attend her interview on 11.12.17 and later in the day telephones to say that she could not travel to the appointment due to the bad weather. On the day of the interview there are light snow flurries and a severe frost. The work coach asks Ava why the weather conditions have meant she could not travel to the Jobcentre. Public transport is operating as normal.

Ava explains she was involved in a road traffic accident 2 years ago on her way home from work when her partner's car spun off the road in icy conditions. She fractured her collarbone, right arm and right leg and although she is now fully recovered from her physical injuries she suffers from anxiety travelling which is exacerbated when she has to travel in adverse weather conditions.

She says she had a panic attack about travelling to the appointment on 11.12.17 when she saw the snow and ice. She was too anxious and distressed to drive her car. When asked if she could have arranged for a taxi, or a lift or to get a bus instead she said she just wasn't thinking straight, she saw the snow and panicked. She lives with her elderly mother who doesn't drive and who in any event would not be a suitable companion to travel with in adverse weather conditions due to her age and frailty. Ava says she does take a mild medication for her anxiety and she can produce that as evidence or ask her doctor to confirm this if required.

On the morning of the appointment she had taken her medication to calm down and then had telephoned in the afternoon when she felt calmer.

The DM asks Ava to provide some evidence due to her history of previous failures and she provides a copy of her repeat prescription for her anxiety medication.

On the day of the appointment Ava's mental health state contributed to her reasons for not attending her appointment. She was temporarily distressed by particular circumstances, i.e. the bad weather, which was reasonable in her circumstances. She had telephoned the office to explain why at her earliest opportunity and provided satisfactory evidence to support her reasons. Ava had demonstrated good reason for the failure on this occasion.

Also see guidance at ADM K2071 et seq when considering the effect of mental health conditions on a claimant's reasons for failing to comply.

K2043 – K2045

Work experience

K2046 Participation in a work experience opportunity as part of a mandatory employment scheme will be voluntary and claimants who leave or lose a place on such a placement will be treated as having good reason unless they lose the place through gross misconduct. For guidance on work experience and what constitutes gross misconduct see ADM Chapter

1. K3 (Higher-level sanctions) for MWA scheme work experience placements **or**
2. K5 (Low-level sanctions) for Work Programme or sector-based work academy work experience opportunities.

K2047 Where a Claimant Commitment requires a claimant to apply for, attend or start a work experience opportunity as part of a work preparation requirement¹ the DM considers whether a low-level sanction is appropriate if the claimant fails to show a good reason for any failure to comply with the requirement as specified by the Secretary of State. For further guidance on work preparation requirements see ADM Chapter J3.

Specific examples which may be good reason

- K2051 Examples of a claimant's circumstances which may be treated as contributing to good reason for a failure include those who
1. are victims of domestic violence (see K2061)
 2. have mental health conditions or disorders (see K2071)
 3. are victims of bullying or harassment (see K2081)
 4. are disadvantaged, e.g. the claimant
 - 4.1 is homeless (see K2091)
 - 4.2 has a disability (see K2101)
 - 4.3 has learning difficulties (see K2103)
 5. have domestic emergencies (see K2111)
 6. there will be
 - 6.1 a significant harm to health (see K2116) **or**
 - 6.2 unreasonable physical or mental stress **or**
 - 6.3 a risk to the health and safety of the claimant or that of others
 7. have a sincere religious or conscientious objection (see K2131)
 8. have caring responsibilities (see K2140)
 9. have certain temporary circumstances (see K2146)
 10. have complex needs (see K2054)
 11. have a child affected by death or violence (see K2065).
 12. have certain circumstances particular to a failure to comply with a requirement to take up or apply for paid work (see K2151 – K2220)
 13. have certain circumstance particular to leaving or loosing paid work voluntarily (see K2221 – K2298)
 14. have certain circumstances particular to failures to participate in an interview relating to a work-related requirement (see K2301).

Note: This list is not exhaustive and each case should be considered on the individual circumstances and merits

- K2052 In all cases the DM should consider all the individual circumstances of the case when considering whether the claimant can show good reason. The consideration of

good reason and whether a sanction is appropriate for any failure to comply are only relevant

1. after any prescribed easement to a work-related requirement has been considered¹ **or**
2. where any easement as per 1. is no longer applicable **or**
3. where it is considered unreasonable to expect the claimant to comply with current conditionality requirements due to personal circumstances (i.e. the claimant has complex needs or is dealing with a personal crisis) and a discretionary easement would apply.

Note: See ADM Chapter J2 and J3 for guidance on conditionality groups, easements and work-related requirements.

1 UC Regs, reg 95 - 99

K2053 Advisers should normally have taken all the claimant's circumstances into account when setting work-related requirements. This includes any problems with literacy, numeracy or language problems, domestic situations, emergencies or changes to a claimant's personal circumstances. Complex needs can happen unexpectedly at any time and often the truth of the claimant's situation is not fully revealed until they are faced with a financial penalty and the case has been referred to the DM to consider a sanction (see K2056).

Note 1: Advisers should work with claimants to identify tasks that are appropriate to the claimant's situation that are reasonable and achievable and. at any time can apply a discretionary easement of the claimant's conditionality requirements for a temporary period if they feel it would be unreasonable to expect the claimant to comply due to personal circumstances (see further guidance at K2054).

Note 2: If claimants feel they are being asked to do things they consider unreasonable in their individual circumstances they can ask for a review of their Claimant Commitment at any time. See further guidance in ADM Chapter J1.

Complex needs

K2054 Claimant's with complex needs may need additional support as their ability to undertake work-related activity could be disrupted for a period of time. Complex needs means the claimant is experiencing some difficult life event or personal circumstances that means it would be unreasonable to expect them to meet their current work-related requirements. In such cases the work coach can 'turn off' conditionality requirements where

1. needs are recognised as requiring a specific easement (for example domestic violence) which is prescribed for in legislation¹ **or**

2. a discretionary easement can be applied as it is considered unreasonable to expect the claimant to complete their requirements for a temporary period of time.

Note: The DM should be mindful that because a claimant's circumstances can change, a requirement that was reasonable at the time they entered into their claimant commitment may no longer be reasonable at the time they failed to comply with a specific requirement.

1 UC Regs, reg 95 - 99

K2055 Some claimants may readily disclose complex needs, however, other claimants may be unwilling to reveal that they are experiencing difficult life events or personal situations. Indeed they may not realise that they have complex needs. However it is important that the DM treats each situation uniquely, considering

1. **what** the claimant can and cannot reasonably do to meet their conditionality **and**
2. whether their requirements need tailoring to reflect their current circumstances for a temporary period.

K2056 It may not be until the claimant fails to comply with a requirement and faces a sanction that they actually disclose the personal difficulties they are facing. Disclosure is often dependant on the sensitive nature or the complexity of the issue(s) and the vulnerability of the individual claimant. Some claimants fear being stigmatised because of their complex needs and each claimant deals with their circumstances and crisis differently.

K2057 If the case is passed to the DM to consider a sanction and from the evidence it appears it is unreasonable to expect the claimant to meet their conditionality requirements, the DM should apply good reason to the failure and return the case to the advisor to consider 'turning off' conditionality for a

1. short, medium or long period of time **or**
2. for recurring periods

depending upon the claimant's individual needs.

K2058 A complex need situation can occur unexpectedly at anytime and a claimant can have one or more situations of complex needs at the same time. Examples of some complex needs situations are

1. a sudden illness
2. emergency/necessary care for a dependant child
3. temporary homelessness
4. a break up of the family
5. a victim of harassment or bullying

6. substance or alcohol addiction
7. mental health issues (e.g. low self confidence and self esteem, anxiety state or depression)
8. care leavers
9. language or cultural barriers
10. bereavement
11. violence
12. ex offenders or criminals
13. declaration of suicide attempt or self harm
14. discrimination (e.g. race, colour, religion, sexual orientation, gender etc).

This list is not exhaustive it is for the DM to consider all the individual facts and circumstances and personal situation of the claimant.

Example 1

Marjory claims UC as a single person in February 2017. She is placed in the AWRR conditionality group. She fails to attend a work search review with her work coach on 9.3.17.

In her good reasons Marjory explains she left her home in February which she shared with her partner due to being a victim of domestic violence.

She was a housewife with no children.

She has been staying with a friend on her settee as she has nowhere else to live but her friend has asked her to move out at the end of the month as she is getting in the way and it could only ever be a temporary arrangement.

Marjory does not have any personal income or savings of her own as she was totally dependent on her partner and his wage.

She has no qualifications or recent employment skills because she was a full time housewife for over 5 years.

Marjory's friend helped her make an online Universal Credit claim.

Marjory says she is extremely anxious and frightened for the future as she feels she'll have to move back in with her ex-partner or she will be homeless. Her partner was physically abusive and she has suffered black eyes, bruising and even broken bones due to his violence over the past five years. She left him in February following a particular violent attack when she suffered black eyes and a broken nose.

Marjory has no family in the area to turn to but her friend offered her a temporary solution to get away from her partner. She is struggling emotionally and finding it hard to cope being independent and is worried about her future.

She says she was so overwhelmed by the enormity of her current situation when her friend said she had to leave at the end of the month she couldn't face attending her work search interview and went into panic. With no skills or qualifications she cannot see how she could possibly find a job and doesn't know where to start or how to search for a place to live.

Marjory's confidence and self-esteem are very low; she is feeling despondent and has even contemplated suicide.

She says she did not mention any of this on her claim form as she was ashamed but she cannot afford for her UC to be sanctioned as she has no other form of income.

The DM decides Marjory has good reason for the failure on 9.3.17 and considers that Marjory has so many complex issues to cope with at present that an easement of her work search and availability requirements would be appropriate to give her time to focus on finding suitable accommodation, to make financial arrangements and to attend any counselling support. The case is returned to the work coach to apply an easement of Marjory's current work related requirements.

Marjory is given details of specific websites and phone numbers which could be helpful to her (e.g. The National Domestic Violence Helpline and RESPECT). Marjory's easement would start on the date she disclosed her needs and continue as long as she provides evidence of her continued need. This could be evidence, for example, that she has made contact with the appropriate helplines and made some progress in looking to secure alternative accommodation as a first step.

Also see the example at K2144.

Example 2

Cameron claims UC as a single person in December 2017. He is 24 years old and is placed in the AWRR conditionality group. He lives with his brother in a flat. His brother works full time.

He fails to attend a work focused interview with his work coach on 16.5.18. In his good reasons Cameron says he forgot about his appointment. He says he had suffered an epileptic seizure the day before.

The DM looks at Cameron's compliance record and sees that he has failed to attend appointments on 3 other occasions in the last few months and there seems to be a pattern emerging with his reasons that follow a period of epileptic seizures.

The DM asks Cameron to provide further evidence of his condition and how it affects him.

Cameron explains that his condition is such that the seizures cause him to be forgetful, confused and lose coordination and require him to have a couple of days to recuperate afterwards. He says he cannot provide medical evidence for that particular day (16.5.18) as he did not seek medical attention on that day. Indeed it is not always necessary for him to seek medical attention after a seizure.

He further explains that he started having seizures about three years ago. He didn't actually know they were seizures at first as he didn't always lose consciousness. They kept happening and slowly got more frequent and then he started having tonic-clonic seizures, where he loses consciousness and convulses and his brother found him dazed and confused on the bathroom floor with a badly bruised head. He further explains that he is still quite new to epilepsy as a condition and recognising the symptoms.

He states he had to leave his previous job as a retail assistant because the seizures became so bad and frequent his employer asked him to leave as it was upsetting other members of staff and customers. He says the condition is incredibly frustrating and upsetting and is often misunderstood and stigmatised. He has been the victim of harassment and discrimination because of his condition and he does suffer bouts of very low self-esteem and confidence following a particularly bad bout of seizures. The week of the most current failure he says he had loads of seizures, a lot of clusters of seizures and he had been in what they call 'status epilepticus' - a seizure that just won't stop. He had to attend hospital twice and stayed in overnight for observation. He can provide medical evidence of his hospital visits and a letter from his GP confirming his condition and current medication. He also can show he made a follow up appointment to see his GP the following week and if needs be his brother could provide evidence of how Cameron's seizures affect him afterwards.

He provides a leaflet from 'Epilepsy Action' which explains how epilepsy can affect individual sufferers and the challenges and discrimination they face including the impact on mental health.

The DM considers it was reasonable for Cameron to have missed his appointment and decides he can show good reason for the failure on 16.5.18. Although forgetting an appointment is not in itself a good reason (see guidance at **Note 2**. K2022), Cameron's forgetting the appointment was impacted by his medical condition, i.e. following a three day episode of seizures, and so was reasonable in his particular circumstances.

Cameron has complex needs and the case is returned to the work coach to consider applying an easement of his work-related requirements for recurring periods to take account of his epileptic episodes and medical condition and how that affects him when they occur.

The work coach can also help Cameron by referring him to a local epilepsy support group to learn more about how to cope and live independently with his condition and put in place some actions to try to help prompt him of any responsibilities he has to meet after episodes occur to try and avoid failures recurring in the future.

Example 3

Bryana claims UC as a 23 year old single parent. Her dependant son is under 1 years old and she is placed in the NWRR conditionality group.

On 15.4.18 her child reaches age one and she is invited in to an interview with her work coach with a view to setting new work-related requirements and agreeing a new Claimant Commitment.

Bryana fails to attend the interview and does not make contact to provide any reasons for the failure and a lowest-level sanction is imposed.

Bryana phones the work coach extremely distressed when she realises payment of her personal allowance has stopped. She tells the work coach she didn't realise that when her son reached one year old she had to start looking for work, she was under the impression she didn't have to look for work until he was at school and so she ignored the letter about the interview.

Bryana also states she suffers from anxiety and depression. She has been self-harming since she was 11 years old and has recurring suicidal thoughts. She doesn't know how she can face the future if her benefit is stopped with a young child and her mental health issues. She has also been suffering from gastric problems and chronic back pain for which she is visiting her GP and has recently been diagnosed as kidney disease. Although she is in regular phone contact with her parents they do not live nearby to her as she relocated to be with her now ex-partner. She feels quite isolated and despondent now as she has lost contact with a lot of her social circle since she got pregnant and had the baby and split up with her partner.

Bryana has suffered months of financial and health worries since and cannot see a way forward if she is also pressurised to find work. She requests a reconsideration of the sanction decision.

Bryana has complex needs. The risk of losing her benefits would significantly affect Bryana's mental health state and physical well-being if she is pressurised into looking for work with a young child, a history of mental health illness and self-harming and the added worry of now coping with kidney disease and her loneliness. The DM considers Bryana had good reason for the failure and reconsiders the decision to sanction. The case is referred back to the work coach to consider an easement of Bryana's work-related requirements due to her current complex needs and to consider additional support that may be available to help Bryana.

Victims of domestic violence

K2061 Claimants who have been a victim of threatened or actual domestic violence are not required to meet their work-related requirements for up to 13 weeks¹.

Note: For the definition of domestic violence and further guidance on work-related requirements see ADM Chapter J3 (Work-related requirements).

