

Department for Work and Pensions

DECISION MAKING AND APPEALS

Decision Makers Guide

Volume 6

Amendment 51 – June 2018

1. This letter provides details on Amendment 51; the changes have already been incorporated in to the Intranet and Internet versions of the DMG.
2. PDF amendment packages are also available. These can be printed with the amended pages being reproduced in full. Each page will contain the amendment number in the footer

PDF amendment packages can be found on the **Intranet** at:

<http://intranet/1/lg/acileeds/guidance/decision%20makers%20guide/index.asp>

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Note: When printing PDF packages set the print properties to Duplex/Long Edge in order to produce double sided prints.

3. Amendment 51 affects chapter 34. The changes:
 - incorporate DMG memo 6/18, make other minor amendments regarding 'Find a Job' and add Appendix 5 – a list of approved prime contractors for the Work and Health programme.
4. If using a PDF amendment package remove the sheets as stated in the left hand column of the Remove and Insert table below and insert the new sheets as stated in the right hand column (note the record of amendments at the back of the Volume).

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34200 – 34530 (37 pages)
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Sanctions – General principles

34031 A sanction is a reduction in the amount of JSA which would otherwise be payable. It therefore follows that a DM can only impose a sanction on a claimant if the claimant is entitled to JSA¹.

1 JS Act 95 s 19(1); 19A(1) & 19B(1)

34032 A sanction could not be imposed for an action or activity not carried out during a period of waiting days as there is no entitlement to JSA. For further guidance see DMG 34901 and for full guidance on waiting days see DMG Chapter 20.

The ‘prior information requirement’

34033 The ‘prior information requirement’ principle is from a judgement of the Court of Appeal¹. The judgement provided, in the general interest of fairness,

1. each claimant’s responsibilities **and**
2. the consequences of not meeting them

should be set out clearly in understandable terms at the stage of specification of particular actions or activities so that claimants can make informed and meaningful representations at the relevant time.

Note 1: The ‘prior information requirement’ may therefore be relevant both to whether the claimant has been validly referred to a specific requirement and also to whether there was good reason for not complying with it.

Note 2: The fact that participation in or compliance with an activity or requirement is mandatory is beside the point. The whole purpose of the claimant having relevant information to be able to make representations, where benefit is under threat of sanction, is so the Secretary of State, or such authorised person, may be persuaded that the requirement, action or activity should be withdrawn or modified. This will be judged on the facts of the individual case.

1 SSWP v Reilly and Hewstone and SSWP v Jeffrey and Bevan [2016] EWCA Civ 41

34034 The amount and quality of information provided to the claimant about their responsibilities and the consequences of any failure to comply will therefore be relevant when considering whether a sanctionable failure has occurred in each individual case. Claimants need to be properly informed and

1. have clear and unambiguous communications to inform them of what is required of them **and**
2. have the link between what they are required to do and the application of sanctions fully explained **and**
3. know when they are in danger of being sanctioned **and**
4. when a sanction has been imposed, the amount and the duration.

34035 The 'prior information requirement' should be approached on an individual case by case basis. The ability of claimants to access information and express themselves will vary considerably in their levels of education and ability to understand the complexities of the sanctions regime at a time when

1. they may be under considerable stress **and**
2. the outcome of which any failure to comply may have serious consequences on their ability to meet their living needs.

In the interests of fairness, therefore, they should be in no doubt of what is expected of them, the consequences of failing to comply with any requirement and be able to make meaningful representations to a DM before a decision is made. Also see the guidance on 'regularity' at DMG 34039.

34036 There will need to be cogent documentary evidence that shows that the claimant was adequately notified and required to undertake a specific action on a given day which they failed to do. For example;

1. apply for a job vacancy by a certain date,
2. participate in an interview at the Jobcentre
3. participate in an interview with a provider as part of a 'work for your benefit' scheme,
4. provide a CV,
5. attend a jobs fair.

This list is not exhaustive. The 'prior information requirement' applies to any action notified to the claimant where there is a threat of sanction for non compliance.

34037 The onus is on the claimant to establish that any representations would have changed the decision to

1. refer the claimant to a particular scheme **or**
2. ask them to comply with a specific requirement.

Once adequately informed the DM would determine under good reason if the claimant advocated any activity or requirement as notified was unreasonable, taking into account all the individual circumstances of the case (see guidance at DMG 34200 et seq on good reason).

34038 Notifications form an integral part of any appeal submission to demonstrate that the department was legally compliant with the 'prior information requirement' and have to be available if requested by the judiciary. Therefore whatever is required of a claimant in their responsibilities, the Secretary of State has to be able to produce evidence to support that the claimant was adequately informed if a sanction is to be imposed. This can be a copy of a formal written notification or a screen print of

system records showing records of a telephone conversation, face to face interview, text or email message. For guidance on specific notification requirements in certain circumstances see further guidance at

1. DMG 34723 regarding informing the claimant of a job vacancy
2. DMG 34765 regarding mandating a claimant to the MWA scheme
3. DMG 34866 regarding mandating a claimant to a SAPOE ('work for your benefit') scheme
4. DMG 34901 et seq regarding issuing a JSD.

Note 1: The DM should be mindful of the 'prior information requirement' whenever the Secretary of State requires the claimant to take part in an action or activity which could result in a sanction to benefit.

Note 2: It is not essential that the DM routinely sees a copy of every notification in order to be able to consider good reason and whether a sanction would apply but they should be satisfied records show the claimant was adequately notified and that copies can be obtained if required for an appeal. Many notifications are standard issue forms and copies are not kept on individual records. Also see further guidance at DMG 34872.

Regularity

34039 'Regularity' is discussed in case law¹. The justification for presuming regularity is that things are usually done regularly and thus, in the absence of any contrary evidence, it may be regarded as probable that they will have been done regularly in any particular case. However, the presumption is no more than that, it is rebuttable. Moreover, since it may be contrary to experience that certain things are always done regularly, a party wishing to rely on the presumption may properly be required to prove that things were in fact done regularly in the particular case in hand.

1 SSWP v DC(JSA) [2017] UKUT 464 (AAC)

34040 The DM therefore has to be able to show the contents of what was sent to the claimant (if and when) when requested not just rely on 'regularity' and showing that a particular notification or letter was sent. In essence the Secretary of State ought generally to provide and ensure he is able to provide a copy of the contents of any relevant notification in every appeal case,

Note: This will turn on the facts of the individual case and whether the absence of the notification is relevant. There should be no ambiguity that a claimant did not in fact receive the relevant notification or had been, or could have been, confused by it.

Reduction period

34041 Where a failure is a sanctionable failure the claimant's award of JSA is normally reduced. The period and amount of reduction depends on¹

1. which requirement the claimant failed to comply with **and**
2. the number of sanctionable failures **and**
3. the period between failures **and**
4. the claimant's age at the date of the sanctionable failure.

Note 1: Also see guidance at DMG 34090.

Note 2: For guidance on 16 and 17 year olds see DMG 34186.

1 WR Act 12, s 46

34042 The reduction period depends on whether the sanctionable failure results in a

1. higher-level sanction¹ (see DMG 34091 et seq) **or**
2. other sanctions
 - 2.1 intermediate-level sanction² (see DMG 34121 et seq) **or**
 - 2.2 low-level sanction³ (see DMG 34161 et seq).

1 JS Act 95 s 19(2); 2 s 19B; 3 s 19A

34043 All sanctions are for a fixed period and run concurrently. Each sanctionable failure is treated separately even if this means that the period of a sanction overlaps a previous sanction or more than one sanction applies to the same reduction period due to the claimants signing and payment cycle.

Note: From 22.10.12 there are no discretionary length sanctions.

Escalation of sanctions

34044 All sanctions run concurrently and all sanctions must be at the same level (i.e. higher, intermediate, low) in order to escalate to the next penalty. The sanction length will only escalate if there has been one or more 'previous failure' (see DMG 34045) at the same level.

Note: See DMG 34041 for guidance on escalation of higher-level sanctions, DMG 34042 for low-level and DMG 34126 for intermediate sanctions.

Previous failure

34045 A previous failure is a sanctionable failure which has been the subject of a sanction decision at the same level¹.

Note: When considering previous failures the relevant date is the date on which the previous failure occurred not the date on which the decision to sanction was made.

1 JSA Regs, reg 69(2), 69A(2), reg 69B(6)

Higher-level sanctions

34046 In the case of higher - level sanctions, previous failure¹ means

1. a failure which resulted in a decision to impose a higher-level sanction² **and**
2. in the case of a joint-claim couple, a failure by the same claimant (see Example 2) **and**
3. the date of the earlier failure which resulted in a higher-level sanction is within 52 weeks but not within 2 weeks of the date of the claimant's current sanctionable failure (see **Note 2.**)

Note 1: See the definition of week at DMG 34013.