1 UC Regs, reg 98

K2062 Similarly claimants who are

1. forced to leave **or**
2. refuse employment

because of threatened or actual domestic violence from an estranged family member are to be treated as having good reason for so doing. This would be where the claimant notifies JCP or the DM that keeping or taking up a position would represent a risk to their safety because, for example:

1. the estranged spouse, partner, or family member would know where they work and could inflict harm on them **or**
2. taking up or retaining a job would be likely to expose the claimant to the area or place their estranged family member
 - 1.1 resides
 - 1.2 works **or**
 - 1.3 habitually travels to or visits

with the risk that harm could be inflicted on the claimant.

Note: This list is not exhaustive. Other conditions might also apply that would put the claimant at risk. The DM should consider each case on the individual facts and circumstances.

K2064 Where a claimant no longer satisfies the exemption in work-related requirements they may qualify as having good reason if

1. they are not living with the family member who inflicted or threatened violence
2. the threatened or actual domestic violence falls within the definition in relevant legislation¹
3. the person threatening or inflicting that violence or abuse is a family member within the definition in relevant legislation²
4. the claimant can provide evidence, or consents to validation, that they have reported the threat or actual violence to the police, healthcare professional, social worker or other official within the definition in relevant legislation³

Note 1: See ADM Chapter J3 (Work -related requirements) for relevant definitions and further guidance on Domestic Violence.

Note 2: Where the claimant has exceeded the 13 weeks easement allowed in legislation⁴ for domestic violence consideration should be given as to whether a discretionary easement can be applied to 'turn off' conditionality requirements (see K2054), and if an easement is not appropriate the DM should be sensitive to the claimant's individual circumstances and take them into account when considering good reason for any failure to comply with work-related requirements.

1 UC Regs, reg 98(4); 2 reg 98(4); 3 reg 98(4); 4 reg 98(1)(a)

Example

Rebecca has made a claim for UC from 19.8.13. She has recently left the marital home following the breakdown of her marriage. Rebecca left her husband after a period of emotional abuse which culminated in her leaving on 17.8.13. Rebecca notifies the Jobcentre on 22.8.13 that she has been a victim of domestic abuse. The DM treats Rebecca as not being required to meet any work-related requirements for four weeks beginning on 22.8.13.

On 14.11.13 Rebecca fails to apply for a job vacancy notified to her by JCP. She says she refused to apply for the vacancy as it is on the same industrial estate where her ex husband works and she is afraid she may bump into him if she was to work there. The DM determines that Rebecca has good reason for not applying for the vacancy as it could result in a risk to her safety.

Child in distress

K2065 Where a claimant fails to comply with a work- related or work-search requirement and it comes to light that there is a child in distress involved, the claimant will have good reason for the failure. This will include circumstances where, for example, the

1. parent or other close relative of a child has died **or**
2. child has witnessed an incident of violence.

Note: For full guidance on children in distress and work-related or work-search requirements see ADM Chapter J3.

K2066 Normally work-related and work-search requirements would be lifted but there may be cases where the advisor is unaware that the claimant has a child in distress and the requirements have not been lifted. If the claimant fails to comply then it may become a good reason consideration. In many cases, claimants do not want to disclose or talk about such personal circumstances and it is only when they fail to comply with a requirement and they are threatened with a sanction that DWP staff become aware of the true circumstances. The DM should accept the claimant had good reason where there is a child in distress.

Example

Aideen claims UC and lives alone with her 2 children aged 9 and 11. She left the marital home and her alcoholic husband in December 2014. Her normal fortnightly jobsearch review interview is on a Tuesday.

On Tuesday 14.4.15 Aideen fails to turn up to participate in her interview. In response to the request for her reasons Aideen replies to say she did not participate in the interview as she forgot as she had been running around for the past few days trying to sort out a restraining order against her ex husband and counselling for her 2 children in the aftermath of an incident on the previous Sunday. It had all been very stressful and very frightening for her and the children.

On Sunday 12.4.15 her ex husband had turned up drunk at her house with a gun and had held her and her 2 children at gunpoint, threatening to kill them. Her 9 year old daughter, Grace, had been particularly distressed by the incident, she won't eat or sleep, she has had screaming fits and is frightened to go to school for fear of her father turning up again. Aideen states they are all living in fear. Despite police involvement and the incident being resolved without any of them being physically hurt, her husband had only been cautioned for threatening behaviour. He had not been detained or charged with any offence and was back at the marital home only 2 miles away.

The DM considers Aideen has good reason for her failure and refers the case to the advisor to consider an easement of Aideen's work-search requirements for at least one month and then to review the situation.

Also see example at ADM Chapter J3220.

K2067 – K2070

Mental health

K2071 Claimants may have good reason if they fail to comply with a requirement if they were experiencing poor mental health which meant that

1. they were not able to comply with a reasonable request **or**
2. complying with the request in question would put their mental health at risk **or**
3. complying with the request would have put the health of other people at risk.

Note: The consideration at **3.** would apply to any situation where the claimant was involved with others, for example their mental health may involve unprovoked violent episodes or may mean they cannot concentrate fully and so could not drive or operate machinery around others or their mental state may be such that spending time with them could result in others feeling stressed.

K2072 The DM should consider each individual case on its own merits taking into consideration all the facts and evidence and whether the claimant understood what was required of them and their reasons for the failure taking into account in particular their mental health at the time of the failure.

K2073 As well as giving consideration to those claimants who have a clinically diagnosable mental health condition, the DM should consider whether a claimant who has no diagnosed condition may be temporarily distressed by particular circumstances that could worsen or precipitate mental ill health.

Note: See Examples 6 and 7 at K2352 when considering good reason where a claimant fails to participate in an interview relating to a work-related requirement.

K2074 The DM should not apply a sanction where a claimant leaves a job

1. voluntarily **or**
2. through alleged misconduct

when this is associated with the claimant experiencing poor mental health and damaging relationships in the work place. (See further guidance and Examples at K2076)

K2075 In particular where a claimant has no previous history of mental ill health, the DM should seek supporting medical evidence or other information that suggests that continuing in a particular work environment was prejudicial to that individual's mental health. The DM should seek evidence from additional sources which may include

1. health or support services
2. housing support services **or**
3. hostel keyworkers

where the DM can establish that the claimant is in contact with these services.

K2076 Although some claimants may have an existing mental health condition others may not but their actions may represent the onset of a mental health issue which may be a temporary response associated with a particular problem in a specific type of workplace. It is for the DM to determine whether the claimant's mental state is the genuine reason for a failure and distinguish from those that result from dissatisfaction or genuine misconduct.

Note: Relevant information may include for example deterioration in a previously satisfactory work attendance record, more frequent medical consultations (not restricted to mental health issues) and uncharacteristic behaviour.

Example 1

Helen is a 32 year old lady who was previously working at a large department store had felt her work situation was intolerable so left several weeks ago. She makes a claim to UC.

At her initial worksearch interview Helen provides details of her previous employment. She was employed as a stock clerk, did her job well and had an excellent attendance record. Seven months ago, she was asked to fill in temporarily for a colleague at the Customer Service desk for 4 weeks but was kept in that role until her resignation. She had always been a slightly nervous person, but noticed that with the hectic pace of her new role and being bombarded with requests and at times even harsh words from customers, she was struggling to cope. She asked her manager on more than 5 occasions to reassign her to her previous role, but she was told they were short of staff. Her situation worsened, she started missing work regularly and saw her GP four times for insomnia, headaches and 'nerves'. During the Christmas sales period things became even more hectic and her manager told her there was no way she could be re-assigned. While she was well at home, she was becoming increasingly frightened to go to work and spent increasing amounts of time crying in the bathroom at work. She finally could not cope anymore and decided to leave.

Helen provides her sick leave record and a letter from her GP to support her condition and her prescription for sleep aids and headache medication. Further evidence sought from her employer confirms the reasons for her leaving. The DM determines Helen has good reason for leaving her employment.

Example 2

George who is 59 years old leaves his job as an engineering manager of 30 years and makes a claim to UC. On his claim form and at his advisor interview George states he could no longer cope with the stress of the job and the increased hours and pressures as the company had suffered staff cuts and he was doing more duties than normal.

Over the last year he had been asked to do more and more and the pressure was causing him health concerns. He says during this period he also had several short periods of sick absence for minor ailments which he says in past years would not have resulted in an absence from work. He says he had discussed his concerns with his doctor over the past 6 months who had not diagnosed a specific mental health condition but it was noted on each visit his blood pressure was slightly raised, he was irritable, he was suffering from a lack of sleep and that he felt stressed.

He was taking medication to help him sleep. On the day he decided to leave there had been an accident where a colleague had been seriously injured and the extra stress the resulting paperwork caused him and his distress for his colleague had caused a panic attack and this triggered his decision to leave. George provides a

letter from his doctor supporting his health condition, details of his sleeping medication and further evidence of his sick record. The doctor provides an opinion that if George was to continue in that stressful environment it could precipitate mental ill health. The DM determines George has good reason for leaving his employment.

Example 3

Bob, a book-keeper, leaves his job because it was causing him stress and he was worried about his ability to do the job. He does not provide any evidence about this, and his employer has never complained about his work. He later produces a medical certificate that says he should not walk much because of an old hip injury but his job did not involve a lot of walking. He has not found another job to go to when he leaves. Bob does not have good reason for leaving due to his old hip injury but the fact that he is genuinely worried and suffering stress about whether he can do the job may be reflected in the decision on good reason. The DM may wish to make further enquiries in connection with Bob's stress and worry before deciding the good reason question.

K2077 – K2080

Victims of harassment and bullying

K2081 Similar to cases of mental health disorders, those claimants who leave or lose employment because they are a victim of bullying or harassment should not face benefit sanctions. Where a person is an injured party of others' actions further support for treating these victims as having good reason for leaving or losing work is provided by the recognition that bullying and harassment undermine a victim's physical and mental health, causing a range of symptoms such as

1. sleeplessness
2. loss of confidence
3. loss of appetite
4. self-doubt
5. hypervigilance
6. excessive double-checking of all actions
7. inability to relax.

K2082 Bullying and harassment can be defined as any unwanted behaviour that makes someone feel intimidated, degraded, humiliated or offended. This may happen in the workplace between two individuals or involve groups of people and may be obvious or insidious. It may be persistent or an isolated incident that can occur in written communications, by phone or through email or text, as well as face-to-face. The method of bullying or harassment are manifold, and could include for example

1. spreading malicious rumours, or insulting someone
2. exclusion or victimisation
3. unfair treatment
4. deliberately undermining a competent worker by constant criticism.

K2083 Harassment and bullying is unlawful under relevant legislation¹ and could be related to a person's

1. age
2. disability
3. gender reassignment
4. marriage and civil partnership
5. pregnancy and maternity
6. race, religion or belief **or**
7. sex and sexual orientation.

Additional evidence might be a claimant pursuing a constructive dismissal claim.

1 Equality Act 2010

K2084 The key, as with cases of mental ill health, will be in advisors identifying those who may have left or lost work as a result of harassment and/or bullying. This will likely be through their discussions with the claimant and from the individual's statement on their claim form. Alternatively, it may transpire later, after enquiries have been made with the former employer, that the claimant could be a victim of harassment or bullying. In either case, supporting evidence will be required for DMs to be able to reach their decision. This might be from for example

1. staff or trade union representatives
2. a legal representative
3. employment adviser **or**
4. witnesses (see Note).

Note: This list is not exhaustive. Some people may leave work because of bullying or harassment without confronting it with their employer and confirmation may be required from other sources such as another colleague.

Example

Jayne makes a claim for UC. On her claim form Jayne indicates that she left her last employment due to being bullied by her supervisor. On investigation it is confirmed that Jayne suffered bullying at her last employment. She provides a witness statement as evidence from a colleague and a letter from her trade union

representative whom she had reported the bullying to. The DM determines that Jayne left her employment voluntarily due to bullying and so no sanction is imposed.

K2085 – K2090

Disadvantage

Homelessness

K2091 Being homeless can reasonably influence a claimant's ability to maintain their performance in a job at a sufficient level to warrant keeping that place prior to claiming UC. It is rare that most people who are homeless face issues only related to housing. Many homeless people face multiple issues that can add up to form complex barriers to work, for example: mental health issues, significant medical health problems, substance abuse, exclusion and trauma.

Note 1: Each case should be considered on the individual merits and circumstances. There are certain conditionality easements for rough-sleepers and those in direct access hostels and advisers should have taken account of any restrictions or individual circumstances when setting any work related requirement giving consideration to a claimant's housing position when drafting the Claimant Commitment (see K2007 and further guidance in ADM Chapter J3 – Work-related requirements).

Note 2: At any time a discretionary easement of work-related requirements can be applied where it is considered that it is unreasonable for the claimant to be expected to meet their requirements due to complex personal issues (see guidance at K2054). In any case where a claimant faces being homeless consideration should be given to 'turning off' their conditionality requirements for a period of time to assist the claimant to focus on finding accommodation.

K2092 Homelessness in itself is not provided for in legislation but an adviser may consider the claimant

1. can be treated as dealing with a domestic emergency **or**
2. has a temporary change of circumstances

if an advisor considers the accommodation status impacts the claimant's capacity to retain or find work¹ (also see K2146) or comply with any reasonable work-related requirement. The DM, however, may have to consider good reason where the claimant has lost or left paid work due to being homeless (see K2094) or where an easement does not or no longer applies. Also see K2054 for guidance regarding 'turning off' conditionality requirements where individual claimant's are in crisis or have complex needs.

Note: See example 3 at K2352 when considering good reason where a claimant fails to participate in an interview relating to a work-related requirement and homelessness is a contributory factor.

1 UC Regs, reg 99(5)(b)

K2093 Homeless includes

1. sleeping rough
2. sleeping in friends homes
3. staying in temporary accommodation **or**
4. staying in supported accommodation, e.g. a hostel.

K2094 Being homeless can contribute to a claimant having good reason for leaving or losing a job or losing pay when they

1. were dismissed or had their hours or rate of pay reduced by their employer who states because of their accommodation status means it was impossible for the claimant to perform their job role satisfactorily **or**
2. left work or had reduced hours or rates of pay voluntarily giving the reasons as due to their accommodation status and can provide evidence of why the job was unsustainable.

K2095 When asked to show good reason the claimant will need to provide evidence to show why they were unable to sustain work and bring any relevant circumstances to the attention of the DM. For example evidence that verifies the claimants address as a hostel or bed and breakfast or other temporary accommodation. The claimant may also need to show evidence of

1. a lack of hygiene facilities
2. time required to seek housing
3. a link to any other influences that are reasons for the behaviour such as
 - 3.1 mental health issues
 - 3.2 being a victim of harassment
 - 3.3 bullying **or**
 - 3.4 domestic violence.

Note: It will be for the DM to consider all the facts and evidence in an individuals circumstances but good reason may not apply if a claimant is homeless but lost work because of other reasons such as misconduct.

Example 1

Garreth makes a claim to UC. He has left his job in a bar and states on his claim form that he had to leave his job as he could not attend work at the hours required

as he is homeless and sleeping at a friend's house where there is no public transport to get him to the job.