Note 2: See DMG 34043 if the previous failure is within 2 weeks of the date of the current sanctionable failure.

Note 3: See guidance at DMG 34046 if sanctions are determined out of sequence and DMG 34102 if the previous failure is a 'pre-claim' failure³ (i.e. in the case of higher-level sanctions for misconduct or leaving voluntarily).

Note 4: For further guidance see DMG 34091.

1 JSA Regs, reg 69(2); 2 JS Act 95, s 19; 3 reg 69(3)

Example 1

Shareena is in receipt of JSA and fails without good reason to participate in her fortnightly job search review on 28.8.13. The DM determines a 4 weeks sanction is imposed for the low-level failure.

On 7.10.13 Shareena fails without good reason to apply for a job vacancy and the DM imposes a 4 weeks sanction. The sanction is within 52 weeks of a previous sanctionable failure but not within 2 weeks. However this is a higher-level sanction and the previous failure was a low-level sanctionable failure. Therefore the failure on 28.8.13 will not apply to escalate the sanction for the current sanctionable failure as it is at a different level. A 13 weeks sanction will be imposed for this higher-level failure.

A sanction must be at the same level in order to escalate to the next penalty.

Example 2

Melinda and her partner David are a joint-claim couple in receipt of JSA. On 10.12.12 Melinda failed without good reason to accept a job offered to her. It is Melinda's first failure and a 13 week sanction is imposed.

On 8.8.13 Melinda's partner David, fails to participate without good reason in the MWA scheme. Although this is within 52 weeks of Melinda's failure the failure is not by the same claimant in the joint-claim. The sanction imposed for David's failure will be for 13 weeks.

Example 3

On 10.12.12 Francesca failed to participate in the MWA scheme without good reason and a 13 weeks sanction was imposed.

On 16.12.13 Francesca fails without good reason to apply for a suitable job vacancy. A sanction of 13 weeks is appropriate.

Although there has been a previous higher-level failure, the current sanctionable failure does not fall within 52 weeks of the claimant's previous failure and therefore the sanction cannot escalate to the next penalty.

Low-level sanctions

34047 In the case of low-level sanctions 'previous failure'¹ means

1. a failure which resulted in a decision to impose a low-level sanction **and**
2. the date of the earlier failure which resulted in a low-level sanction is within 52 weeks but not within 2 weeks of the date of the current sanctionable failure at the low-level (see **Note 2**) **and**
3. in the case of joint claimants, the failure is by the same claimant.

Note 1: See the definition of week at DMG 34013.

Note 2: Also see DMG 34043 if the previous failure is within 2 weeks of the date of the current sanctionable failure and see guidance at DMG 34046 if sanctions are determined out of sequence.

Note 3: When looking back at a previous sanctionable failure it has to be established if that failure was for the same member of a joint claim couple. A sanction can only escalate to the next penalty if the previous sanctionable failure was for the same member of a joint claim couple.

1 JSA Regs, reg 69A(2)

Example 1

Mohammed is a JSA claimant and fails to participate without good reason in an interview on 30.11.12. There has been no earlier low-level sanctionable failures and a 4 weeks sanction is imposed.

On 3.12.13 Mohammed fails to comply with a JSD to attend a CV writing course without good reason.

There has been one earlier low-level sanctionable failure but the current low-level sanctionable failure does not fall within 52 weeks of the earlier failure and therefore does not apply to escalate the sanction and a 4 week sanction will apply for the failure on 3.12.13.

Example 2

Morwena fails to participate without good reason in the Wp on 6.11.13 and a 4 weeks sanction is imposed on her JSA.

On 29.9.14 Morwena fails to take part in an interview without good reason.

The failure on 6.11.13 is a previous failure at the low-level and is within 52 weeks but not 2 weeks of the current low-level sanctionable failure and so will apply to escalate the sanction for the failure that occurred on 29.9.14 and a 13 weeks sanction will be imposed on her JSA.

Example 3

Charlie is in a joint claim with his partner Angelina.

He fails to participate in the Skills Conditionality initial assessment interview with the provider without a good reason on 14.4.15 and a 4 weeks sanction is imposed on his JSA.

On 15.7.15 Angelina fails to take part in her fortnightly job search interview without good reason.

Although Charlie's sanctionable failure on 14.4.15 is within 52 weeks, but not 2 weeks of Angelina's current sanctionable failure, that failure was not for the same member of the joint claim and therefore the appropriate sanction for Angelina's failure on 15.7.15 is 4 weeks.

Current sanctionable failure occurred within 2 weeks of an earlier failure at the same level

34048 The sanction period for higher-level and low-level sanctions will not escalate to the next penalty where the subsequent failure at the same level is within the same 2 week period as the earlier failure¹. This means where failures occur within 2 weeks of the most recent sanctionable failure, the sanction duration for the current failure should be imposed for the same duration as the previous sanctionable failure and does not escalate to the next penalty. A failure does not count as a previous failure until a decision to sanction is made.

Note 1: This is to help claimants not to accumulate lengthy sanctions for failures which occur within a short period. This depends on the dates of the failures and not the claimants signing period. It is the period between the date of the current sanctionable failure and the most recent previous sanctionable failure that counts.

Note 2: For guidance on where a subsequent failure is within 2 weeks of a previous failure in the case of intermediate sanctions² see DMG 34127.

1 JSA Regs, reg 69(2)(c), reg 69A(2)(c); 2 reg 69B(6)(b)

Example 1

Jane signs on on 30.10.12 and is due a payment of JSA for the period 17.10.12 – 30.10.12. There are 2 previous higher-level sanctionable failures that occurred on 23.10.12 and 30.10.12.

As both failures occur within the same 2 week period both failures will attract a 13 weeks sanction.

The higher-level failure that occurred on 23.10.12 will attract a 13 week sanction because there is no previous failure to escalate beyond the minimum period of 13 weeks.

The second failure will not escalate to 26 weeks as there is not an earlier higher – level failure that occurred less than 52 weeks ago but more than 2 weeks ago. However this does not mean that the failure on 30.10.12 goes without a sanction. It merely means that the 30.10.12 failure does not attract an escalated sanction and so will be a 13 week sanction.

Example 2

Joe signs on on 30.10.12 and is due a payment of JSA for the period 17.10.12 – 30.10.12. He has committed a low-level sanctionable failure on 30.10.12 which attracts a 4 week sanction.

On 13.11.12 Joe signs on again. He has committed a further low-level sanctionable failure on 5.11.12. This is within 2 weeks of the previous low-level sanctionable failure on 30.10.12.

The earlier failure on 30.10.12 will not apply to escalate the current sanctionable failure on 5.11.12 because it occurred less than 2 weeks after the failure on 30.10.12 and is therefore not a previous failure for the purposes of determining a sanction for the current sanctionable failure.

The sanction for the failure on 5.11.12 will therefore be for 4 weeks even though it occurs in a separate signing period.

Example 3

Jordan signs on on 30.10.12 and is due a payment of JSA for the period 17.10.12 – 30.10.12. He has committed a higher-level sanctionable failure on 23.10.12 which attracts a 13 week sanction.

On 13.11.12 Jordan signs on again. He has committed a subsequent higher-level sanctionable failure on 13.11.12.

When considering the sanction for the failure on 13.11.12, the failure that occurred on 23.10.12 is regarded as a previous failure because the 23.10.12 failure occurred within 52 weeks but not within 2 weeks of the current failure on 13.11.12.

Therefore the sanction for the current failure on 13.11.12 is for 26 weeks.

Example 4

Ranj fails to participate in his fortnightly jobsearch review interview on 30.10.12. The DM considers he has no good reason for his failure and imposes a 4 week sanction for a low-level sanction.

On 13.11.12 Ranj fails to participate without good reason in the Wp and the DM considers a sanction.

The 30.10.12 failure is a previous failure and so will apply to escalate the sanction for the current sanctionable failure that occurred on 13.11.12. This is because the 30.10.12 failure occurred more than 2 weeks but less than 52 weeks before the current failure.

Therefore a 13 week sanction is applied for the low-level sanctionable failure on 13.11.12 (the 2 week period from 30.10.12 finishes on 12.11.12).

Example 5

Darya has multiple low level failures for failing to participate in the Wp without a good reason which are shown in the table below.