He was having to walk to and from work as he cannot afford a taxi as his friend's house is over 90 minutes away from his employer and he was constantly arriving late. Because of the long and awkward working hours, starting at 11am and often not finishing until 1 or 2 am he has no time to look for alternative housing and his friend had only offered him his couch on a temporary basis and was putting pressure on him to leave.

He states he is homeless because he had suffered physical abuse from his alcoholic father and he had left the parental home for his own safety after a row when his father had beaten him and he suffered a fractured jaw. His parents' address was near his place of work and he was constantly worried and anxious he would encounter his father whilst on his way to or from work. He is very distressed over his current situation.

Garreth provides written confirmation of his temporary address from his friend and confirmation from the hospital of his broken jaw. The DM can ascertain from local knowledge from the temporary address the problems Garreth would have with transport to the place of work.

The DM determines that it was due to his homelessness that Garreth had left his job and does not impose a sanction.

Example 2

Asha makes a claim to UC. On her claim form she states she is living in a hostel and has lost her job because she is homeless and has a drug problem. On further investigation her employer confirms she was dismissed for misconduct. She was caught stealing money from another employee. Although Asha is homeless she was dismissed from her current job due to misconduct and not due to being homeless. The DM should then go on to consider the misconduct, for example any other issues such as mental health issues and her drug addiction when considering whether to impose a sanction (see K2106 – K2107 and ADM Chapter K3 – Higher Level Sanctions).

Also see **Example 3** at K2352 when considering good reason where a claimant fails to participate in an interview relating to a work-related requirement.

K2096 – K2100

Disability

K2101 Disability in itself should not be a factor that should be deemed as good reason for failing to carry out work-related requirements but related factors should be considered, for example;

1. the level of support available to the claimant should be considered in the claimant's ability to meet the requirements, e.g. a single disabled claimant living alone may find meeting their obligations harder than those with support from others such as other members of their household **or**
2. some reasonable adjustments may be needed when a claimant is newly disabled in helping them to come to terms with their disability

Note 1: Advisers should have taken account of any disability or impairment when setting any work related requirement (see K2007 and further guidance in ADM Chapter J3 – Work-related requirements).

Note 2: See K2054 for guidance regarding 'turning off' conditionality requirements where individual claimant's are in crisis or have complex needs.

K2102

Learning difficulties, poor literacy or numeracy

K2103 Good reason would not be likely to apply if the claimant's failure was because they did not take action to address a basic skill requirement that could assist them into the job market. However consideration of the claimant's

1. ability to understand what requirements are expected of them **and**
2. ability to be able to perform those tasks **and**
3. any distress or anxiety or other mental health issues suffered as a consequence

should be born in mind when deciding good reason for any failure, act or omission.

Example

Bindu is a kitchen porter whose job is washing up and getting things out for the cooks. One day he is asked to clean an oven and flips and walks out. Bindu has significant learning difficulties, can only read a little and can only understand limited English.

Bindu had a very simple contract of employment which specified his duties very closely but this was different from the version the employer had produced which included 'any other reasonable instruction'.

He had been very distressed at being asked to do something he had never done before, he did not know how to do and that he could not understand or read the instructions how to do it.

The DM determines Bindu had good reason for leaving his job and no sanction is imposed.

K2104 DMs are not judging the claimants capacity to learn, simply whether they performed the required task to their capability. Any task should be reasonable in the claimant's individual circumstances and they should be capable of performing it.

Note 1: Advisers should have taken account of any restrictions when setting any work-related requirement (see K2007 and further guidance in ADM Chapter J3 – Work-related requirements). This includes taking account of what literacy, numeracy and language skills the claimant has and what opportunities may or may not be available to improve learning new skills. For example: using digital technology and the access to a computer may well be restricted for some claimants and should be born in mind.

Note 2: See K2054 for guidance regarding 'turning off' conditionality requirements where individual claimant's are in crisis or have complex needs.

K2105

Substance abuse

K2106 If a claimant failed to meet a work-related requirement because they were under the influence of drugs or alcohol would not amount to good reason for a failure. However other circumstances, e.g. medical issues, might contribute to the failure and the DM should consider all the facts and circumstances of the individual case when deciding whether a claimant had good reason for a failure.

Note 1: See ADM Chapter J3 - Work-related requirements and the restrictions on availability where the claimant is receiving and participating in a structured recovery from alcohol or drug dependency for no more than 6 months¹.

Note 2: Addiction to any substance or alcohol can mean the claimant has multiple complex needs and consideration may need to be given to applying a discretionary easement of their conditionality requirements (see K2054).

1 UC Regs, reg 99(3)(e)

K2107 If a claimant was sacked from their job for being under the influence of drugs or alcohol then a sanction should normally apply. If however they lost their job because they were in treatment, the DM would normally consider this to be good reason and a sanction should not apply.

Note: Each case would have to be judged separately on its own merits. Advisers should have taken account of any restrictions when setting any work-related requirement (see K2007 and further guidance in ADM Chapter J3 – Work-related requirements). Also see guidance at K2054 where a claimant may have complex needs.

Example

See example 2 at K2095. On further investigation the DM establishes that Asha has a severe addiction problem and stole money to pay for drugs. She is now being referred to a rehabilitation programme. The DM does not impose a sanction for her misconduct (see ADM Chapter K3 – Higher Level Sanctions for further guidance on Misconduct).

Legal constraints

K2108 Any legal constraints that prevent a claimant carrying out

1. a work-related requirement
2. taking-up or
3. retaining work

may well give the claimant good reason for a failure. For example where they fail CRB checks or are listed on the sex offenders register. It will be up to the DM to consider all the facts and circumstances of the individual case.

Note 1: Where a claimant has a driving ban alternative travel arrangements could be made and this in itself would not constitute good reason for a failure.

Note 2: Advisers should have taken account of any restrictions when setting any work-related requirements (see K2007 and further guidance in ADM Chapter J3 on Work-related requirements).

K2109 – K2110

Domestic situations

K2111 Relevant legislation¹ provides for situations where the claimant can be excused their work-related activities (see guidance in ADM Chapter J3 – Work-related requirements for details of what easements apply). Where requirements are not applicable the claimant would not have to show good reason (also see the guidance at K2146). It is only if the claimant does not fall within the easements that the DM will consider good reason.

1 UC Regs, reg 99

K2112 Where crises arise unexpectedly which limit a claimant's ability to meet their work-related requirements and an easement does not or no longer applies (see K2111) the DM should give careful consideration when deciding whether a claimant can show good reason and take into account in particular the nature of the crises and what is reasonable in the individual's circumstances. Consideration should be given as to whether a temporary easement of work related requirements would be appropriate to deal with any crisis or emergency (also see guidance at K2054). For example

1. a break up of the family

2. short notice caring commitments of the elderly, sick or young children
3. a domestic emergency
4. a family bereavement (see ADM Chapter J3 – Work-related requirements for easements that apply)
5. homelessness (see K2091).

Note 1: This list is not exhaustive. The DM should consider each case on the individual facts and circumstances of the case. Also see the guidance at K2054 regarding complex needs.

Note 2: The DM should in particular consider what is reasonable behaviour expected by a reasonable person in a working situation, for example; how would someone working react in a similar situation, e.g. would they be expected to attend work or is it reasonable they would need time off to deal with the emergency.

Note 3: Also see guidance at K2065 where there is a child in distress.

K2113 The DM should consider

1. the nature of the emergency **and**
2. when the emergency arose **and**
3. any alternative arrangements the claimant has made **and**
4. any alternative arrangements the claimant could reasonably have made.

Note: There is no automatic good reason, the DM should consider all cases on the individual merits and circumstances of the case applying the 'reasonableness' test (see K2021), and consider whether a temporary easement of the claimant's conditionality could apply where there are complex issues and it would be unreasonable to expect the claimant to meet their conditionality requirements for a temporary period.

Example 1

Dominika lives alone with her 7 year old daughter Olga. Dominika is due to attend her normal fortnightly jobsearch review and on the morning of the interview Olga is suffering from a sickness bug so she is unable to go to school. Dominika telephones the UC office to inform them that she cannot attend. Dominika is a single parent and has no other family except her mother who lives over 50 miles away and she has no other friends or neighbours she can leave her daughter with and especially at such short notice. The DM determines that Dominika has shown good reason for her failure.

Example 2

Lorenzo fails to attend an interview with his Wp provider. On the morning of the consultation Lorenzo wakes up to find that a water pipe in his home is leaking and

he calls a plumber to fix it urgently that day. He telephones the provider and states that he is unable to attend his interview as he has to wait in for the plumber. The provider raises a sanction doubt and refers the case to the DM to determine whether Lorenzo can show good reason for the failure.

Lorenzo lives with his partner and adult son who do not work. The DM determines that it is reasonable in the circumstances to expect Lorenzo's partner or son to wait in for the plumber while Lorenzo attends his Wp interview. The DM therefore decides that Lorenzo has not shown good reason for his failure to comply with the work-search requirement and a low-level sanction is imposed.

Example 3

Sean has an award of UC. He suffers from diabetes which is controlled by insulin. He is required to attend a WFI interview with his Wp provider on 22.5.15. He fails to attend and provides no explanation why. The DM decides Sean has shown no good reason and imposes a lower-level sanction. Sean subsequently provides medical evidence in support of him having suffered a hypoglycaemic attack the night before the appointment on 21.5.15. The medical evidence shows that Sean would have suffered some symptoms for the attack for a few hours afterwards. The DM considers whilst his reason may have in isolation normally supported good reason it was reasonable to have expected him to have contacted the provider on 22.5.15 if he did not feel well enough to attend. The DM decides Sean could not show good reason and does not revise the sanction determination.

Example 4

Mikka is due to attend an interview at the UC outlet at 9.30 am on 30.10.17. She fails to attend.

Later that day she phones her work coach to explain why she missed her appointment.

Mikka's daughter fell in the school playground and broke her arm. The school called her around 9.20 am as she was on her way to the jobcentre. They had called an ambulance and asked Mikka to come to the school urgently. Her daughter was particularly distressed and crying for her mum.

Mikka went to school immediately.

She is a single parent and was very worried about her daughter. She did not think about her appointment at the jobcentre as she was thinking about her daughter and trying to get back to the school as quickly as possible.

She didn't have enough charge on her phone to make a call or update her on line journal and she did not consider getting anyone else to go to hospital with her daughter.

She says she has only just got in from the hospital and has phoned straight away to explain why she could not attend.

Mikka arranges to attend an interview the next day and says she will arrange for a friend to come sit with her daughter whilst she attends.

Mikka has good reason for her failure to attend in the circumstances. It is reasonable she would be concerned for her daughter and want to attend hospital with her. She phoned to make a new appointment as soon as her domestic crisis was over.

Example 5

Aasim fails to attend his work search review at 10.30 am on 23.11.17. He phones later that day to explain why he missed his appointment.

Aasim says his Grandma is unable to move unaided so has to have assistance to get her out of bed, wash and dress, and make breakfast. His auntie normally cares for her but she is on holiday so his cousin and him are taking it in turns to look after her this week. His cousin called him around 9 am to say her car had broken down on the way to their Grandma's house and she was waiting for the AA. No-one had been to his Grandma since the night carer visited the day before and so it was a priority for someone to go see to her as soon as possible.

Aasim explains he tried to call his mum who was at work but her phone was switched off. He has a small family and there is no-one else who could help. His auntie is abroad, his Grandad is in a care home and there are no siblings or other relatives who could have helped.

He says he did intend contacting the Jobcentre when he got to his Grandma's house as he didn't have enough time before leaving the house and rushed out but realised when he got to his Grandma's that he had left his mobile phone at home. His Grandma doesn't have a computer in her house or a smart phone so he couldn't get on to his journal to up date it there. He has phoned as soon as he has got back home.

Aasim agrees another date and time for his appointment.

The DM decides Aasim has good reason. It was reasonable in the circumstances to provide emergency care for his Grandma and he had contacted the Jobcentre to explain his reasons for failing to attend at his earliest opportunity on the day.

K2114

Examples of what may be good reason in specific circumstances

K2115 There are certain examples of what may be good reason in specific circumstances based on case law and employment regulations where a claimant has

1. failed to comply with a requirement to take up or apply for paid work **or**
2. left work or loses pay voluntarily.

See guidance at K2116 - K2298.

Significant harm to health or unreasonable physical or mental stress where a claimant has failed to comply with a requirement to take up or apply for paid work, more paid work or better paid work

K2116 The DM must take into account when deciding good reason any condition or personal circumstance of the claimant which shows that a particular employment would be likely to cause

1. significant harm to the claimant's health **or**
2. the claimant unreasonable physical or mental stress (also see K2071).

Significant harm to health

K2117 The best evidence is confirmation from the claimant's doctor that the employment is likely to cause significant harm to the claimant's health. The DM should check any medical evidence provided to make sure that it is relevant to the type of employment in question.

K2118 If medical evidence is not available, the facts may still allow the DM to decide that the claimant had good reason. The DM can accept good reason, without requesting medical evidence, where

1. the employment itself **or**
2. the place the claimant would have had to carry out the employment would have made the medical condition worse. For example, a claimant with asthma, is offered employment working in a dusty atmosphere.

K2119 The DM should never decide to impose a sanction based on medical evidence which could not be shown to the First tier Tribunal because the claimant does not agree to it being shown.

K2120 Claimants who suffer from pneumoconiosis or pneumoconiosis and tuberculosis may hold a

1. certificate of suspension (issued before 27.11.74) **or**
2. letter of advice.

These documents are issued by a PMB. A certificate of suspension tells the person to give up employment in a stated industry, and not to take employment in certain occupations. A letter of advice advises the person whether it is safe to work in a particular occupation.

- K2121 The DM should accept that the claimant has good reason if the claimant
1. holds a certificate or letter **and**
 2. refuses employment of a type listed in the certificate or letter.

If the claimant refuses employment of another type, and the DM is not sure whether it would harm the claimant's health, a medical adviser should be asked whether the claimant's health would be at risk if the claimant accepted the employment.

- K2122 The employment must be **likely** to cause significant harm to the claimant's health.

Example

Guy refuses to apply for a job in a firework factory because there has recently been an explosion there. There is no evidence to suggest accidents are likely to happen frequently or in the future. Guy does not have good reason¹.

1 R(U) 32/56

Unreasonable physical or mental stress

- K2123 Sometimes a particular employment would be likely to cause unreasonable stress without being likely to cause actual significant harm but the claimant perceives it will. For example, claimants may be likely to suffer unreasonable

1. physical stress if they
 - 1.1 are disabled and take employment which is physically hard **or**
 - 1.2 take employment which means they have to work at night, but they find it difficult to sleep during the day **or**
2. mental stress if they work somewhere they dread, for example an abattoir or an undertaker's **or**
3. distress because a certain type of work exacerbates experiences of anxiety or mental distress, for example a person with social anxiety or a history of agoraphobia who is expected to deal with large numbers of people.

Note: Often this is a very individual and personal thing and may not have been identified as a restriction with their advisor. What one person can cope with will not be the same for another person and the DM should consider each case on its individual merits and circumstances (see K2124).