Dates of Sanctionable Failures	Period between current sanctionable failure & most recent previous sanctionable failure	Duration of sanction
21/01/15		4 weeks – it is Darya’s first failure.
28/01/15	7days	There is one previous failure and the date of the failure is within 52 weeks but is also within 2 weeks of the date of the current failure so the sanction duration has to be for 4 weeks
04/02/15	7days	There is more than one previous sanctionable failure and the most recent previous sanctionable failure is within 52 weeks but is also within 2 weeks of the date of the current failure so the sanction duration also has to be for 4 weeks
11/02/15	7days	Again there is more than one previous sanctionable failure and the most recent sanctionable failure is within 52 weeks and within 2 weeks of the date of the current failure so the sanction duration also has to be for 4 weeks

Darya will have 4 x 4 weeks sanctions imposed. None would escalate to 13 weeks as each failure occurs within 2 weeks of the previous most recent sanctionable failure.

More than one failure for the same period

34049 All failures have to be treated as individual failures even if this means the sanction periods will overlap¹. All determinations are considered on their own merits and the facts and evidence presented, each must be given an outcome decision and appeal rights even if due to the claimants signing and payment cycle sanctions are applicable to the same reduction period (see guidance at DMG 04587).

1 SS CS (D&A) Regs, reg 6(2)(f)

Note 1: It is important that individual sanction decisions are made regardless of whether the claimant will feel the full impact of the sanction as it may count towards escalating a sanction if there is another sanctionable failure at the same level within 52 weeks.

Note 2: For guidance where the same failure is a low-level failure but could also be a higher-level failure see DMG 34176.

Example 1

On 23.4.13 Sue forgot to attend an Adviser Interview. Her signing day was also 23.4.13. When she did attend on 25.4.13 she told the Adviser that she had not completed the JSD to create a CV by 23.4.13.

In this case there are 2 sanction determinations to be made. The DM decides Sue cannot show good reason for either of the failures. Because both failures occurred within the same 2 weeks period the sanctions imposed are 2 x 4 weeks failures as the second failure cannot escalate to 13 weeks. The sanctions run concurrently and so apply to the same 4 week period but both are individual determinations and the claimant has to have an outcome decision and appeal rights for each one.

Example 2

Fatou has been disallowed JSA due to a decision that she was not available for employment and could not be treated as available. Her payday is Monday and she was last paid JSA to 10.6.13. The date of the failure is 11.6.13 and JSA was disallowed from 11.6.13 – 24.6.13. Fatou has reclaimed JSA from 25.6.13. An intermediate-level sanction is imposed from 25.6.13 to 8.7.13 for a first intermediate-level failure.

A further referral is received for a failure to participate in the Wp on 10.6.13. The DM determines Fatou did not have good reason for the failure and considers a first lower-level sanction. The period off benefit has to be deducted from the sanction

period from the date of the failure to the day before the date of the new claim, i.e. from 10.6.13 to 24.6.13, 2 weeks and 1 day, and a sanction is imposed from 25.6.13 to 7.7.13 of 1 week and 6 days.

On 21.10.13 Fatou fails to attend her job search review and the DM determines she has no good reason for the failure and considers a sanction. As there is a previous lower-level sanctionable failure for the failure on 10.6.13 which is within 52 weeks of the current sanctionable failure, but not within 2 weeks, a 13 week sanction can be imposed for the failure on 21.10.13.

Previous failures before 22.10.12

34050 Any failures that occurred before 22.10.12 do not count towards the total number of failures when considering whether a failure that occurred on or after 22.10.12 is a first, second or subsequent failure. If a failure occurred prior to 22.10.12 it is subject to the old provisions. For guidance for any failure that occurred prior to 22.10.12 contact DMA Leeds.

Example

Maggy is a JSA claimant and on 10.9.12 she failed without good cause to participate in the Wp and a sanction was applied. On 6.8.13 she again fails without good reason to participate in the Wp. Although she has failures prior to 22.10.12 which fall within 52 weeks of the current failure these do not count as previous failures when considering the failure on 6.8.13. This is a first failure under the new sanctions regime.

Failures determined out of sequence

34051 When looking at whether the sanction for the current failure should escalate, DM's must consider whether there has been any previous sanctionable failures which

1. have been subject to a sanction decision **and**
2. occurred within 52 weeks, but not 2 weeks, of the current failure¹.

Note 1: See DMG 34022 for definition of sanctionable failure².

Note 2: For guidance where the DM is considering an intermediate sanction³ for a failure to ASE or on availability see DMG 34121 et seq. In those cases the DM is looking at whether entitlement has ended on a previous occasion due to the claimant not being available and/or ASE and not at sanctionable failures.

1 JSA Regs, reg 69(2) & 69A(2); 2 reg 75(5); 3 69B(6)(b)

34052 This allows for the fact that

1. DMs cannot always make decisions on failures in failure date order **and**

2. when deciding the length of a sanction the DM needs to check whether the claimant has any sanctions at the same level already recorded.

If so the DM needs to check the dates of any of the failures relating to those sanction decisions. If any took place within 52 weeks, but not within 2 weeks, of the date of the failure under consideration then they should be counted as previous sanctionable failures¹. However, see DMG 34102 where the failures are pre-claim failures², i.e. in the case of higher-level sanctions for misconduct or leaving voluntarily.

1 JSA Regs, reg 69(2), 69A(2) & 69B(6)(b); 2 reg 69(3)

Only one sanction already recorded

34053 Where only one sanction is recorded, the DM needs to check the actual date of failure for that sanctionable failure. If it took place within 52 weeks, but not within 2 weeks, of the date of the current failure it should be counted as a previous sanctionable failure. This is the case even if the actual date of the failure is after the date of failure currently under consideration.

Note 1: Sanctions can only escalate where they are at the same level (i.e. higher, intermediate, lower) see DMG 34044.

Note 2: See further guidance at DMG 34102 where the failures are pre-claim failures in the case of higher-level sanctions for misconduct or leaving voluntarily.

Example

Sean refuses to apply for a job vacancy notified to him by his advisor and the DM determines he has no good reason and imposes a 13 weeks sanction as there are no previous failures at the higher-level recorded. The date of the failure is 28.6.13.

This is the first sanctionable failure.

A second referral is received for a failure to apply for a job vacancy on 6.5.13. The DM decides there is no good reason for the failure and wishes to impose a second sanction.

The DM looks at Sean's sanctionable history and a previous higher-level sanctionable failure of 13 weeks is recorded for a failure on 28.6.13. There is one previous higher-level sanctionable failure recorded which was within 52 weeks of the current failure (but not within 2 weeks) therefore a sanction of 13 weeks will be appropriate.

This is the second sanctionable failure.

This has the effect that the sanctionable failures are as follows:

First failure 28.6.13 - 13 weeks sanction

Second failure 6.5.13 - 26 weeks sanction

This provides consistency as the same sanctions would have applied if they had been made in date order.

More than one sanction already recorded

34054 Where more than one sanction is recorded, the DM will need to check the previous sanctions to see whether the sanction decisions were made in order of the date of failure. If so, the DM should have regard only to the most recent of the previous sanctionable failures when considering whether it meets the definition in relevant legislation¹.

1 JSA Regs, reg 69(1)(c)(ii), 69A(1)(b)(ii) & 69B(6)

34055 If previous sanction decisions of the same level have been determined out of order of the date of failure the DM will need to look at all the previous sanctionable failures of the same level to see whether any have a date of failure within 2 weeks of the failure currently under consideration. If so, the DM should treat that as the most recent failure as it would have been had the failures been determined in date order.

Note: The DM must ignore any sanctionable failures at the same level where the date of the failure was within 2 weeks of the current failure or not within 52 weeks when deciding whether a sanction can escalate (see DMG 34041).

Example

Sue has failed to participate in the Wp on 21.5.13. The DM decides she has no good reason for the failure and imposes a sanction of 4 weeks as no previous lower-level sanctionable failures are recorded.

This is the first sanctionable failure.

A second referral is received for a failure to participate in the Wp on 6.5.13. The DM decides there is no good reason for the failure and wishes to impose a second sanction.

The DM looks at Sue's sanctionable history and a previous lower-level sanctionable failure of 4 weeks is recorded for a failure on 21.5.13. There is one previous lower-level sanctionable failure recorded which was within 52 weeks of the current failure but not within 2 weeks therefore a sanction of 13 weeks will be appropriate.

This is the second sanctionable failure.

First failure 21.5.13 - 4 weeks sanction

Second failure 6.5.13 - 13 weeks sanction

The DM receives a further sanction doubt for Sue for another failure to participate in the Wp on 15.5.13 and decides Sue has no good reason for the current failure.