- K2124 Where the claimant genuinely believes that a particular employment is likely to cause

1. significant harm to the claimant's health **or**
2. the claimant unreasonable physical or mental stress

the DM should take this into account when deciding whether or not the claimant has good reason (see also K2071).

K2125

Consideration of claimant's health where claimant has left paid work

K2126 The best evidence is confirmation from the claimant's doctor that

1. the work was harmful to the claimant's health **or**
2. the doctor advised the claimant to leave.

The DM should check any medical evidence to make sure that it is relevant to the claimant's capacity to do the job in question but also see K2127.

K2127 If medical evidence is not available, the facts may still allow the DM to decide that the claimant had good reason for leaving. The DM can accept that there is good reason, without requesting medical evidence, where

1. the work itself **or**
2. the place the claimant works in

made the medical condition worse

Note: Consideration should also be given to the guidance in K2071 and K2081 if the reasons for leaving were due to mental health issues, harassment or bullying.

K2128 Where a claimant

1. was suffering from pneumoconiosis on its own or with tuberculosis **and**
2. had a
 - 2.1 certificate of suspension **or**
 - 2.2 letter of advice

issued by a PMB, the DM should follow the guidance at K2121 to decide whether the claimant has good reason for leaving employment.

K2129 – K2130

Sincere religious or conscientious objection

K2131 If a claimant refuses to comply with a work-related requirement because of any religious or conscientious objection, which the claimant sincerely holds, the DM should take this into account when deciding good reason. Claimants cannot show

good reason just by saying, for example, that they conscientiously object to doing a certain employment. They must

1. show that one or more of the terms and conditions of the employment conflicts with the principles on which their objection is based **and**
2. give enough evidence to satisfy the DM that their religious or conscientious objection is sincerely held **and**
3. show that the conflict between the principles of their religion or belief are reasonably unavoidable.

Note 1: The degree to which the claimant's beliefs are commonly held or considered reasonable by others is immaterial. The belief held must be in respect of a weighty and substantial matter.

Note 2: It may well depend on the specific job involved and the capacity of the employer to organise how certain tasks are performed when considering whether good reason can be shown.

K2132 A principled objection is not the same as a conscientious objection. The terms and conditions of the employment must require the claimant to act in a way which is contrary to their ethical or moral principles¹.

1 R(JSA) 7/03

K2133 The following are examples of religious or conscientious objections which may provide good reason

1. an objection to employment that involves the handling or supply of alcohol, cigarettes, tobacco or certain food products (e.g. pork)
2. a religious objection to being in employment on a particular day each week
3. an objection to employment with something which may be used to destroy life, whether human or animal
4. a religious objection to being in employment with members of the opposite sex.

Note 1: This is not an exhaustive list or specific criteria that mean a claimant would have automatic good reason but examples of some of the more commonly raised religious or cultural beliefs. The DM should consider any issue raised by the claimant in consideration of good reason; however the DM would have to be satisfied that all the criteria at ADM K2131 are met for it to be good reason.

Note 2: Where a restriction or limitation on work search or availability for work has been agreed, the claimant will not have to show good reason. The claimant must be able to show that they have reasonable prospects of obtaining employment with any restrictions and that they are meeting the required level of work search each week as agreed on their Claimant Commitment (also see guidance in ADM Chapter J3).

Note 3: Good reason would not be allowed where there is direct impermissible discrimination (i.e. unlawful discrimination based on characteristics protected by law, such as race, colour, national origin, religion, sex, age, gender identity etc)¹. However, whilst a religious requirement might be indirectly discriminatory to another protected group, that is not the question at hand. The question at hand is whether an employer can accommodate the religious belief. For example, in some religions men are not allowed to work in close quarters with women or groups of women who are not members of their own family and vice versa. Whether good reason can be shown may well depend on the specific job and the capacity of the employer to organise how tasks are performed to accommodate the religious belief. The DM should consider all the facts and circumstances and what is reasonable in the individual case and whether all the criteria at DMG 34321 are met (see **Example 6**).

1 Equality Act 2010

Example 1

Aabish is a practising Muslim. Alcohol is forbidden in Islam and some Muslims also refuse to handle it.

Aabish has good reason for not applying for an advertised vacancy in a local off-license. The job will involve handling and selling alcohol and cannot reasonably be avoided with such a small number of employees.

However, one of the major supermarket chains is also recruiting for till operators. They have a written policy to respect the wishes of any employee not to handle specific products for religious or cultural reasons and where any employees who have religious beliefs about certain products or what foods or drink they could handle, would place them on a till where those products are not usually served, such as clothing, or on tasks away from a till.

Aabish would not be able to show a good reason for failing to apply for a job at the supermarket based on her religious beliefs regarding alcohol.

Example 2

Yuraj refuses to apply for a vacancy at a building site as he will be required to wear a hard hat at all times for his own health and safety. Yuraj is a Sikh and his beliefs require him to wear a turban which means he cannot meet the requirement to wear a hard hat. Yuraj would have good reason not to apply for the vacancy.

Example 3

Billy is offered a job as a waiter in a restaurant at a casino. He states he has an objection to gambling, it is against his moral principles. Billy's opinion of gambling is irrelevant to the people gambling. His duties as a waiter in the restaurant will not require him to act in a way which is contrary to his beliefs with regard to gambling

and therefore he would not be able to show good reason for refusing the job on that basis.

Example 4

Akinta is referred to a MWA scheme placement for 4 weeks. At the end of the third week he asks if he can be excused the morning off his placement on Friday to attend prayers to participate in Eid. Akinta is a practicing Muslim and Eid is one of the most important religious festivals for the Islamic faith. The DM considers it would be reasonable for Akinta to be allowed 'time off' his placement to attend the religious festival Eid.

Example 5

Isaac is a practicing orthodox Jew. He refuses to accept a job offer as a care worker as the employer will not allow him to follow his religious observance of the Jewish Sabbath. Even though Isaac had offered to work longer hours Sunday through to Thursday, the employer states they have a duty to make sure the children in its care have proper supervision on Saturdays and they do not have the number of staff available on their payroll to allow him to have every Friday afternoon and Saturday off work. He would be required to take his turn to work Saturdays pro rata.

Isaac has an agreed limitation to restrict his work search to meet his religious observance and has consistently demonstrated that even within the restraints of his religion he has reasonable prospects of securing employment and meets the weekly requirements of reasonable work search as required and agreed on his Claimant Commitment.

Isaac does not have to show good reason for the failure to accept the job (also see the guidance in ADM Chapter J3 on work-related requirements).

Example 6

Nazir is a machine operator and has worked in a factory for 5 years on a bench by himself away from the other operators.

Due to a reorganisation of how tasks are to be performed Nazir is told he will have to go work as part of a team comprised of women co-workers.

Nazir explains to his employer that his religion forbids him from working in close quarters with women who are not his own family and requests that he be allowed to continue to work by himself or in a male only group without the new requirement.

The employer says they cannot accommodate Nazir's request as they do not have enough male operators to make up a team, the new processes are to cut costs and it is no longer possible to provide him with space separately on his own. Nazir leaves the job.

When considering whether Nazir has good reason for leaving the employment the DM considers that in his circumstances it is a reasonably held and a bone fide religious belief and as the employer cannot accommodate Nazir's religious beliefs to ensure he has no direct interaction with women he has good reason.

Whilst the religious requirement may be discrimination to women that is not the question. The question is whether the employer can accommodate Nazir's religious belief as the rule requiring him to work directly with women indirectly discriminates on the basis of Nazir's religion.

K2134 – K2135

Other terms and conditions which affect a claimant's personal freedom and beliefs

K2136 Claimants will have good reason for leaving paid work if the employer ordered them to do something that conflicted with their sincerely held religious or conscientious principles (see K2131).

K2137 K2136 may also apply where claimants left employment because they

1. objected to medical examinations or injections **or**
2. were genuinely afraid that the examinations or injections would cause them harm.

K2138 But if the

1. requirement to have a medical examination or injection was reasonable **and**
 2. claimant's reasons for refusing were only dislike or some irrational excuse
- then the claimant does not have good reason¹.

Note: Consideration should also be given to the guidance in K2071 and K2081 if the reasons for leaving were due to mental health issues, harassment or bullying.

1 R(U) 16/52

K2139

Caring responsibilities

K2140 If a claimant is the responsible carer of a child aged 5 – 13 they have good reason

1. not to accept a job that is not compatible with the child's normal school hours, including the time it takes the child to travel to and from school
2. for leaving paid work or losing pay because working hours are incompatible with caring responsibilities

Note 1: Advisers should have identified any reasonable constraints when setting activities (see ADM Chapter J3 (Work-related requirements)).

Note 2: It is only if the claimant does not fall within the easements within relevant legislation¹ that the DM will consider good reason.

1 UC Regs, reg 88

K2141 However where K2140 does not apply, the claimant's caring responsibilities must make it **unreasonable** to take the employment. A claimant should do all that is reasonably possible to fit in responsibilities with the employment on offer. But the claimant is not expected to take employment where the hours are so long or inconvenient that the claimant could not carry out the caring responsibilities. For example where the claimant has caring responsibilities for a teenager with health problems.

Note: Each case should be considered on its own merits taking all the individual circumstances into consideration. Advisers should normally have taken all the claimant's circumstances into account when setting work-related requirements, see ADM Chapter J3 (Work-related requirements) and it is only where any easements do not apply that the DM will be considering good reason.

K2142 If claimants are responsible for children, they cannot show good reason for a failure because they have to supervise them at certain times **unless** they can show that there is no reasonable alternative. The DM should ensure that claimants have taken reasonable steps to secure appropriate and affordable child care. For example options such as

1. day nurseries
2. breakfast and after school clubs
3. child care schemes
4. registered childminders
5. the help of friends or relatives (see note 2)

should be considered and reasons given if claimants state they are not suitable. This list is not exhaustive.

Note 1: Certain restrictions may apply depending on the age of the child, see ADM Chapter J3 (Work-related requirements) and if any easements apply the DM will not be considering good reason (see **Note 2** in K2140).

Note 2: There is no requirement that friends and family are asked to provide informal childcare in order for a claimant to show good reason only that it is reasonable that they are considered.

Example

Georgina is a LP with one son, aged 14, who has special needs. She has been offered paid work for 30 hours per week. She will need after school care for 2 hours each day. The Adviser has referred her to the Children's Information Services to obtain details of the child care schemes available in the area and has explained the financial help available with child care costs. Georgina refuses the job as she states that the childminders in the area have no vacancies for the times she needs, the after school club is full and there are no friends or family who can look after her son. The DM considers that Georgina has good reason for refusing the job. (Also see example Theo at K2023).

K2143 Good reason may be shown where the claimant refuses employment which would involve, for example

1. employment at night **or**
2. a very early start or late finish to the employment, or other unsocial hours **or**
3. overnight stays away from home **and**

it would not be practicable for anyone else to take over the claimant's caring responsibilities at these times¹.

Note: Advisers should normally have taken all the claimant's circumstances into account when setting work-related requirements but also see the guidance at K2144.

1 R(U) 20/60

K2144 Where parental conditionality applies, an easement of work-related requirements can be applied for a period of time where the claimants needs

1. require a specific easement (for example domestic violence) **or**
2. make it unreasonable to expect the claimant to complete their requirements for a temporary period of time (for example a sudden illness or necessary care for a child).

See further guidance at K2054.

Example

Aamira claims UC. She is a single parent and has a young child age 3. She is placed in the AWRR conditionality group from 3.4.17.

On 16.5.17 she fails to attend her regular work search appointment with her advisor. In her good reasons Aamira states she was afraid to leave her home and didn't have any child care for her 3 year old at the time of the appointment.

Aamira states she has been advised to stay at home as much as possible due to racial threats from her neighbour which so far have not resulted in actual physical violence only verbal abuse but there have been minor incidents where she has had

mud thrown at her door and windows, washing disappearing from the washing line and written threats posted through her letter box.

This is due, she says, to racial tensions following recent terrorist attacks in major cities around the world.

Aamira has contacted the police about the incidents but does not want to make an official statement for fear of making the situation worse.

Her health visitor has advised Aamira to stay inside as much as possible and to take her 3 year old child out of the local nursery to avoid contact with her neighbour as the neighbours child also attends the same nursery.

Aamira has been placed at the top of the council housing list for priority re housing due to the current situation.

She does go out for shopping locally as and when required but is very careful when she goes out, trying to go at off peak times and is constantly looking over her shoulder and worried she may bump into her neighbours.

Aamira is finding the whole situation very distressing and is genuinely frightened of her abusive neighbour and what might happen.

The DM considers Aamira has good reason for failing to attend the appointment on 16.5.17 and returns the case to the advisor to consider a temporary easement of Aamira's work-related requirements until such time as she is rehoused and can arrange a new nursery for her son in the new area, as it is unreasonable in her current circumstances to expect her to meet her current requirements in her situation.

K2145

Temporary changes in circumstances

- K2146 It is unreasonable for a claimant to be expected to comply with a work-related requirement opportunity if the reason for doing so was that the claimant
1. was attending court as a witness, juror or party to any proceedings¹ **or**
 2. was arranging or attending the funeral of a close relative or close friend²
 3. was crewing or launching a lifeboat **or**
 4. was on duty as a P/T member of a fire brigade **or**
 5. was receiving and participating in a structured recovery-orientated course of alcohol or drug dependency treatment for less than 6 months³ **or**
 6. has
 - 6.1 temporary child care responsibilities **or**

6.2 is dealing with a domestic emergency **or**

6.3 other temporary circumstances such as being homeless⁴.

The work availability requirement should be lifted and in such cases the DM does not need to consider the question of good reason (see ADM Chapter J3 – Work-related requirements for further guidance).

Note: Also see the guidance at K2111 where the claimant is dealing with a domestic emergency, K2091 if the claimant is homeless and K2054 where a temporary easement may apply due to a claimant's complex needs or crisis.

1 UC Regs, reg 99(3)(a); 2 reg 99(5)(b); 3 reg 99(3)(e); 4 reg 99(5)(b)

K2147 – K2150

Circumstances that may show good reason for a failure to comply with a requirement to take up or apply for paid work

K2151 If the claimant does not have a good reason that falls within the circumstances listed at K2051 **1. to 11.** the DM may take other certain circumstances into account when determining the doubt relating to not taking up an offer of paid work or a refusal to apply for a job vacancy. This includes

1. any restrictions the claimant has been allowed to place on their work search, having regard to any discrepancy between these and the requirements of the job, although minor differences may not count (see K2156)
2. expenses unavoidably incurred (e.g. childcare and travelling expenses), or that the claimant had to or would have had to, incur if they had taken the job, if they amounted ,or would have amounted, to an unreasonably high proportion of the income they would have received. The proportion that is considered reasonable increases the more they are paid (see K2157 – K2167)
3. any other factor that appears relevant (see K2171 – K2207).

Note: For guidance on travelling time to and from paid work see ADM Chapter J3 (Work-related requirements).