This failure is within 2 weeks of a previous lower-level sanctionable failure and there are 2 previous lower-level sanctionable failures recorded. The DM looks back and

sees that there have been two previous lower-level sanctionable failures and that the dates of these fall within 2 weeks of the claimant's current failure. Because this new information has a bearing on decision 2 (because the date of failure falls between and within two weeks of decision 1 and decision 2) the DM will need to look at that decision again. The outcome will be that a 4 week sanction would be appropriate for decision 2 and for the new referral (sanction 3) because all 3 lower-level sanctionable failures fall within 2 weeks of each other.

This has the effect that the sanctionable failures are as follows:

Sanction 1	-	21.5.13	-	4 weeks
Sanction 2	-	6.5.13	-	4 weeks
Sanction 3	-	15.5.13	-	4 weeks

This provides consistency as the same sanctions would have applied if they had been made in date order.

Amount of the sanction

34056 The amount of the reduction in the case of a single claimant is 100% of the JSA payable to them¹.

1 JSA Regs, reg 70(1)(a)

Joint-claim couples

34057 In the case of a joint claim couple¹ the amount of the reduction is where the reduction relates to a sanctionable failure by

1. each member of the couple, 100% of the JSA payable to the couple² or
2. only one member of the couple, a deduction that leaves
 - 2.1 for the member of the joint claim couple who has not committed the sanctionable failure and is entitled to JSA(Cont), a rate equal to the appropriate personal rate³
 - 2.2 for a couple who are in hardship, a rate equal to the appropriate applicable amount for a joint-claim couple in hardship⁴
 - 2.3 in any other case, an amount equal to the appropriate single claimant rate of JSA(IB)⁵

Note: In calculating **2.3**, the DM should treat the claimant who has not committed the sanctionable failure as a single claimant⁶.

1 JS Act 95, s 19B(3); 2 JSA Regs, reg 70(1)(b)(i); 3 reg 70(1)(b)(ii) & (3)(a); 4 reg 70(1)(b)(ii) & (3)(b); 5 reg 70(1)(b)(ii) & (3)(c); 6 reg 70(1)(b)(ii) & (3)(c)

34058 The amount of any reduction has to be zero for any period during which an award of JSA for a

1. single claimant is already reduced as a result of a sanctionable failure¹
2. joint-claim couple where the award is already reduced as a result of a sanctionable failure by one or each member of the couple and the current failure is by the same claimant².

1 JSA Regs, reg 70(2)(a); 2 reg 70(2)(b)

34059 – 34060

Application of a sanction to a new award

34061 Where a sanction decision is made in respect of an award of JSA but the JSA award comes to an end before the expiry of the sanction period the remaining sanction period can apply to future awards of JSA. This is known as the “outstanding period”¹.

1 JSA Regs, reg 70C(3)

34062 All sanctions run concurrently and once a sanction has begun it continues unbroken until its period comes to an end. A sanction will continue to run even if the award it is applied to comes to an end. However, if the award ends and the claimant re–applies for benefit while the sanction period is still running, the remaining sanction period will apply to the new claim.

Note: See guidance at DMG 34185 if JSA hardship is in payment

Example

Lee’s JSA is subject to a 13 week sanction for a failure to apply for a job vacancy without good reason. The sanction runs from 30.9.13 to 29.12.13. Lee starts a job on 21.10.13 and his claim to JSA ends on 20.10.13. On 8.12.13 Lee is laid off and re claims JSA from 9.12.13. 3 weeks of the original 13 weeks sanction will be applied to his new award of JSA (i.e. the remaining balance or ‘outstanding period’ of the original sanction from 9.12.13 to 29.12.13).

34063 In cases where¹

1. the DM has imposed a sanction **and**
2. that award of JSA is terminated **and**
3. the sanction period has not begun or not ended when the award of JSA was terminated **and**
4. a new award of JSA or a joint-claim JSA is made to the claimant who had been entitled to the previous award **and**
5. the reduction on the previous award was in relation to a sanctionable failure by the claimant who is entitled to the new award

then the sanction continues to apply to the new award of JSA².

1 JSA Regs, reg 70C(1); 2 reg 70C(2)

34064 The reduction¹ on the new award has to apply for the

1. period of the reduction **less**
2. benefit weeks in respect of which the previous award was actually reduced **less**
3. period between the end of the benefit week in which the previous award was terminated and the start of the benefit week in which entitlement to the new award of JSA begins.

Note: Any time away from benefit is treated as time served and deducted from the sanction period.

1 JSA Regs, reg 70C(3)

Example

A sanction decision has been made on Karen's award of JSA. This sanction is due to a disallowance on availability grounds on a previous award of JSA. The sanction is due to end on 12.11.12 but Karen finds remunerative work and her award of JSA ends on 26.10.12. Karen's temporary job comes to an end and she makes a new claim for JSA with a date of claim of 8.11.12. This award of JSA will be sanctioned with a sanction running from the date of claim to 12.11.12 because there was still an outstanding sanction on her last award of JSA.

34065 If a sanction has been imposed it will continue to apply through any subsequent awards until the expiry of the sanction period.

Example

Jake is sanctioned for leaving his employment voluntarily, the sanction period of 13 weeks is to run from 23.2.13 to 24.5.13. On 27.3.13 Jake starts a temporary job and his JSA award comes to an end. The temporary job ends and Jake makes a new claim to JSA on 15.4.13. As this is still within the sanction period the outstanding period can be applied to Jake's new claim. Therefore a sanction will continue to be applied to the new award up until 25.4.13.

34066 – 34070

Exceptions

34071 If a claimant becomes re-entitled to JSA after being in employment for

1. 26 weeks or more **or**
2. more than one period of employment where the total of those periods amount to at least 26 weeks

the balance of the most recent sanctionable failure will be lifted and not applied to the new award¹.

1 JSA Regs, reg 70C(4)

Example

On 5.1.12 Channi voluntarily leaves her job. The DM considers Channi's sanction history and notes that within 52 weeks of the current failure (but not 2 weeks) Channi has on 2 previous occasions been sanctioned for voluntarily leaving her job. The most recent sanction was for 26 weeks. Therefore the DM imposes a 156 week sanction on Channi's JSA to run from 5.1.12.

On 10.2.12 Channi finds employment and her award of JSA comes to an end.

On 31.8.12 Channi's job comes to an end and she makes a claim for JSA. If the ordinary principles of applying the outstanding period were applied Channi would still have the balance of the 156 weeks sanction applied to her new claim. However, as she has been in employment between 10.2.12 and 31.8.12 (i.e. for more than 26 weeks) the balance of the 156 week sanction will not apply to her new claim.

Meaning of employment where a sanction is applied to a new award of JSA

34072 Employment for the purposes in DMG 34071 is defined in legislation¹ and means any employment including

1. employed earners employment other than employment whilst participating in an employment programme **and**
2. self employment

as long as the employment resulted in the claimant not claiming or receiving any employment-replacement benefit such as JSA, IS or ESA (also see DMG 34016).

1 JSA Regs, reg 70C(4)

Claimant has two jobs

34073 Where a claimant has two jobs and loses one of them a sanction can be imposed if the JSA claim results from the loss of that job.

Example 1

Danny has two jobs, one of which ends on 17.12.12 and the other on 31.1.13. He claims JSA from 1.2.13. No sanction can be imposed in respect of the first job. Any sanction applied should be as a result of the second job.

Example 2

Daphne has two jobs. She leaves one and claims JSA, declaring her other job as P/T work. A sanction can be considered in respect of the first job.

Example 3

Diana has two jobs, both end on 31.12.12. As she worked in both jobs simultaneously and left both at the same time, a sanction can be considered in respect of both jobs.

“Reserved” decisions

- 34074 A “reserved” decision is not specifically prescribed for in legislation but where an award of JSA ends before a sanction determination is made the DM can make a “reserved” or delayed decision. This is where a sanction would be appropriate but cannot be imposed because the claimant does not have a current claim to JSA.
- 34075 Where a new claim is made, the indicative start date for the sanction period is the date of failure and any time away from benefit is treated as time served and is deducted from the relevant sanction period in the same way as if the decision had been made before the claimant left benefit. Any balance of the sanction period should be applied from the first available pay day in the new claim.

Note: See guidance at DMG 34102 where the failures are pre-claim failures (i.e. for misconduct or leaving voluntary).