K2152 – K2155

Restrictions on work search

K2156 Types of jobs recorded on the Claimant Commitment as the types of jobs the claimant is looking for are not necessarily restrictions as prescribed for in relevant legislation¹. Jobs identified are the best prospects at the time the Claimant Commitment is signed and that may change with time.

1 UC Regs, reg 97

Example

Samara has been claiming UC for 3 months. She agreed on her Claimant Commitment that the type of work she was looking for was office work, receptionist or bank clerk. Samara is notified by her advisor of a vacancy for a retail job at a local supermarket and she fails to apply for the job stating it is not the type of job she is looking for. The DM considers Samara does not have good reason for failing to apply for the vacancy.

Employment expenses

K2157 The DM should take into account when deciding good reason any expenses which

1. claimants have to meet only for the purpose of the employment **and**
2. would be an unreasonably high proportion of the expected pay from the employment.

K2158 Expenses which can be taken into account include

1. travelling expenses to and from the place of employment by a route and means appropriate to the claimant's circumstances
2. the cost of tools or equipment which the claimant has to provide
3. the cost of essential protective clothing, not provided by the employer
4. the cost of a criminal record check (known as a disclosure).

K2159 Deductions from wages of tax, NI and occupational pension contributions cannot be taken into account. This is because they are not expenses incurred for the purposes of the employment.

K2160

Child care expenses

K2161 The DM should take into account when deciding good reason any child care expenses which

1. are or would be necessarily incurred as a result of the claimant being in the employment **and**
2. did or would represent an unreasonably high proportion of the remuneration which it is reasonable to expect that he would receive from the employment.

K2162 There are no rules for deciding whether expenses would be an unreasonably high proportion of remuneration. Each case must be decided on its own facts. But the greater the level of remuneration is, the more reasonable it is for the expenses to be a higher proportion of it. The DM should also consider support available towards childcare from UC or other sources.

K2163 The DM should consider employment expenses as in K2158 and child care expenses as in K2161 separately. They should not be aggregated when considering good reason.

Unreasonably high proportion of pay

K2164 The expenses must be an unreasonably high proportion of the **expected pay** for good reason to apply. Other issues about the level of pay or the claimant's income or outgoings cannot be taken into account. For example, the claimant cannot show good reason by arguing that the expenses are unreasonable because the claimant's

1. wages would have been the only income the household has **or**
2. household expenses are particularly high.

K2165 There are no rules for deciding whether expenses would be an unreasonably high proportion of pay. Each case must be decided on its own facts. But the greater the level of pay is, the more reasonable it is for the expenses to be a higher proportion of it.

K2166 If the claimant would have an expense

1. for only a short time, for example where the claimant would have to pay for transport to work initially, but then works transport would be provided after a time **or**
2. as a "one-off", for example cost of tools

It would be reasonable for the claimant to spend more to meet such an expense than would be the case if the expense would last as long as the employment. The DM should also take into account that the claimant may be able to meet such expenses through the Flexible Support Fund.

Note: The Flexible Support Fund comprises of resources available to Jobcentre Plus Managers to cater for a variety of local needs for claimants.

Ignorance of the law may be good reason

K2167 A claimant may be able show that unawareness of the law is reasonable in the individual facts and circumstances. The claimant would have to show

1. they acted as a reasonable person of their age and experience would have done in the same circumstances **and**
2. that their behaviour was not unreasonable¹.

Ignorance cannot be good reason in itself, it has to be 'reasonable' in the specific circumstances taking into account all the facts of the case.

Note: This may be particularly relevant in the event of a 'pre-claim' failure for failing to take up an offer of paid work (see guidance in ADM Chapter K3). A claimant may be able to show that they could not reasonably have been expected to have been aware of the law and that their belief was reasonably held and it was reasonable in the circumstances.

1 R(S)2/63; R(P)1/79

Example

Carla claims UC on 8.9.17 and is placed in the AWRR conditionality group.

On 27.9.17 she attends a meeting with her work coach to agree her claimant commitment.

Carla graduated from University in July 2017 with a degree in Media and Communications. She says she is looking for graduate management roles, something ideally media or marketing related.

She says she has already had several interviews and has five others already in the pipeline. She was offered a job in August but she withdrew her application before the security checks could be completed as she had been offered other interviews for more suitable posts.

The other interviews were more in her field and in line with her degree and career goals, were better paid and had better advancement prospects.

She says she also withdrew her application for the first job offer because they expected her to complete a 3 month probationary period where she would not qualify for days off which would restrict her availability to pursue more relevant and suitable opportunities.

The work coach explains that Carla cannot restrict her work search whilst claiming UC and will also have to look for other types of work and informs her of the consequences of failing to accept an offer of paid work (i.e. sanctions). Carla agrees and signs her Claimant Commitment on 27.9.17. She says she was not aware she could not restrict her work search to vacancies suitable to her qualifications or of the consequences of failing to accept any job offer.

As a pre claim sanctionable failure has occurred, the work coach refers the case to the DM to consider good reason for Carla's failure to accept the job offer in August. Carla is in the AWRR conditionality group and no limitations apply to her work search.

The DM considers Carla can show a good reason.

Carla had already secured other interviews for employment when she declined the first offer (indeed she has a second job offer to start work on 4.10.17). She had only just finished full time education and is young and inexperienced in benefit matters.

She had done everything she reasonably could to find work and had excellent prospects of securing employment quickly.

It is reasonable, taking all her circumstances into account, a post graduate student with a degree in Media & Communications would have the reasonably held belief that she could pursue a career in her chosen field before she makes a claim to benefit. The claimant was not aware of the rules regarding claiming UC and taking up employment or the consequences of not taking any paid work (i.e. sanctions) before her work coach advised her and she signed her claimant commitment on 21.9.17 setting her work-related requirements.

Carla acted as any reasonable person of her age and experience would have done at the time.

Balancing this against the interests of the claimant and those of the community of those whose contributions and taxes finance the benefit the claimant did not act unreasonably in refusing the employment.

Her ignorance of the rules was therefore reasonable in her circumstances.

K2168 – K2170

Other circumstances that may amount to good reason

K2171 The DM should

1. consider all matters put forward by the claimant **and**
2. decide whether or not to take them into account when deciding good reason.

K2172 Account should also be taken of any other factor that appears relevant. In particular when the terms of a job on offer break the laws on

1. minimum working conditions **or**
2. they knowingly connive with an employer or agency in a
 - 2.1 tax avoidance scheme **or**
 - 2.2 PAYE is not being properly accounted for.

Attitude of claimant's trade union

K2173 The fact that

1. the prospective employer is on the "black list" of the claimant's trade union¹ **or**
2. the claimant refused the employment on union instructions or advice²

does not, **of itself**, provide good reason.

Possible return to previous employment

K2174 The fact that a claimant

1. has a previous employment that has not ended **and**
2. may at some time return to it

does not **of itself** provide good reason for refusing other employment¹ (however, see K2175 – K2176).

1 R(U) 1/52

Laid off and short time workers

K2175 If claimants

1. are laid off **and**
2. are being allowed to and do in fact restrict the employment they are willing to take to
 - 2.1 the job they are laid off from **or**
 - 2.2 casual employment within daily travelling distance of home **and**
3. refuse or fail to apply for or accept employment because it does not meet any of the restrictions claimants imposed within **2.1 to 2.2**

they will be considered to have good reason. The DM should not impose a sanction.

K2176 If the claimants are

1. on short time **and**
2. are being allowed to and do in fact restrict the employment they are willing to take to
 - 2.1 the job they are on short time in **or**
 - 2.2 casual employment within daily travelling distance of home for the hours they are not working in their short time employment **and**
3. refuse or fail to apply for or accept employment because it does not meet any restrictions claimants impose within **2.1 to 2.2**

they will have good reason. The DM should not sanction them.

Decision of Employment Tribunal pending

K2177 The fact that a claimant is waiting for the result of an Employment Tribunal hearing on unfair dismissal does not **of itself** provide good reason for refusing other employment.

Claimant already working

- K2178 A claimant who is working and is still entitled to UC does not have good reason for refusing other employment just because the claimant would have had to give up their existing job. But see K2179 if the claimant's reason for refusing other employment was that notice had to be given to end the current job.
- K2179 If the other employment offered would only have lasted for a short period, and the claimant would then have been unable to return to the previous work, the claimant may have good reason. It is for the DM to consider all the facts and circumstances of the individual case on its merits.

Example

Jack, who is working 10 hours a week at NM rate is offered about two weeks employment of 39 hours a week in the same type of employment, with a different employer. He is not sure that his current employer will take him back on when the new employment ends. Jack has good reason for failing to apply for the vacancy¹.

1 R(U) 34/56

Temporary employment

- K2180 Subject to K2179, the fact that the employment offered is only temporary does not of itself provide good reason¹. It is for the DM to consider all the facts of the individual case on its merits and apply a common sense approach in the individuals circumstances and apply the reasonableness test (see K2021).

1 R(U) 35/52

Definite chance of other employment

- K2181 If the claimant has a definite chance of other employment that
1. will start in the very near future **and**
 2. is likely to last at least as long as the employment offered **and**
 3. will be lost if the claimant accepts the employment offered

this will be good reason. Whether a chance is definite must be decided on the individual facts of the case.

Personal preference

- K2182 Claimants do not have good reason for refusing employment because they
1. would prefer another type of work¹ **or**
 2. wish to find employment for themselves without the help of Jobcentre Plus².

1 CU 3/48(KL); 2 R(U) 29/53

Other more suitable people unemployed

K2183 A claimant does not have good reason for refusing employment just because there are other unemployed people who are more suited to the vacancy. The question is whether the **claimant** has good reason for refusing it taking into account all the individual circumstances of the case.

Job vacant because of a trade dispute stoppage

K2184 Claimants cannot be sanctioned just because they refuse or fail to apply for or accept a job that is vacant because of a stoppage of work due to a TD. This applies even if the fact is not known at the date of refusal, but comes to light later. If a sanction has already been imposed, the adviser should let the DM know of the change so that he can consider revising or superseding the decision.

K2185 For the job to be vacant because of the TD stoppage

1. the **stoppage** must exist at the time the vacancy is notified or offered. It is not enough that there is a TD, or that a stoppage seems imminent **and**
2. the vacancy must have been caused by the stoppage. This will not be the case if the vacancy
 - 2.1 was caused by the illness of an employee, even if there is a stoppage of work at the employer's premises **or**
 - 2.2 arose normally after the stoppage had ended and the places of the employees affected by the TD had been filled **or**
 - 2.3 arose because an employee left a job where there was no stoppage in order to take a job where there **was** a stoppage.

K2186

Employment which the claimant has previously left

K2187 If the claimant has in the past left, or been dismissed from

1. the same employment **and**
2. employment with the same employer

that fact is not **in itself** good reason but the circumstances in which the previous employment ended may give the claimant good reason for refusing re-employment (for example consideration should be given to any mental or physical health issues or any of the circumstances in K2051).

K2188 Where the claimant refuses re-employment the DM should consider

1. all the circumstances surrounding the termination **and**

2. the effect of the termination on the relations between the claimant and the employer

Objection to employer or fellow employees

K2189 A claimant may refuse employment because

1. the claimant objects to the employer or other employees **or**
2. it would mean working with a person whose conduct is known to be offensive.

K2190 In extreme cases the claimant may be able to show that such employment would be likely to cause

1. unreasonable mental stress (see K2071) **or**
2. be grounds for a sincere religious objection (see K2131).

Otherwise, such an objection will only be good reason if it is so great that it would be unreasonable to expect the claimant to work in those conditions.

Example

Terry has previously left employment because of a personal disagreement with a colleague. She is offered a job by a different employer, but finds out that the colleague she had the disagreement with is now working there, and will be her supervisor. She is still on bad terms with the ex-colleague. She turns the job down. The DM considers that Terry has good reason.

K2191 Unless there are exceptional circumstances, an objection to an employer because that employer has previously sacked the claimant does not provide good reason if there are no other reasons to consider.

Claimant does not have necessary equipment

K2192 Claimants sometimes say that they are available for a particular type of employment where it is customary for employees to have their own tools, special clothes etc. If claimants do not have such tools, clothes etc, this will not generally be good reason. But in some cases there may be special reasons which will be good reason. For example, a claimant's tools are accidentally destroyed or stolen, and the claimant cannot replace them at once. But the DM should also take into account that the claimant may be able to buy such tools and equipment with help from the Flexible Support Fund.

Note: See K2166 for meaning of the Flexible Support Fund.

K2193 It is important to remember that health and safety is the responsibility of employers (class 1 employment) and that the provision of suitable protective equipment lies with the employer¹. Any available information concerning provision of equipment or

tools should be used to decide whether a jobseeker has good reason for refusing vacancies offered.

1 Personal Protective Equipment at Work Regulations 1992

K2194 - K2195

Seafarers

- K2196 Seafarers may refuse an opportunity to go back to sea because they want to
1. change their occupation **or**
 2. take shore leave which they are due, and by the time the leave is finished the chance of employment is lost, for example because the ship has sailed.
- K2197 It is difficult for seafarers who want to change their occupation, particularly if they are abroad or at sea, to find alternative employment to start as soon as their contract ends. If they
1. have taken whatever steps they could **and**
 2. seem to have reasonable prospects of finding other employment fairly quickly
- the DM should accept that they have good reason.
- K2198 The DM should take into account that seafarers are entitled to some leave after voyages. But this does not mean that they have good reason for refusing chances of employment during **any** period of leave, regardless of the circumstances. They must show that they have not acted unreasonably in relying on UC.

Working time regulations

- K2199 The Working Time Regulations 1998 provide that a worker's working time, including overtime, shall not exceed an average of 48 hours for each seven days (the average being calculated over a 17 week period) except where a worker has agreed with his employer in writing that this limit should not apply in his case.
- K2200 A jobseeker has good reason for refusing employment of over an average of 48 hours per week if he gives the number of hours as his reason for refusal, irrespective of whether he selected the vacancy himself, applied for the job or attended an interview being fully aware of the hours required.

Anti-social behaviour order, community order or community disposal

- K2201 Claimants may refuse employment because it would mean that they would break their anti social behaviour order, community order or community disposal taking into account any necessary travelling time. If claimants have tried unsuccessfully to get their order or disposal varied they would have good reason for refusing employment.

Claimant given incorrect details of employment

K2202 Claimants may refuse or fail to apply for or accept a vacancy, and it may later be found that they have been given incorrect details about the vacancy.

K2203 The DM should impose a sanction if

1. the claimant **cannot** show good reason for refusing a job on the terms wrongly notified **and**
2. the **actual** terms of the job would have been more favourable¹.

1 R(U) 20/55

K2204 The DM should not impose a sanction if the claimant can show good reason for refusing a job on the terms they were wrongly notified. The DM does not need to consider whether the claimant could have shown good reason for refusing the job had the actual terms been known.

Example

An adviser informs Dan about a vacancy as a packer in a local meat factory. He mistakenly tells Dan the rate of pay is £10 per hour. The actual rate is £12 per hour. Dan refuses to apply for the vacancy because in his last job, which ended two weeks ago, as he was paid more than £10 per hour as a packer. When considering good reason the DM treats the vacancy as if it was paying £10 per hour.