Example 1

Stuart is dismissed from his job on 2.11.12 and makes a new claim to JSA on 5.11.12. On 10.11.12 he goes abroad and his JSA award comes to an end. Stuart makes a new claim to JSA on his return from abroad on 23.11.12. A sanction decision had not been made on the earlier claim to JSA. A sanction can be imposed on the new claim if appropriate but the period away from benefit, i.e. 10.11.12 to 22.11.12, would be deducted from the reduction period.

Example 2

Karen refuses to apply for a vacancy on 29.10.12. She left JSA on 30.10.12 before a decision could be made on the RE question. She reclaims JSA on 12.11.12. The DM determines Karen has no good reason for the failure and she would have been subject to a 13 week sanction for the higher-level failure. The sanction period is calculated from 29.10.12 (the date of the sanctionable failure) and the period from 30.10.12 to 11.11.12 (the period away from benefit) is deducted from the 13 week sanction. An 11 week sanction is imposed from the beginning of the new claim on 12.11.12 and starts from the first available pay day.

Example 3

Sienna fails to participate in the Wp on 18.4.13 and on 3.6.13 the DM determines there is no good reason. This is a low-level failure and there has been a previous

low-level failure within 52 weeks, but not within 2 weeks, which incurred a sanction of 4 weeks, therefore a 13 weeks sanction period applies.

However, the claimant has had 2 periods away from benefit since the date of the failure on 18.4.13.

23.4.13 – 6.5.13 = 14 days disallowance due to a failure to ASE.

31.5.13 – 11.6.13 = 12 days where back dated claim disallowed.

Therefore the 13 weeks sanction period is reduced by 26 days and the 'outstanding period' of 65 days (9 weeks and 2 days) is applied to the new award.

34076 – 34080

Hardship

34081 Where

1. the DM decides to impose a sanction **and**
2. the claimant's benefit is reduced

the claimant may be eligible for hardship payments

Note 1: See DMG Chapter 35 for detailed guidance on Hardship and who has access to hardship when sanctioned.

Note 2: For guidance on how to apply a sanction when hardship only is in payment see the guidance at DMG 34185

34082 - 34088

Good reason

Introduction

34200 From 22.10.12 all references to claimants having to show 'just' or 'good cause' for a failure, act or omission which leads to a sanction being considered become considerations for good reason instead¹. For guidance on good cause or just cause for any sanctions before 22.10.12 contact DMA Leeds.

34201 For JSA intermediate sanctions there is no 'good reason' for the DM to consider before imposing a reduction¹. The DM is considering whether entitlement has ended on a previous occasion due to the claimant not being available and/or ASE (see guidance at DMG 34121 et seq).

1 JS Act 95, s 19B

34202 For sanctionable failures due to misconduct the claimant will not have an opportunity to show good reason for the failure but will be given the opportunity to provide facts and evidence for consideration by the DM (see guidance on Misconduct at DMG 34531).

Meaning of good reason

34203 Good reason is not defined in legislation. DMs should take into account all relevant information about the claimant's circumstances and their reasons for their actions or omissions.

34204 The concepts of 'good cause' and 'just cause' were 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.

1 R(SB) 6/83

Burden of proof

34205 The onus is on the Secretary of State to show there is a sanctionable failure (also see further guidance at DMG 34033). Except in misconduct cases, once the Secretary of State has shown a sanctionable failure has occurred, it is the claimant's burden of proof to show good reason for that failure (see DMG 34207).

Note: For full guidance on Misconduct see DMG 34531 et seq.

34206 Claimants have to 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 the failure and provide information and evidence as appropriate to explain why they have not complied. It is the reasonableness of the claimant's actions and behaviours that is being considered (see DMG 34221).

34207 The following guidance 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. In every case the DM should take into account all the individual facts and circumstances and consider the case on its own merits.

34208 - 34210

Time to show good reason

34211 The time a claimant will have to contact JCP where there is a failure to participate in an interview at JCP is 5 working days (see further guidance at DMG 34831). For all other sanctions in JSA there are no specified time constraints for a claimant to show good reason.

34212 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 will continue to be

1. 5 days, where the information is to be obtained by post (see **note 1**) **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 collate and provide evidence) **or**
 - 2.2 where the claimant has agreed the preferred method of contact is by electronic means such as by text or email **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 them 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.

1 Inte Act 78, sec 7

34213 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 sanction will not be imposed.

34214 Any requirements placed on claimants should be personalised according to their needs and circumstances taking into account any restrictions and limitations agreed on the JSAg (Claimant Commitment) on their ASE and/or availability. In circumstances where there is an agreed restriction the claimant would not have to show good reason (see DMG Chapter 21 for guidance on restrictions and limitations on ASE and availability).

Note: The DM should also be mindful of any temporary easements that may apply to particularly vulnerable claimants who have complex needs and are suffering personal crisis or life events which may not become evident until the case has been referred to the DM to consider a sanction (see DMG 34230).

34215 - 34220

The 'reasonable' test

34221 DMs should establish facts which would probably have caused a reasonable person to act as the claimant did by establishing three key points: what,

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

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 criteria for considering good reason are not legislated for specifically (see DMG 34204). The DM should not just consider one factor but should consider the overall picture of the claimant's individual circumstances. The consideration is whether the reasons given for the specific failure contributed to the claimant not complying with what the Secretary of State is expecting them to do and whether that was reasonable in the circumstances.

34222 The general rule for taking each incidence on its own merits and considering all the facts and evidence should be applied in all cases. Consideration of all the evidence should be made on

1. the balance of probabilities (see the guidance at DMG 01343 et seq) **and**
2. whether the evidence is inherently improbable (see the guidance at DMG 01392).

Note 1: The DM should also take into account that a claimant is expected to take care in matters to do with the claiming of 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. It is the reasonableness of the claimant's actions and behaviours that is being considered in light of all the facts and circumstances and whether there is any evidence of mitigating or exceptional circumstances that contributed to the claimant's actions and whether the circumstances would have caused a reasonable person to act as the claimant did. Also see examples at DMG 34876 and DMG 34903.

Note 2: The DM should also 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. 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 6**). Also see **Example 2** below.

Example 1

Iqbal is in receipt of JSA and has been participating in the Wp for approximately 3 months. He has been issued with an appointment letter to attend a Wp appointment on 1.4.15 at 12:30pm with his provider by way of his participation in the Wp scheme Iqbal did not attend the appointment and stated in his good reasons that the night before the appointment he was informed that his uncle had passed away and that the funeral was on the next day, 1.4.15 at 11:00am.

He stated that it was a bit of a shock as the uncle had not been unwell recently. As a result of the short notice of when the funeral was taking place, he had to leave home at 7am to travel to attend the funeral so he had not contacted the provider as it was too early and the office was not open.

The claimant also stated that he had not seen his uncle recently but felt obligated to attend the funeral as he came from a big family and all the family would be expected to attend. He also stated that following the funeral he would not have had enough time to get to the Wp appointment by 12.30 due to the distance to travel and he would also be expected to attend the family gathering afterwards. He also stated he had meant to phone the provider later in the day but had forgotten.

The provider confirms that Iqbal did not make any contact to advise his reasons for his non – participation.

Facts and evidence

Iqbal was notified of the funeral of his uncle by family members the night before. He comes from a big family and he would be expected to attend the funeral and the family gathering afterwards. He had to leave home at 7am the next morning to be able to get to the funeral on time.

He stated he was 'shocked' by his uncle's death as he did not know he was ill but was not close to him, he had not seen him recently and was only attending the funeral due to family expectations.

Iqbal had been notified in advance of his requirement to attend his interview with his Wp provider on 1.4.15 at 12.30pm. He did not attend the appointment and so failed to participate as required.

The notice told him if he could not attend for any reason he would have to let the provider know as his benefit could be affected. Therefore he knew of the consequences if he did not participate. There are no previous failures.

Decision

It was reasonable that Iqbal would want to attend his uncle's funeral and due to the short notice and the early start to travel to the funeral it is reasonable that he did not contact the provider to let them know he would not be attending his appointment on the day. Iqbal can show he had good reason for the failure.

Example 2

Lily is in receipt of JSA. She has been participating in the Wp for approximately 6 months. Lily is single, lives an isolated life with no friends or family locally. She has an elderly dog as a pet.

Lily is issued with an appointment letter to attend a Wp appointment on 1.4.15 at 12:30 pm by way of participation in the Wp scheme.

Lily did not attend the appointment and in her reasons stated that her dog appeared to be unwell on the morning of the appointment. She did not telephone the vet on this occasion but decided to stay home and not attend her Wp appointment to look after the dog. She did not telephone the Wp provider because she says she forgot as she was worried and concentrating on looking after the dog.

The provider referral confirms Lily did not attend the Wp appointment on 1.4.15 and did not make any contact to provide the reasons for non-participation in the interview.

Lily has had 2 previous referrals for failing to participate in the Wp on 30.11.14 and 15.1.15. On both previous occasions her good reasons were accepted. On the first occasion her dog became ill and had to attend an emergency vet appointment and on the second occasion she was too ill to attend due to a heavy cold and stayed in bed for most of the day.

Decision

Lily did not phone the provider or make other arrangements to enable her to fulfil her obligations as a single jobseeker. She has agreed responsibilities as a jobseeker and there are no agreed restrictions on her JSAG so if she is solely responsible for her sick dog during the day then she would not be available for work. Lily agrees when she 'signs on' to be available to start work immediately and therefore it is reasonable to expect her to attend Wp interviews as required as part of her participation in the scheme. On notifications sent to Lily there were clear warnings of the possible consequences of failing to participate in the WP scheme and that she should make contact as soon as possible if for any reason she cannot attend an appointment.

Therefore whilst it may be reasonable to accept in her circumstances, Lily would not want to leave the sick dog to attend the Wp appointment it is not reasonable that she did not telephone the provider to let them know she would not be attending and rearrange the appointment or to make alternative arrangements in order that she could attend. There is no evidence to suggest that she could not use her phone for that purpose on this occasion. In this case Lily cannot show good reason for the failure to participate.

It is therefore reasonable that Lily would be concerned for the welfare of her elderly dog, but, it is her failure to make contact with the provider that makes her failure unreasonable.

A reasonable person in the same circumstances would have, having known of the obligation to let the provider know and the affect it could have on benefit, contacted the provider and it is reasonable for the Secretary of State to have expected Lily to do so.

Example 3

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 4

Ada fails to attend an interview at the Jobcentre 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.

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 and attend the appointment the following day.

Also see further guidance eq for the consideration of good reason in the event of domestic emergencies and mental health issues.

Example 5

Britney is a single non householder who lives at home with her mum and her brother. She has been claiming JSA 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 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 6

Mikka is due to attend an interview at the Jobcentre 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.

Mikka 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 says she has only just got in from the hospital and has phoned straight away to explain why she could not attend. She 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. It was unreasonable to expect Mikka to think of calling her work coach as relevant in the particular circumstances.

Evidence

34223 The DM should seek further evidence where it is considered necessary in order to clarify reasons or seek further evidence as sufficient proof to justify good reason particularly where the claimant has a history of previous failures or one of the circumstances in DMG 34228 applies. This could involve

1. writing to or telephoning the claimant or the provider **or**
2. asking advisors to interview claimants when they next sign on **or**
3. acting on an indicator from the advisor to investigate further.

Note 1: A record of all evidence relied upon to reach a decision should be recorded for evidentiary reasons and a copy be available in the event of reconsideration and/or appeal.

Note 2: 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).

Note 3: 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 DMG Chapter 1 – The principles of decision making and evidence) but also see DMG 34225 regarding direct evidence.

Example

Naveed failed to attend an interview with his Wp provider and provides no good reasons. A decision is made to impose a 4 week sanction and Naveed phones to say he did not receive the appointment letter from the provider. The DM decides she requires further evidence in order to consider whether Naveed can show good reason. She checks first if the letter was sent to Naveed's normal contact address and then telephones Naveed to get some further evidence. She asks if he has ever reported a problem with receiving post at that address before or reported difficulties receiving post from any other organisations and whether the address is considered a 'safe' address for the delivery of post before determining good reason.

34224 The weight given to evidence should be carefully judged in the circumstances of the particular case. As a general rule

1. direct evidence is more significant than indirect or hearsay evidence **and**
2. the closer in time to the event the DM obtains and considers the evidence, the more helpful it is likely to be.

Note 1: Direct evidence is a statement by a witness and this includes the statement of the claimant (also see DMG 34225).

Note 2: The information must be relevant, accurate and current (see full guidance on evidence in DMG Chapter 1 – The principles of decision making and evidence).

Claimant's evidence

34225 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. it 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.)

Note: 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 DMG Chapter 1 – The principles of decision making and evidence.

Example

Jaydn fails to attend for his normal work search review. 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 Jadyn 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.

Also see Example 2 (Ava) and Example 3 (Alpa) at DMG 34227.

Previous failures

34226 If the claimant has a record of previous failures the DM should consider those failures as evidence relevant to 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 participate with some activity that will help them into employment **and**
2. it would happen twice or more than that.

Note: It is for the DM to identify any 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. However previous non-compliance is not always an indication that the claimant doesn't have a good reason on the occasion under consideration. It is important to bear in mind that a claimant's circumstances may fluctuate frequently and vary significantly but the DM may want to see further evidence to support the claimant's reasons where there is a history of non compliance (see DMG 34227).

34227 The DM should not automatically accept good reason even if the reasons given for the failure would in isolation normally support good reason if there is evidence of a history of non-compliance. When considering previous failures to comply 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 (also see further guidance at DMG 34286 where the claimant has a temporary change of circumstances).

Note: The DM should be mindful not to incur costs on the claimant to provide any further evidence (see DMG 34223) and also mindful of the guidance at DMG 34225.

Example 1

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

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

The DM decides that it is inherently improbable that on four consecutive occasions Abel 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 Abel to contact the provider on that morning and rearrange the start date for the following day.

The DM determines Abel failed to participate without good reason in the MWA scheme and imposes a 13 week sanction for a first higher-level failure.

Example 2

The DM receives a sanction referral from the JCP advisor. Ava has failed to attend her normal fortnightly job search review. The evidence shows that this is the fifth time Ava has failed to 'sign on' 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 but nothing serious to cause major issues for travelling, certainly public transport appears to be running as normal.

The advisor asks Ava why weather conditions have meant she could not travel to the Jobcentre. Ava states she was involved in a road traffic accident 2 years ago on her way home from work when her car spun off the road in icy conditions. She fractured her collar bone, right arm and right leg. She is now fully recovered from her physical injuries. However, since the accident Ava states she suffers from mild depression and anxiety 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 her doctor could confirm her story 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 better.

The DM asks Ava to provide some relevant medical evidence as she has a particularly bad history of failing to attend appointments. 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 DMG 34236 et seq when considering the effect of mental health conditions on a claimant's reasons for failing to comply.

Example 3

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 telephones his work coach on 1.11.17 and says 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 finally got through to the surgery, he went into the triage system and 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 follow up 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

What constitutes good reason

34228 Examples of a claimant's circumstances which should be treated as contributing to good reason for an action or failure include those who

1. are victims of domestic violence (see DMG 34231)
2. have mental health conditions or disorders (see DMG 34236)
3. are victims of bullying or harassment (see DMG 34246)
4. are homeless (see DMG 34251) **or**
5. lose or leave a work experience opportunity or placement other than for reasons of gross misconduct (see DMG 34954)
6. have complex needs or are experiencing difficult personal circumstances or crises (also see DMG 34230 and 34271).

Note 1: Advisors can highlight cases during the claims process where a claimant's personal circumstances may have influenced their behaviour and the relevant

evidence the DM should consider (for example: mental health or domestic violence, homelessness etc, also see **Note 3**. regarding complex needs)). This may not be sufficient proof in itself of good reason but would serve as an indicator to the DM to investigate supporting evidence to justify their determination on good reason.

Note 2: This is not an exhaustive list or specific criteria that mean a claimant would have automatic good reason but examples of what **may** contribute to a claimants actions or omissions when considering what may be reasonable in light of all the individual facts and circumstances.

Note 3: The DM should be mindful that claimants often have complex needs or require additional support that may contribute to their failure to comply with any requirement. Claimants may not provide a full account of events without further discussion (see further guidance at DMG 34230).

34229 The list in DMG 34228 is in addition to the range of easements prescribed in regulations¹ for the circumstances in which a claimant can be treated as being available for and ASE (see DMG Chapter 21 for further guidance). If one of the easements apply then the DM will not consider good reason.

1 JSA Regs, reg 14, 14A & 19(1)(x)

Complex needs

34230 Complex needs means the claimant is experiencing some difficult

1. life event(s) **or**
2. personal circumstances

that means it would be unreasonable to expect them to complete their requirements for a temporary period of time. Such needs can happen unexpectedly at any time and often the truth of the claimant's situation is not fully revealed until the case has been referred to the DM to consider good reason and whether a sanction applies. This can often be 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. 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. They may have mental or physical disabilities and they may be particularly 'vulnerable', for example, suffering from homelessness, addiction or the results of domestic violence, abuse, slavery or are ex prisoners.