Claimants change their minds

K2205 Claimants who have refused or failed to apply for or accept a vacancy may change their minds and apply for or accept it

1. **before** it has been filled **and**
2. **before** the job was due to start **and**
3. their application is accepted for consideration by the employer.

In such cases claimants have not refused or failed to apply for or accept the vacancy.

K2206 If

1. claimants change their minds as in K2205 after the DM has imposed sanctions **or**
2. the DM imposes sanctions without being aware that claimants have changed their minds

the DM should consider revising or superseding the original decision in the claimant's favour.

Other reasons

K2207 The reasons mentioned in this chapter are not exhaustive. The DM must consider any other reason the claimant puts forward for refusing or failing to apply for or accept employment applying the test of reasonableness in consideration of all the facts and evidence in the individual case.

K2208 – K2210

Circumstances that do not show good reason

K2211 A claimant cannot refuse to apply for a job because of the rate of pay offered (except where this is below the NMW, (see K2213)) or because

1. of their income or outgoings (see **Note**) or those of any member of their household either as they were or would be if they took the job or carried out the work-related requirement.
2. they argue they need a high wage because they have a large mortgage or an expensive lifestyle.

Note 1: ‘Outgoings’ excludes expenses (such as for childcare) taken into account that would be an unreasonably high proportion of the claimant’s income.

Note 2: Where a claimant refuses or fails to take up employment because they would be worse off financially is not of itself good reason but may contribute towards good reason if there are other individual mitigating circumstances that are not related to the level of pay that mean there could be good reason for the refusal /failure to take up employment (for example: high child care costs, disproportionate travel costs, passport benefits such as free school meals would cease) and members of the household may suffer hardship as a result. The DM should consider as a whole all the circumstances of each individual case.

1 R(UB)10/61

K2212 The DM must disregard anything relating to the level of pay in the employment in question when deciding whether the claimant has good reason. The fact that the pay offered was

1. lower than the pay the claimant had previously received **or**
2. not enough to cover the claimant’s financial commitments **or**
3. lower than the pay received by most other employees in that occupation **or**
4. less than the claimant is getting in benefits

are all related to the level of pay, and must be disregarded. However see **Note 2.** at ADM K2211.

National minimum wage

K2213 Claimants have good reason for refusing employment if they do so because

1. the national minimum wage applies to them **and**
2. the employment does not pay at least the national minimum wage that applies to them.

K2214 – K2220

Circumstances that may show good reason where a claimant leaves paid work or loses pay voluntarily

General

K2221 To have good reason for leaving a job the claimant must show

1. they acted reasonably in leaving **and**
2. that their circumstances make it proper that public funds should support them.

K2222 There are no hard and fast rules as to when claimants have shown good reason for leaving or losing employment, because the circumstances in which they leave or lose employment are so varied. The DM should consider as a whole all the circumstances in which the claimant left or lost the employment¹.

1 R(U) 20/64(T)

K2223 Claimants cannot show good reason just because they acted reasonably in their own interests¹. The DM does not have to look at whether or not the claimant's leaving was in the **public** interest². It is the interests of other tax payers which should be taken into account³. The DM should decide whether the claimant has good reason for relying on UC⁴.

Note: In all cases the DM should have regard to the guidance at K2051 et seq when considering all the individual facts and circumstances of a case where the claimant has voluntarily left or loses paid work.

1 R(U)20/64(T); 2 R(U)3/81 Appendix; 3 R(U)20/64(T); 4 R(U)3/81 Appendix

Self employment

K2224 Claimants who are gainfully self-employed will not be subject to a sanction for giving up paid work or losing pay they will just lose their self employed status.

Note: For full guidance on self employment see ADM Chapter H4.

K2225

Other circumstances that may show good reason

K2226 In addition to the guidance at K2051 the DM should have regard to the following when considering good reason that can apply to UC claims for cases where a claimant leaves paid work or loses pay voluntarily:

1. any caring responsibilities which made it unreasonable for the claimant to stay in their job. In deciding whether it was unreasonable, the DM may look at whether childcare was (or could have been) reasonably available and, if it was (or would have been) unsuitable because of the claimant's or the child's, needs **and**
2. any childcare expenses the claimant had to pay as a result of being in the job, (and the support from UC and other sources to meet those expenses), if they amounted to an unreasonably high proportion of the income the claimant received. The proportion that is considered reasonable increases the more is paid (see note) **and**
3. whether, if possible, where the conditions of employment are poor, a claimant took reasonable steps to sort out any problems, e.g. by using any grievance procedure, and to look for another job seriously before giving one up (see K2246).

Note: There are no rules for deciding whether child care expenses would be an unreasonably high proportion of the pay received from that employment. Each case must be decided on its own facts. But the greater the pay the more reasonable it is for the expenses to be a higher proportion of it.

K2227 Good reason may be shown if;

1. the claimant's chances of getting paid work were good and, in addition, there were strong reasons for leaving their job and they acted reasonably in doing so (see K2265)
2. the claimant genuinely did not know or were mistaken about the conditions of the job (eg, it was beyond their physical or mental capacity, or was harmful to their health), gave it a fair trial before leaving and it was reasonable for them to have left when they did (see K2231 et seq)
3. the claimant left a job for personal or domestic reasons (eg, gave up work to look after a sick relative). The claimant has to justify leaving the job before looking for alternative employment or tried negotiating an arrangement with their employer to resolve a problem (see K2271)
4. the claimant leaves to move with their partner who has taken a job elsewhere and can show they have good reason. The claimant may have to demonstrate how important it was to their partner's career to make the move and how good their chances are of finding work in the new area (see K2272 et seq)

5. the claimant's employer changed the terms and conditions of employment that does not amount to the contract of employment ending. The claimant is expected to use any available grievance procedure first. DMs should not take account of any matter about the level of remuneration into account other than national minimum wage (see K2241)
6. the claimant left their job because of a firm offer of alternative employment, but claimed UC because the offer fell through, unless
 - 6.1 the offer was cancelled before they left their previous employment **or**
 - 6.2 they changed their mind and did not take the new job and could have stayed in their existing employment or did not ask their employer if they could stay (see K2265 et seq).

Note: As in every case in the consideration of good reason for any of the reasons listed at 1. – 6. the DM has to consider all the individual circumstances of the case on its own merits taking into account in particular any mental health issues that may arise as a consequence.

K2228 – K2230

Terms and conditions of employment

K2231 Claimants cannot show good reason for leaving employment because

1. they found it distasteful **or**
2. it was below their expectations.

K2232 But claimants may have good reason¹ if

1. they genuinely did not know, or were mistaken, about the nature or conditions of the employment (other than pay) when they accepted it and left after a fair trial **or**
2. they tried a different kind of employment because there was no work in their own line and the new work did not suit them.

1 R(U) 3/73

Example

Stewart leaves his employment as a trainee office manager after six weeks of a probationary period of three months. He considers it is unfair to his employer to continue training when he believes that the work is too difficult for him and he would never be able to do the work and prior to leaving he has provided evidence that he has started to apply for other jobs. Stewart has acted responsibly and has good reason for leaving.

K2233 Claimants will not have good reason for leaving if they

1. knew about the conditions that caused them to leave when they took the employment **and**
2. they took the employment in spite of those conditions.

The claimant is expected to give the job a fair trial to try to resolve the difficulties.

K2234 A claimant may leave their employment because they were required to work more than 48 hours a week, in contravention of the EU Working Hours Directive. If they have taken no action to resolve their complaint with the employer, they cannot show good reason.

K2235 A claimant cannot argue they had good reason simply because the conditions of employment were poor (other than for a breach in the law). They are expected if possible to take steps to sort out any problems, eg, by using any grievance procedure, and to look for another job seriously before giving one up¹.

1 R(U) 20/64(T)

K2236 The terms and conditions of employment (other than the level of pay) must make the employment so unsuitable that the claimant could not reasonably have been expected to stay in the job any longer. If this is the case, the claimant has good reason even if there were no prospects of other employment (see K22071 and K2081 where a claimant leaves or loses employment because of mental health issues, harassment or bullying).

K2237 A claimant may have good reason for leaving if

1. the employer did not comply with some part of the contract of employment **and**
2. the claimant left shortly after the employment starts.

In such a case the DM should consider the terms of the contract of employment, both express and implied. The DM should always obtain a copy of the contract where there is a dispute about its terms.

K2238 Claimants may have good reason for leaving if they suffered detriment under the national minimum wage legislation (see K2213).

K2239 – K2240

Changing terms or conditions of employment and grievance procedures

Employer changes terms and conditions

K2241 If claimants left employment because they refused to accept a change to their terms and conditions, they may not have voluntarily left employment. If they have left voluntarily, the fact that new conditions were imposed may give them good reason

for leaving. But if the only reason claimants left was that the change would have reduced their level of pay, they do not have good reason.

Example 1

Kevin, a piece worker, refuses to accept a change to the way his pay is calculated, that is paid for the amount of time he works rather than for each article completed, which his employer wants to impose at once. The change would mean a substantial drop in his wages. The drop in his wage is disregarded when the DM considers good reason, but Kevin has good reason for leaving, as he had no proper chance to consider the situation¹.

1 R(U) 15/53

Example 2

Teresa is given one months notice by her employer that her pay will be cut because of a change in the way her pay is calculated. The change will mean a substantial drop in her pay. Teresa leaves at the end of the month because she thinks it unfair that her pay is to be cut, and she says she will find it hard to pay all her bills on a lower wage. The claimant does not have good reason.

K2242 A claimant will not have good reason for leaving

1. if it was not possible to say for definite what the effect of the changes in terms or conditions would mean **and**
2. the claimant left before giving the changes an adequate trial.

K2243 A claimant will not have good reason for leaving

1. if the change to the terms and conditions was
 - 1.1 generally agreed and affected many or all of the employees **or**
 - 1.2 meant to bring the employees in the particular firm or department into line with employees elsewhere **or**
2. if the
 - 2.1 claimant stayed in the employment for longer than could be regarded as a trial period¹ **and**
 - 2.2 DM decides that by doing so the claimant had accepted the change to the terms and conditions of employment.

Note: For further guidance on trial periods see ADM Chapter K3 (Higher level sanctions).

1 UC Regs, reg 113(1)(b)(iii)

Police officers

K2244 Police officers take employment knowing that its terms will become less favourable after 30 years. If, at that time, they choose to retire early they have left voluntarily and do not have good reason for leaving just because the terms become less favourable¹.

1 R(U) 4/70

K2245

Grievances

K2246 A claimant has good reason for leaving employment if the claimant

1. had a genuine and substantial grievance about the employment (other than the level of pay) **and**
2. had tried in a proper and reasonable way to get it settled, but failed.

However also see the guidance at K2251 on contracts, terms and conditions.

K2247 An employer has to give employees a written statement within two months of them starting work. The statement should include details of the person to whom employees should apply to sort out any grievances. The statement should also tell them how to apply¹. So every employee who has been in employment for at least two months should be aware of a procedure by which they can try to sort out any grievance (also see K2251).

1 ER Act 96, s 1 & 3

K2248 If a claimant could not sort out a grievance with the employer, the claimant might have been expected to remain in the employment for a time. If this is so, the claimant will not have good reason for leaving unless the claimant had tried hard to find other employment. However also see the guidance at K2251 on contracts, terms and conditions.

Note: Consideration should also be given to the guidance in K2071 and K2081 if the reasons for leaving were due to mental health issues, harassment or bullying.

The facts in the following examples are not exactly the same as the case law quoted.

Example 1

David, the foreman in charge of a building site, complains that his office is unsuitable, but does not use the workers or materials available to make it suitable. He also complains that his employer is hostile to trade unions and their members and is going to give work to non-union firms. But he does not consult his union. David does not have good reason for leaving his employment¹.

1 CU 155/50(KL)

Example 2

Suzy, an actress, and her colleagues, without consulting their union, tell their employer they will leave unless he meets certain demands. The employer treats the ultimatum as notice of termination of their contracts of employment. They do not have good reason for leaving. They should have referred the matter to their union¹.

1 R(U) 33/51

Example 3

Carole, a sales representative, resigns because she does not agree with her employer's sales policy, and she is not happy with her working conditions or her colleagues. She has not found other employment. Carole does not have good reason for leaving¹.

1 R(U) 17/54

Work outside of agreed duties

K2249 A common grievance is where the claimant was ordered to do work which was not covered by the contract of employment. This may amount to good reason, particularly if the employer gave an ultimatum of either doing the work or leaving.

Note: Consideration should also be given to the guidance in K2071 and K2081 if the reasons for leaving were due to mental health issues, harassment or bullying.

The facts in the following examples are not exactly the same as the case law quoted.

Example 1

Gaik, a waitress, agrees to work behind a self service counter at a holiday camp until she is needed as a waitress. She leaves when she is made to peel potatoes. She finds work as a waitress at another holiday camp a fortnight later. Gaik has good reason for leaving voluntarily¹.

1 R(U) 40/53

Example 2

Hector, an apprentice electrician, is ordered to repair a leak in a water pipe. He had done this type of work before, but his employer has already admitted that it is outside his contractual duties. He refuses to do the work, but the employer tells him to do it or leave. Hector leaves. Hector has good reason for leaving¹.

1 R(U) 18/57

K2250 In some unskilled and semi skilled jobs the duties of employees are not clearly defined. Such employees have to do or are expected to do whatever is reasonable taking into account

1. any broad categories of work specified in the contract of employment **and**

2. the job title **and**
3. the normal duties of similar employees.

So they may find it more difficult to show good reason but also see K2251. The DM should consider all the facts of each individual case on its own merits taking into consideration all the circumstances.

Contracts, terms and conditions

K2251 Some employers may show no awareness or interest in complying with employment law and may not provide anything for their employees such as written terms and conditions or grievance procedures, not even payslips. It would be for the DM to consider all the individual facts of the case on its own merits where for example a claimant leaves paid work because they are given no meal breaks or expected to work for 12 hours non-stop or don't get paid on time. If an employer persistently breaches health and safety law or does not pay an employee the claimant would have good reason for leaving the paid work.

Example

Anya starts work in a shoe shop. She is given no written terms and conditions of employment. Her understanding when she takes the job is that she will work 4 days per week 9am to 5pm and she will be paid weekly. This suits Anya's personal circumstances as she helps out her family by caring for her sister's children in the evenings and at weekends so that her sister can work.

After the first 4 weeks Anya complains to her boss as she has had no meal breaks and has worked until 7pm on most days to complete stock taking and tidy the store room after the shop has closed and has still received no pay

The boss tells her this is during her period of training until she is up to speed with the job. He tells her she will be paid as soon as he sorts the details out with head office. He also tells her that it is part of the duties of the job to stay behind to clean up after the store closes and she will get meal breaks as and when the business allows as the store has been so busy lately. He tells Anya that he expects his employees to do what is expected, as and when, as the trade demands on any particular day.

Anya continues to work at the shoe shop for a further 3 weeks and the boss continues to ignore her complaints about the extra hours, no meal breaks and no pay. He tells her she is also now expected to work weekends in addition to the 4 days in the week when the store is busy. She decides to leave. Anya has good reason to leave the paid work.