Note 1: It is for the DM to consider all the individual facts and circumstances and personal situation of the claimant (also see DMG 34271 regarding Domestic situations).

Note 2: Claimants who have complex needs may have extreme difficulty in dealing with the demands of benefit processes at a time when they may be under considerable personal stress which makes compliance with requirements unreasonable for them. The DM should consider whether good reason is satisfied and whether requirements can be temporarily eased.

Example 1

Marjory claims JSA as a single person in February 2017. She fails to attend her normal fortnightly 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, sleeping 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 have been 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 to make her JSA 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 or to her work coach as she was ashamed but she cannot afford for her JSA 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 a temporary 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.

Example 2

Aamira claims JSA. She is a single parent and has a young child age 3.

On 16.5.17 she fails to attend her regular work search appointment with her work coach.

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 that have happened 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 temporarily take her 3 year old child out of the local nursery to avoid contact with her neighbour as the neighbour's 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 availability and work search 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.

Victims of domestic violence

34231 Claimants who have been a victim of threatened or actual domestic violence are treated as available and ASE for up to 13 weeks¹ (see guidance in DMG Chapter 21).

Note: For the definition of domestic violence see DMG Chapter 21.

1 JSA (Domestic Violence) (Amdt) Regs

34232 Similarly claimants who are forced to leave, or 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
 - 2.1 resides
 - 2.2 works **or**habitually travels to or visits
3. 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.

34233 In the same way a claimant is to be treated as available and ASE, a claimant would 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 DMG 21371
3. the person threatening or inflicting that violence or abuse is a family member (see guidance at DMG 21372 for definition of family member)

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 (see guidance at DMG 21373 – 21376 for relevant definitions).

Example

Rebecca has made a claim for JSA from 19.11.12. 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 15.11.12. Rebecca notifies the Jobcentre on 22.11.12 that she has been a victim of domestic abuse. The DM treats Rebecca as being available for work for four weeks beginning on 22.11.12.

On 23.1.13 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.

34234 - 34235

Mental health

34236 Claimants may have good reason if they lose or leave work or fail to carry out tasks or participate in relevant activities 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.

34237 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 and how it affected them at the relevant time.

34238 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, in particular where a claimant has no previous history of mental ill health, and seek supporting medical evidence or other information suggests that continuing in a particular work environment was prejudicial to that individual's mental health or to participate in a certain activity would exacerbate a mental health condition.

Example

Dennis 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 Dennis 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 Dennis 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 Example 2 at DMG 34225.

34239 Where the DM is satisfied that the claimant

1. left a job voluntarily **or**
2. engaged in alleged misconduct

which was a product of their poor mental health they should not impose a sanction.

34240 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 leaving or losing work as distinguished 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 in the workplace.

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 JSA.

At her job search 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 JSA. 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.

34241 - 34245

Victims of harassment and bullying

34246 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.

34247 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 subtle. 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.

34248 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.

Example

Jayne makes a claim for JSA. 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.

34249 – 34250

Homelessness

- 34251 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 JSA in the same way as it can contribute to them ASE (see guidance in DMG Chapter 21)

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 drafting the JSAg.

Note 2: Those who are homeless often have linked complex **issues** to take into consideration but may not divulge all the circumstances at the outset (also see DMG 34230).

- 34252 A claimant is treated as homeless if an advisor considers the accommodation status impacts the claimant's capacity to retain or find work or comply with any reasonable work search requirement. This includes

1. sleeping rough
2. sleeping in friends' homes **or**
3. staying in temporary accommodation.

- 34253 An adviser may consider the claimant can be treated as dealing with a domestic emergency when they are homeless if the advisor considers the accommodation status impacts the claimant's capacity to retain or find work. However the DM may have to consider good reason in any circumstances where a sanction could be considered for a failure to comply or where an easement does not or no longer applies. See DMG 34254 if the claimant has lost or left paid work due to being homeless).

Example

Angus claimed JSA on 20.8.15. He was required to attend an interview at the Jobcentre on 14.9.15.

On 22.9.15 Angus 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 Jobcentre 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 Angus has no previous non-compliance and normally attends his interviews at the right time and place.

The DM considers Angus 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.

The DM should advise that the work coach should now consider a temporary easement due to the claimant's homelessness.

- 34254 Being homeless can contribute to a claimant having good reason for leaving or losing a job or lost 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.
- 34255 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 other influences that are reasons for the behaviour such as being a victim of harassment, bullying or domestic violence.

Note: It will be for the DM to consider all the facts and evidence in an individual's 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 JSA. 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 an hour 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 he would encounter his father whilst on his way to or from work.

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 the claimant 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 JSA. 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 (for further guidance on Misconduct see DMG 34531 et seq).

34256 - 34258

Work experience

34259 Claimants who leave or lose a place on a work experience opportunity or placement will be treated as having good reason unless they lose the place through gross misconduct.

Note: For further guidance on Work experience and what constitutes Gross Misconduct see DMG 34954.

34260

Travelling time

34261 Claimants will not be able to show good reason¹ because of the time it would normally take for them to travel from their homes to the

1. place mentioned in a JSD and back **or**
2. location of a notified vacancy and back **or**
3. location of where there is a reasonable opportunity of employment which they have neglected to avail themselves of and back

where that time is normally less than one hour and thirty minutes either way by a route and means appropriate to their circumstances unless this is unreasonable in view of the claimant's health or caring responsibilities¹.

1 JSA Regs, reg 72

34262 Where a claimant cannot show good reason for such refusals or failures then their JSA will be sanctioned¹.

1 JS Act 95, s 19(1)

Example

Olu is in receipt of JSA. The Emp O notifies Olu of an employment vacancy which is about 75 minutes away from Olu's home by bus. Olu refuses to apply for the vacancy on the grounds that he does not want to travel for more than an hour by public transport. The DM determines that Olu does not have good reason for refusing to apply for the vacancy on the grounds of how long it takes to travel to get there.

Exceptions

34263 A claimant may have good reason if any of the following circumstances apply, and the DM must take them into account¹

1. the travelling time is normally one and a half hours or more each way by a route and means of travel which is appropriate to the claimant's circumstances or to the circumstances of the employment or JSD **or**
2. the travelling time is unreasonable because of
 - 2.1 the claimant's health **or**
 - 2.2 any caring responsibilities the claimant has (see DMG Chapter 21).

1 JSA Regs, reg 72

Example 1

Sean is in receipt of JSA. The Emp O notifies Sean of an employment vacancy which is located 95 minutes away by public transport. Sean does not drive and has to rely on the bus service. Sean refuses to apply for the vacancy on the grounds that he would be spending over 3 hours a day travelling to and from the job if he successfully applied for it. The DM must take this into account when deciding if Sean has good reason for failing to apply for the vacancy.

Example 2

Penelope is in receipt of JSA. She is also a wheelchair user. The Emp O notifies Penelope of a vacancy which is located about 30 minutes from home. Penelope refuses to apply for the vacancy on the grounds that she lives in a rural area, does not have a car and the local bus service is not suitable for wheelchair users. The DM must take this into account when deciding if Penelope has good reason for failing to apply for the vacancy.

34264 The circumstances at DMG 34265 does **not** mean that where normal travelling time from home to work and back would exceed an hour and a half each way, the claimant **will** have good reason. However the DM should accept that the claimant has good reason in such circumstances, unless it would be reasonable to expect the claimant to undertake a journey of more than an hour and a half either way¹. The DM must take into account all of the facts. Some examples of where it may be reasonable for the claimant to travel for more than an hour and a half either way include where the claimant

1. is restricting availability to the type of employment offered, although other types of employment are available nearer home
2. previously had regular employment which involved travelling for more than an hour and a half either way, and there is no evidence that the claimant found this unreasonable
3. lives in a remote location in which people usually have long journeys to work
4. is in the process of moving home to within an hour and a half's travelling distance of the employment, so the longer journey would be for a short time only
5. would have to make a journey which takes less than an hour and a half in one direction, and only slightly more than an hour and a half in the other direction.

Note: Unless the legislation explicitly says they should not, DMs must consider any other reason the claimant puts forward as good reason for refusing or failing to act in line with the guidance at DMG 34200 et seq. The travelling time alone may not provide good reason but may when considered with other factors in the overall picture of the claimant's circumstances.

Domestic situations

34271 Where crises arise unexpectedly which limit a claimant's ability to meet their requirements 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. 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
5. homelessness (see DMG 34251)
6. language or cultural barriers
7. victim of a crime, abuse or violence
8. ex offenders or criminals
9. declaration of suicide attempt or self harm
10. victim of discrimination (e.g. race, colour, religion, sexual orientation, gender etc).