K2252 – K2255

Short time and overtime working

K2256 A claimant does not have good reason for leaving just because

1. overtime stopped or reduced and the earnings were less **or**
2. short time working was introduced, and the claimant could not earn full wages.

A claimant may have good reason because of short time working if there was a firm offer of better paid employment elsewhere.

K2257 But if claimants' earnings were substantially reduced and they had a lot of expenses because of living and working away from home, they may have good reason if

1. redundancies were clearly likely and the claimants thought they would find employment very soon **or**
2. they were working P/T, and left to take up F/T employment¹.

1 R(U) 4/73

K2258 If claimants left employment because they disliked working overtime, whether they have good reason depends on the

1. reason they were unwilling to work overtime **and**
2. amount of the overtime working and how long it was due to last for **and**
3. what they were obliged to do under their contracts of employment.

K2259 If claimants

1. left employment only because they **wanted** to work overtime, or more overtime (see K2256) **or**
2. lost employment because they refused to work overtime

the question of whether they have lost employment through misconduct should be considered if appropriate.

Note: Consideration should also be given to the guidance in K2071 and K2081 if the reasons for leaving were due to mental health issues, harassment or bullying and also see K2251 where an employer breaches the terms and conditions of employment.

K2260

Retirement and resignation

K2261 Claimants who reached normal retirement age for their employment, but did not have to retire, will not have good reason for leaving if they retired because

1. they wanted to **or**
2. they wanted to get their pension.

It will not help such claimants to say that they would have continued working on certain conditions (for example that they could get their lump sum pension) if this was not acceptable to the employer.

K2262 The DM is not deciding whether it was reasonable and proper for claimants to retire on pension. The DM is deciding whether, if claimants chose to retire, it is reasonable that they should be allowed to benefit from the NI fund¹.

1 R(U) 26/51

K2263 Where the claimant gives other reasons for leaving employment on reaching retirement age, they should be considered in the normal way giving full consideration to all the facts and evidence in the individual case.

The facts in the following examples are not exactly the same as the case law quoted.

Example 1

Elizabeth, a police officer, aged 52, retires on maximum pension after 30 years' service. She leaves because she does not want to stand in the way of younger officers' promotion prospects, and because she believes she has a better chance of getting another job than she would if she waited three years until compulsory police retirement age. She does not register for employment or make any other efforts to find any other work before leaving. Elizabeth does not have good reason for leaving¹.

1 R(U) 23/59

Example 2

Joe, a police officer, aged 51, retires on maximum pension after 30 years service. If he had stayed at work, his terms of employment would have been financially less attractive. He leaves because he wants to obtain a lump sum payment of pension with which to buy a house for himself and his wife, and to make his wife more financially secure. He had tried very hard to find other work before leaving, but had not been successful. Joe does not have good reason for leaving¹.

1 R(U) 4/70

Early retirement

K2264 Sometimes an employer runs an early retirement scheme to speed up normal wastage. A claimant who left on such a scheme will not have good reason just because the employer wanted, and indeed may have encouraged, the claimant to retire early.

Example

Richard, a school teacher, aged 62, applies for early retirement after reading a circular from his LEA on early retirement. The LEA accepts his application and certifies that his leaving allows them to carry out their services more efficiently. He has no pressing personal or domestic circumstances for leaving, and has no reasonable chance of finding other work. Richard has no good reason for leaving¹.

Leaving to take better paid or preferred employment

K2265 A claimant may have left employment, not because there was a fault with it, but because the claimant wanted a different type of work. In such a case the claimant will only have good reason if there was a firm offer of new employment which the claimant could reasonably have expected would start immediately and would last for a reasonably long time.

K2266 Claimants may have left employment because they wanted employment that offered

1. improved prospects **or**
2. the chance to improve their career **or**
3. F/T instead of P/T work.

In such cases claimants will have good reason if they had offers or strong expectations of such employment which would start very soon. Sometimes there may have been a risk of occasional unemployment in the new employment (for example because it depended on the weather).

Leaving to take up training

K2267 If claimants left employment just before they started a course of study or training that would advance their careers, they have good reason but may face a sanction if not available for work. But if the questions have been referred to the DM for a decision, the DM should consider availability, and whether they are able to meet their work-related requirements during the period of the course (see ADM Chapter J3 for full guidance on availability).

K2268 – K2270

Personal and domestic circumstances

K2271 A claimant's personal or domestic circumstances may have become so urgent that the claimant will have good reason for leaving employment without having looked for other employment. But if there was no urgency, the claimant should have taken all reasonable steps to avoid leaving, or the claimant will not have good reason¹. In some cases the claimant's reasons for leaving may show that the claimant is not available for employment.

The facts in the following examples are not exactly the same as the case law quoted.

Example 1

Megan, a school teacher, leaves her employment to look after her youngest child, as there is no one else available to do so. Megan has good reason for leaving employment, but availability will have to be considered if this has been referred to the DM for a decision¹.

1 R(U) 6/59

Example 2

Patrick, a painter, who lives and works in England leaves employment to go to Scotland because his father is dying. Before he leaves he asks his employer about employment when he returns. But when he comes back, there is no vacancy because of a redundancy. Patrick has good reason for leaving employment¹. Asking his employer about employment when he returned amounted to asking for a leave of absence.

1 R(U) 32/59

Moving home

K2272 If claimants moved home to a place beyond the normal 90 minutes daily travelling distance either way of their employment, that alone does not give them good reason for leaving¹. But the DM will need to find out the reasons for the move. If there was some urgent personal reason for moving, for example

1. the claimant or partner was ill **or**
2. their current accommodation was totally inadequate **or**
3. they lost their accommodation

they may have good reason for leaving.

1 R(U) 20/64(T)

Example

Matthew lives in two attic rooms with his wife and year old baby. He gets a house, but it is too far away from the place he works to allow him to travel daily. He has not found work in the town he is moving to. Matthew leaves his job and moves to the new house. He has good reason for leaving¹.

1 R(U) 31/59

K2273 If the reasons for moving are not quite enough to establish good reason, the DM should consider how likely the claimant was to get other employment quickly, and what steps had been taken to obtain other employment. But the DM should bear in mind that it would be difficult to organize buying or renting accommodation to start on exactly the same date as a new job.

1 R(U) 20/64(T)

Example

Andy, a police sergeant, buys his own house. Nearly a year later he is transferred to a different place of work, which he finds it difficult to travel to and from. He makes enquiries of other employers, but retires voluntarily from the police force after 25 years service before having found other employment. He finds other work two weeks later. Andy does not have good reason for leaving, but the facts of the case are taken into account in deciding whether to sanction¹ taking into consideration all the facts of the case and in particular any mental health issues (see K2071 et seq).

K2274 In all cases where the claimants say they left employment because of moving home, the DM will need the following information

1. the reason for the move
2. the date of the move
3. the date on which the claimants gave notice to end the employment
4. the date on which the claimants first knew they would be moving and, if the new home is being bought, the date on which contracts were exchanged
5. what efforts the claimants made to find employment in the new area between the dates in 4. and 2.

K2275 Sometimes, although the reasons for the move would seem to amount to good reason, the claimant may fail to show good reason overall because, for example the claimant

1. did not make any attempt to find new employment in the new area before moving, despite having ample notice of the move **or**
2. left employment before it was necessary to do so.

K2276 The DM should take into account

1. the distance and the practicality of going to interviews in the new area
2. the difficulty of arranging everything for a particular date
3. the possibility of daily travelling, at least for a temporary period, if the distance is not too great
4. the employment prospects in the new area.

There is no general rule in this type of case, and while one fact alone may not give good reason, all the facts together may do so. The claimant's availability for employment may be in doubt for the days surrounding the move.

K2277 Claimants often leave employment to

1. marry, form a civil partnership or join someone who lives in an area beyond daily travelling distance **or**
2. go with a partner who takes employment in another area **or**

3. move to another area where there is more suitable accommodation

To show good reason such claimants must show that they had done everything reasonably possible to find employment in the new area which they could start immediately after moving.

Relocation

K2278 Where an employer relocates within the UK it would be necessary to look at the notice given for such a move and the DM should consider all the individual circumstances of each case on its own merits.

Partner going abroad

K2279 Claimants may have left their job to go with a partner whose employment takes them abroad. In these circumstances it may not be reasonable for claimants to take steps to find work abroad before leaving the UK. If they left employment no earlier than was reasonably necessary in order to arrange the move, then they will have good reason. But in such cases availability for employment will often be in doubt. Claimants cannot show good reason if they left employment earlier than they needed to.

Example

Faziz leaves employment ten days before leaving the UK to go with her husband, a Royal Air Force officer, to a posting in Holland. She leaves when she does to make the arrangements for going abroad. Faziz has good reason for leaving¹.

1 R(U) 2/90

Moving with parents

K2280 Sometimes claimants give up employment to accompany their parents when they move home to another area. If claimants are under 18, and their parents objected to them living and working away from home, they will have good reason for leaving their employment. Claimants 18 or over may also have good reason if they, or their parents, can show that there was a strong reason why they should have continued to live with their parents. Some examples of reasons which would amount to good reason are where claimants

1. have to be with their parents because of the parents' age and health **or**
2. need their parent's help or guidance **or**
3. would have a lot of difficulty and expense (compared with their earnings) if they lived somewhere else until they found other employment in the new area.

K2281 A less strong reason for moving with parents will not amount to good reason.

Example

Glenys, a typist aged 21, lives with her parents. They move home. She leaves her employment to move with them because they object to her living on her own. She does not make any efforts to find lodgings so that she can stay in employment whilst she looks for work in the new area. Glenys does not have good reason for leaving employment¹. However the DM should consider Glenys' efforts to find affordable lodgings.

1 R(U) 6/53

Financial difficulties

K2282 The fact that

1. the claimant's earnings were reduced because of
 - 1.1 an alteration in the terms and conditions of employment **or**
 - 1.2 short time working **or**
2. the claimant would be better off financially if claiming UC¹

does not by itself give the claimant good reason for leaving. However each case should be looked at on its own individual merits and circumstances.

1 R(U) 10/61(T); R(U) 15/62

K2283 Sometimes claimants were not dissatisfied with their earnings. But they left to get extra money, for example a lump sum or holiday pay which would be paid when the employment ended, to meet some financial difficulties. They will have good reason only if they were unexpectedly faced with urgent financial difficulties which could not be resolved in any other way. They will not have good reason if

1. they left only to
 - 1.1 gain a financial advantage **or**
 - 1.2 avoid a financial disadvantage¹ **or**
2. they have had financial difficulties for a long time and they are due mainly to their failure to manage their finances.

1 R(U) 14/55; R(U) 4/70

K2284 In all cases where a claimant loses pay or leaves paid work voluntarily the DM should take special care to consider any mental health issues that could affect the claimant's reasons for leaving (see K2071 et seq).

K2285

Living away from home

K2286 Claimants who had to live away from home permanently, or for long periods, have good reason if they had to leave their employment because

1. they were urgently needed at home **or**
2. their expenses for living away were unreasonably high when compared to their earnings.

Example

Ross, aged 61, has to live in lodgings 113 km (70 miles) away from his wife, Maureen aged 68. He tries to find her accommodation with him and to get a job near his home, but is unsuccessful. His wife falls ill, and there is no one to care for her, so he leaves his employment to look after her. Ross has good reason for leaving¹.

1 R(U) 14/52

K2287 A long period of working away from home may also provide good reason for leaving employment. When deciding this, the DM should take all the circumstances into account, including

1. what opportunity there was to look for other work while still in employment
2. the claimant's chances of getting work nearer home
3. whether the claimant could have found accommodation for the family nearer the employment.

A **short** period of working away from home does not give the claimant good reason for leaving employment, unless there are other urgent reasons for leaving.

Long daily journey to and from work

K2288 Claimants who live in remote places must expect to put up with a lot of inconvenience and expense in travelling daily to work. But they will have good reason for leaving if, taking their personal and domestic circumstances into account

1. they could not move their homes nearer to work **and**
2. the travelling took up an unreasonably high part of their earnings and prevented them from looking for work nearer home.

Note 1: The DM should consider each case on its own merits and the individual circumstances having regard to any transport difficulties created by public transport which make it difficult to get to and from work in rural areas.

Note 2: For detailed guidance on travelling time to paid work see ADM Chapter J3 (Work-related requirements).

Long or awkward working hours

K2289 Claimants are expected, within reason, to organize their domestic lives to suit their working hours. But they have good reason if

1. it became essential for them to reduce or alter their working hours (for example because a relative is ill) **and**
2. they tried but were unable to get their hours changed.

Note 1: The DM should consider each case on its own merits and the individual circumstances having regard to any transport difficulties created by public transport which make it difficult to get to and from work in rural areas. For detailed guidance on travelling to and from paid work see ADM Chapter J3 (Work-related requirements).

Note 2: Consideration should also be given to the guidance in K2071 and K2081 if the reasons for leaving were also due to mental health issues, harassment or bullying.

K2290

Chances of getting other employment

K2291 If the circumstances in which a claimant left employment fall just short of providing good reason, the DM should take into account the claimant's chances of getting other paid work quickly. When looked at together these may mean that the claimant has acted reasonably in leaving and becoming dependent on the NI fund¹.

1 R(U) 4/73

K2292 How good the chances of getting other work must be will vary from case to case. Claimants will have good reason if

1. there was a promise of continuous employment, which was expected to last for some time, to start in the near future **or**
2. they got another job and the circumstances in which they left employment almost amounted to good reason.

Claimants will not have good reason if they hoped they would get other employment quickly, but the evidence does not support this.

K2293 The DM should take the following into account when deciding what weight to give to the claimant's prospects or lack of prospects

1. the claimant's occupation, or type of employment sought if different
2. the chances of getting such employment
3. the area where the claimant lived compared to the area where the claimant wanted to work, if different

4. whether it would have been easy or difficult for the claimant to find new employment while staying in the existing employment
5. the results of any enquiries the claimant had already made about other employment
6. the claimant's work record.

K2294 The date at which the claimant's chances of getting other employment should be considered is the date on which the claimant

1. gave notice to leave **or**
2. took the action that led to leaving employment **or**
3. left employment, if it is to the claimant's advantage.

K2295 Claimants would not normally have good reason for leaving if their only reason for leaving was because they

1. had a good chance of getting other employment **or**
2. are claiming UC only for a very short time.

Firm offer of other employment

K2296 Claimants may have left employment because they had firm offers of other employment to start at once. But such claimants may have to claim UC because the

1. offers fell through unexpectedly **or**
2. new employment did not last very long.

K2297 Such claimants will have good reason for leaving unless

1. the offers were cancelled before they left their existing employment **and**
 - 1.1 they could have stayed in their existing employment **or**
 - 1.2 they did not ask their employer whether they could stay **or**
2. they changed their minds and decided not to take the new job **and 1.1 or 1.2** applies.

K2298 Sometimes claimants have left employment because they had firm offers of other employment to start shortly, but **not** immediately. They may then claim UC because

1. they changed their original intention not to claim UC during the interval **or**
2. the offer fell through and they are claiming UC for longer than they expected.

They do not have good reason for leaving, because they left their original employment before they needed to.

K2299 – K2300

Zero hours contracts

K2301 From 26.5.15 a ban of exclusivity clauses came into force¹. However a claimant cannot be sanctioned for leaving or not applying for or accepting a zero hours contract that has an exclusivity clause prior to 26.5.15. Claimants are expected to look for opportunities to increase their hours but they should not be sanctioned because

1. an employer reduces hours under a zero hours contract simply because the individual works for a second employer to gain more hours **or**
2. where the hours offered restrict the claimants flexibility to take opportunities to increase his earnings with other employers.

1 Small Business, Enterprise and Employment Act 2015

K2302 Good reason should be considered in all cases before a sanction is imposed taking into account individual circumstances and reasonableness. This approach provides sufficient discretion for the DM to make a decision based on individual facts and evidence including the suitability of the job for the claimant given their particular circumstances and their capability. It would be up to the claimant to provide some evidence of how they are tied to the employer by their zero hours contract.

Example 1

Simone has two zero hours contracts with two different employers. She left the second employer as over a period of 8 weeks she has been offered no work. The other employer has offered her regular work of over 16 hours every week in the same period. Simone has provided evidence that she left the zero hours contract with the second employer because it was failing to offer her any work. The DM decided that Simone has good reason for leaving this particular zero hours contract and no sanction is imposed.

Example 2

Rudy is participating in the Wp. He has previously worked as an insurance consultant. His provider mandates him to apply for a suitable known vacancy. He fails to do so as he says he does not want to take up a zero hours contract, he has a mortgage and young children so wants reliable, regular hours as the household earnings would fall below the administrative earnings threshold.

Rudy provides evidence of the zero hours contract. The employer can only offer 10 hours work per week and he has to be available to do this at any time.

The DM considers Rudy has a good reason for failing to apply for the vacancy, as it is not considered suitable for his circumstances and capabilities. It would lock him into low paid work, as it can only guarantee a small number of hours per week and

restricts his flexibility to take opportunities to increase his earnings with other employers.

K2303 Where a claimant leaves a zero hours contract because the employer is unreasonable or has treated the claimant unfairly to the point where it is unreasonable to expect the claimant to stay in that contract, the claimant will be able to show good reason for leaving that contract.

Example

Mia has a zero hours contract. She leaves the contract because she is not happy because she considers she does not get a fair proportion of the work on offer when compared to other colleagues. For the last 6 weeks she has had only 8 hours work per week but new employees have been set on who have had more hours offered. She is always only offered Sundays and Bank Holidays that other staff don't want. Mia also has a zero hours contract with another employer and has been offered regular hours of between 16 and 20 hours per week. She thinks the first employer has reduced her hours because she has a second employer. The DM decides Mia can show good reason for leaving the zero hours contract.

K2304 – K2350

Circumstances that may show good reason where a claimant fails to participate in an interview relating to a work-related requirement

K2351 ADM Chapter J3 – Work-related requirements provides guidance on certain claimants who do not have to be immediately available to take up paid work. DMs should take this into account when considering good reason. For example; a single person responsible for a child requires 48 hours notice in order to attend an interview in connection with obtaining work.

K2352 The DM should take into account all the circumstances of the claimant's case, including in particular any of the circumstances in K2051 and also

1. whether the claimant misunderstood what they had to do because of language, learning or literacy difficulties, or because they were misled
2. whether they (or someone they care for) were attending a medical or dental appointment which it would have been unreasonable to expect them to rearrange but see the guidance in K2041 where there are repeated previous failures
3. any transport difficulties at the time of the interview
4. any religious reasons why they could not participate

5. whether they were attending a job interview.

Note: This list is not exhaustive. As in every case the DM should consider whether the claimant can be treated as meeting a work availability requirement or where the DM needs to consider good reason, the DM should consider all the individual circumstances of the case applying the reasonable test (see K2021).

Example 1

Bob is in the all work-related requirements group. He fails to attend an interview with his work coach on 16.9.15.

On 18.9.15 he phones and gives his reasons for not attending the interview. He states that on 11.9.15 he had travelled to Liverpool to visit a sick friend in hospital. On Saturday 12.9.15 the friend passed away and he decided to stay on to be with the grieving relatives and did not return to his home in Bolton until 18.9.15 after the funeral had taken place.

The DM considers whether Bob has good reason.

Whilst it is reasonable that Bob wanted to visit his friend who was seriously ill, and in the circumstances stay over to be with the grieving family and to attend the funeral, the DM considers it is also reasonable to have expected Bob to consider his responsibilities as a jobseeker and phone the UC outlet on or before 16.9.15 and rearrange the interview with his work coach.

Bob signed a claimant commitment which details what is expected of him as a jobseeker which includes attending and participating in interviews as required. Therefore, he had failed to fulfil his obligations as a jobseeker by not attending the interview and it was reasonable in his circumstances to have expected him to phone to try and rearrange the date and time of the interview. Bob has provided no evidence to support that it was unreasonable in the circumstances for him not to have made contact in the period he was in Liverpool staying with friends.

Bob therefore cannot show a good reason for the failure to comply.

Example 2

Rita claimed UC on 16.5.15 and is in the all work-related requirements group. She fails to attend an interview at the UC outlet on 25.9.15.

On 30.9.15 Rita phones to say that she failed to attend the interview as required because she got her dates mixed up, she says she marked her calendar with Friday 2.10.15 instead of 25.9.15. She says this was a genuine mistake on her part.

Claim records confirm Rita has no previous non-compliance and she has been claiming UC for 4 months. There is no evidence to indicate that there are any other factors that would affect her understanding the letter and her obligations. Rita has

accepted her claimant commitment which includes attending and participating in appointments with her advisor as required. She has a duty of care as a jobseeker to ensure she makes a correct note of when she has to attend and to meet her obligations as required and cannot show a good reason for the failure to do so on this occasion.

Also see guidance at K2022 **Note 2**.

Example 3

Daniel claimed UC on 20.8.15 and is in the all work-related requirements group. He was required to attend an interview at the UC outlet on 14.9.15.

On 22.9.15 Daniel phones to say he did actually attend the outlet on that day but he was 5 minutes late arriving due to him not catching his regular bus from home and not realising how long he needed to allow for the journey from his mate's house as he is currently sleeping on his mate's settee. He had a row with his stepdad who threw him out. He waited for 20 minutes at the UC outlet and he was not called for interview. He approached the security guard to let him know he was waiting but was advised to leave as his appointment time had been missed and phone up. He could not phone at the time as he had no use of a phone due to being made homeless and had no credit on his mobile phone.

Records show Daniel has no previous non-compliance and normally attends his interviews at the right time and place.

The DM considers Daniel has good reason as his homelessness has impacted on his actions on 14.9.15 and contributed to the failure and it was reasonable in the circumstances. He had made every effort to attend but had arrived late and been unable to use his phone.

For more guidance on good reason and the effect of homelessness see K2092 and whether the DM should advise that the work coach should now consider an easement due to the claimant's homelessness.

Example 4

Sue is in the all work-related requirements group and fails to attend an interview at the UC outlet on 23.11.15 at 9am.

Later that day she phones to say she failed to attend the interview at 9 am as she had a job interview for a temporary Christmas job in a card shop at 10am and at the time of the appointment with her work coach she was travelling to the job interview. The shop had sent her a notification of the interview which arrived on Saturday and as the UC outlet was closed over the weekend she had no way of notifying that she could not attend her normal job search interview at 9 am on Monday morning.

The DM considers Sue has good reason for the failure to attend as she was attending a job interview and she contacted the UC outlet later in the day at her earliest convenience to give the reasons why she had missed her appointment. Sue had acted reasonably in the circumstances.

Example 5

Blake is in the all work-related requirements group and is required to attend an appointment at the UC outlet on 26.8.15.

He fails to attend and provides his reasons for not attending. He says on the day of the interview he had an appointment to visit the dentist. It is established that this was a routine inspection appointment.

The DM decides that a reasonable person should have been able to rearrange their dental appointment in order to attend the work search review, or alternatively, Blake had known about the interview at the UC outlet well in advance and had made no effort to make contact and rearrange it when he received notification of the dental appointment for the same time.

The DM decides that Blake did not act reasonably and could have prevented the failure by rearranging one of his appointments and therefore has not shown good reason for his failure to attend.

Example 6

Dave is in the all work-related requirements group and is required to attend a 3 days training course with a manufacturing company starting on 28.7.15 at 9am.

He fails to attend.

On 7.8.15 Dave provides his good reasons and explains that on the day he was due to attend the training course he slept in. He goes on to say that at the time of the training course he was prescribed anti-depressants and sleeping pills from his GP as he is very anxious and stressed and not sleeping well at night as he is going through a difficult court case and if convicted could face going to prison.

The day before the training course he had been in court all day and was very stressed and couldn't sleep so he took a sleeping pill in the early hours of the morning and as a result did not wake up until 2pm. He phoned the manufacturing company immediately and re arranged the training course for the following week and has since attended and completed the 3 day course successfully.

The DM considers Dave has good reason for the failure. His mental health state and circumstances had contributed to his failure. He could provide evidence he was taking medication prescribed by his GP for his anxiety state. He had acted reasonably in the circumstances by immediately contacting the training provider and re arranging the course.

Also see further guidance at K2071 et seq for the consideration of mental health issues.

Example 7

John is in the all work-related requirements group and is required to attend an appointment with his Wp provider on 18.1.16.

On the day of the consultation it is snowing. John phones the provider to say he will not be attending the appointment due to the adverse weather conditions.

John provides his good reasons and evidence that several years ago he was involved in a road traffic accident when his car spun off the road in snowy conditions. He fractured his neck, collarbone and right leg but also states that although he recovered fully from his physical injuries since the accident he also suffers from mild depression and anxiety which is exacerbated when he has to drive, particularly in adverse weather conditions.

John goes on to say he went into complete panic about driving to the appointment when he saw it was snowing. When asked if he could have arranged for a taxi or to get a bus instead he said he just wasn't thinking straight, he saw the snow and panicked. He says he does take a mild medication for this problem and says he will provide a copy of his repeat prescription as confirmation. His doctor could confirm from his medical records but would charge him for a letter.

The DM considers John has good reason as on the day of the appointment his mental health state contributed to his reasons for not attending the appointment and he was temporarily distressed by the circumstances on that particular day. He had acted reasonably by phoning the provider to let them know he could not attend and had rearranged another appointment. He can provide evidence of his anxiety medication by providing a copy of his repeat prescription.

Also see further guidance at K2071 et seq for the consideration of mental health issues.

Example 8

Katie is in the all work-related requirements group and fails to attend an interview at the UC outlet on 11.11.15 at the required time. She arrives half an hour late.

In her good reasons Katie states there are new road works that have appeared on the bus route to the outlet since she last attended the office that are causing long delays to traffic. She also states she tried to ring from her mobile phone to let the work coach know she was going to be late but she could not get through, as the office phones were all busy.

On checking claim records Katie has no previous history of non-compliance. From local knowledge the DM knows that these particular road works are causing serious delays to all the traffic into town.

The DM considers that on this occasion Katie has good reason for her failure to arrive for the interview on time and she had acted reasonably in the circumstances.

On 25.11.15 Katie fails to attend her work search review at the UC outlet at the required time and arrives 20 minutes late.

In her good reasons Katie states that she was again held up on the bus due to the road works en route causing long delays. She says she had not thought to check how long the road works would be there for as she only travels on that route when attending the UC outlet.

On this occasion the DM considers that Katie cannot show good reason for the failure and did not act reasonably. She knew of the road works when she had attended the UC outlet 2 weeks previously and could have checked whether they were still there and causing delays and arranged to catch an earlier bus to get to the appointment on time.

K2353 – K2370

Claimant raises issue of notification as good reason

K2371 Where a claimant fails to comply with a mandatory requirement, but raises the issue of notification in his good reasons, for example he says he did not receive the relevant notification which details what he is required to do, the DM will have to investigate further and try to obtain copies of the relevant notifications to decide whether the claimant can show he did not receive it.

Note: If the claimant is able to show that the notification has not been received the notification cannot be treated as correctly served and a sanction could not be imposed for any failure to comply.

K2372 The DM would check the relevant notifications and any other supporting evidence to try and ascertain

1. the address to which the letter(s) was/were addressed
2. the security of that address
3. whether or not it was the address agreed with the claimant as his normal contact address and there are no reported changes of address
4. whether there were problems receiving mail at that address before or reported difficulties receiving mail

5. the claimants compliance history **and**
6. any other relevant information.

Note: The DM will make a reasoned decision considering all the available evidence and individual circumstances of the case and on the balance of probabilities whether it is inherently improbable that the notification was received. If the claimant cannot show the notification was not received then the notification was correctly served and the DM will go on to consider a sanction for the failure.

Example 1

Naveed fails to attend an interview with his Wp provider. In response to a request for reasons why he missed the appointment Naveed says he did not receive the appointment letter from the provider and he cannot recall receiving any text reminder of an appointment.

The DM decides she requires further evidence in order to consider whether Naveed can show good reason. She checks first that Departmental record hold Naveed's normal contact address and then asks Naveed if he has ever reported a problem with receiving post at that address before or reported difficulties receiving post from any other organisation and whether the address is considered a 'safe' address for the delivery of post before determining good reason.

Naveed responds to say there have been problems on occasion with the delivery of post as he lives at number 1 Accommodation Close and around the corner is number 1 Accommodation Road. He is Mr Naveed Ali and Mr Murad Ali lives at number 1 Accommodation Road.

On obtaining a copy of the mandatory activity notice issued by the provider it seems the letter was addressed to Mr Ali at number 1 Accommodation Road. Naveed also provides evidence in a letter that on checking with the post office the week the letter was supposed to arrive there was a relief post man working on that route as the regular post man was on holiday.

Naveed says he has always attended and participated with everything he has been asked to do in his work search and there are no records of any previous non – compliance. The DM considers it is a possibility that the letter was actually delivered to the incorrect address and decides on the balance of probabilities that Naveed has shown good reason for the failure to attend the interview.

Example 2

Lynsey fails to attend a CV writing course as notified by the advisor. When asked for her reasons Lynsey says she did not receive the letter notifying her of the course.

Lynsey can provide no evidence to show she did not receive the notification. Records show the letter was sent to her normal contact address and there are no records that Lynsey has reported problems receiving post at that address before. She lives with her parents and the address is considered a 'safe' address for the delivery of post. She has had other recent compliance failures linked with failing to attend required appointments.

Lynsey confirms she has received text reminders from the provider but didn't understand which appointment the text was referring to and didn't consider to chase the matter up. The DM considers it was reasonable in Lynsey's circumstances to have expected her to phone the provider to discuss her appointments when she received text reminders if she did not understand which appointment the texts were referring to.

The DM considers Lynsey cannot provide a good reason for the failure as on the balance of probabilities it is probable she did receive the notification and she can produce no evidence to show she did not.

K2373 – K2999

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