Note 1: This list is not exhaustive. The DM should consider each case on the individual facts and circumstances of the case (also see DMG 34230 and the guidance on 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, for example; would they be expected to attend work or is it reasonable they would need time off to deal with the emergency.

34272 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 DMG 34221). See also the guidance and the illustrative examples on complex needs at DMG 34230.

Disability

34276 Disability in itself should not be a factor that should be deemed as good reason for failing to carry out 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: Advisers should have taken account of any disability or impairment when drafting the JSAg (see DMG Chapter 21).

Learning difficulties, poor literacy or numeracy

34277 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.

34278 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: Advisers should have taken account of any restrictions when setting any work search requirement on the JSAG (see DMG Chapter 21). 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.

34279 – 34280

Substance abuse

34281 If a claimant failed to meet a requirement because they were under the influence of drugs or alcohol then this 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.

34282 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.

Example

See example 2 at DMG 34254. 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 DMG 34531 for further guidance on Misconduct).

Legal constraints

34283 Any legal constraints that prevent a claimant

1. taking-up or
2. 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 matching a claimant to suitable job vacancies.

34284 – 34285

Temporary changes in circumstances

34286 It is unreasonable for a claimant to be expected to comply with a work search opportunity if the reason for doing so was that the claimant was

1. attending court as a witness, juror or party to any proceedings **or**
2. arranging or attending the funeral of a close relative or close friend
3. crewing or launching a lifeboat **or**
4. on duty as a P/T member of a fire brigade.

Note: DMs should give careful consideration when deciding whether a claimant can show good reason and take into account in particular the nature of the change, how long it is going to last and what is reasonable in the individual's circumstances.

34287 – 34290

16/17 year olds

Good reason for training schemes

34291 In addition to the reasons in DMG 34226 - 34286, 16/17 year olds also have good reason for

1. giving up a place on a training scheme¹ **and**
2. failing to attend a place on a training scheme² **and**
3. refusing a place on a training scheme³ **and**
4. neglecting a reasonable opportunity of a place on a training scheme⁴

if the conditions in DMG 34292 are met⁵.

Note 1: See DMG 34186 for the definition of young person.

Note 2: See DMG 34164 for the definition of training scheme.

1 JS Act 95, s 19A(2)(d); 2 s 19A(2)(f); 3 s 19A(2)(e); 4 s 19A(2)(d); 5 JSA Regs, reg 67(1)

34292 The conditions are that¹

1. this is the first time that the young person has, without good reason, committed one of the sanctionable failures listed at 34291 **1. to 4. and**
2. the young person has not
 - 2.1 failed to complete a course of training, without a certificate being issued² **or**
 - 2.2 whilst claiming JSA and having a severe hardship direction in force
 - 2.2.a failed to pursue an opportunity of getting training without good reason **or**
 - 2.2.b rejected an offer of training without good reason **and**
3. at the time the young person
 - 3.1 acted as in 34859 **2., 3. or 4.** the young person was a new jobseeker **or**
 - 3.2 first attended the scheme, if a place on a training scheme was given up without good reason, the young person was a new jobseeker.

1 JSA Regs, reg 67(1); 2 JS Act 95, s 17(4)

Example

Matthew refuses to go on a training scheme and gives no reason for his refusal. He previously left a scheme where he was training to be a hairdresser because the shampoos and perm solutions made his eczema worse, and his GP advised him to leave. The DM decided that he had good reason because of the GP's advice. Matthew satisfies all the conditions **1. to 3.** so has good reason for refusing to go on the training scheme.

Meaning of new jobseeker

34293 New jobseeker means¹ a young person (16/17 year old) who has not, since first leaving FTE

1. been employed or S/E for 16 or more hours per week **or**
2. completed a course of training **or**
3. if a severe hardship direction is in force, failed to complete a course of training, without a certificate being issued² **or**
4. given up a place on a training scheme without good reason³ **or**
5. lost a place on a training scheme through misconduct⁴.

1 JSA Regs, reg 67(3); 2 JS Act 95, s 17(4); 3 s 19A(2)(f); 4 s 19A(2)(g)

Good reason for refusing employment or neglecting a reasonable opportunity of employment

34294 16/17 year olds also have good reason for

1. refusing employment¹ **and**
2. neglecting to avail themselves of employment²

if the conditions given in DMG 34295 are met³.

1 JS Act 95, s 19(6)(c) and 20A(2)(f); 2 s 19(6)(d) and 20A(2)(g); 3 JSA Regs, reg 67(2)

34295 The conditions are that¹

1. the employer did not offer suitable training **and**
2. the young person is not laid off or on short time and is available as in DMG Chapter 21² **and**
3. the young person has not accepted a firm offer of enlistment in the Armed Services to start within 8 weeks as in DMG Chapter 30³ **and**
4. the young person's JSA has not been reduced by a severe hardship direction⁴ or because of a sanction⁵ because the young person has
 - 4.1 given up a place on a training scheme without good reason⁶ **or**
 - 4.2 failed to attend a place on a training scheme without good reason⁷ **or**
 - 4.3 refused a place on a training scheme without good reason⁸ **or**
 - 4.4 neglected a reasonable opportunity of a place on a training scheme without good reason⁹ **or**
 - 4.5 lost a place on a training scheme through misconduct¹⁰ **or**
 - 4.6 refused employment without good reason¹¹ **or**
 - 4.7 neglected a reasonable opportunity of employment without good reason¹² **and**
5. the young person has not been sanctioned for
 - 5.1 leaving employment voluntarily without good reason¹³ **or**
 - 5.2 losing employment through misconduct¹⁴.

*1 JSA Regs, reg 67(2); 2 reg 61(1)(a); 3 reg 61(1)(f); 4 reg 63; 5 reg 68;
6 JS Act 95, s 19(5)(b)(iii) and 20A(2)(b)(iii); 7 s 19(5)(b)(iv) and 20A(2)(b)(iv);
8 s 19(5)(b)(ii) and 20A(2)(b)(ii); 9 s 19(5)(b)(i) and 20A(2)(b)(i); 10 s 19(5)(c) and 20A(2)(c);
11 s 19(6)(c) and 20A(2)(f); 12 s 19(6)(d) and 20A(2)(g); 13 s 19(6)(b) and 20A(2)(e);
14 s 19(6)(a) and 20A(2)(d)*

Meaning of suitable training

34296 Suitable training is¹ training that is suitable for the particular young people, taking into account

1. their personal capacity, for example, to learn, to concentrate
2. their ability or potential to acquire particular skills
3. their preference
4. the preference of the training provider
5. the level of approved qualification aimed for
6. the duration of the training
7. how near the training is to their home
8. whether the training can be made available to the claimant quickly.

1 JSA Regs, reg 57(1)

34297 – 34300

Examples of what may be good reason in specific circumstances

34301 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.

Note: From 22.10.12 there are no discretionary length sanctions. All sanctions are for a fixed period therefore some of the case law for the previous sanctions regime, which was actually based on the old unemployment benefit regime, may not apply. It is for the DM to consider all the individual facts and circumstances of the case when considering whether the claimant can show good reason having regard to previous case law and whether it can apply to a specific case.

Significant harm to health or unreasonable physical or mental stress

34302 The DM can 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 DMG 34236).

Significant harm to health

34303 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.

34304 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 that there is good reason, without requesting medical evidence, where they are satisfied that medical evidence is not necessary to establish that

1. the work itself **or**
2. the place the claimant works in would make the medical condition worse.

For example, a claimant with asthma, is offered employment working in a dusty atmosphere.

34305 The DM should never decide to impose a sanction based on medical evidence which could not be shown to the FtT because the claimant does not agree to it being shown.

34306 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.

34307 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.

34308 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.

Unreasonable physical or mental stress

34309 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 and what is reasonable in the individual's case.

34310 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 DMG 34236).

34311 – 34312

Consideration of claimant's health where claimant has left employment

34313 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 DMG 34314.

34314 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 DMG 34236 and DMG 34246 if the reasons for leaving were due to mental health issues, harassment or bullying.

34315 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 DMG 34307 to decide whether the claimant has good reason for leaving employment.

34316 – 34320

Sincere religious or conscientious objection

34321 If a claimant refuses to comply with a 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 of their religion or belief **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 good reason.

34322 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

34323 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 (but also see **Note 3** and **Example 6**).

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 DMG 34321 are met for it to be good reason due to a sincere religious or conscientious objection.

Note 2: Where a restriction or limitation on ASE or availability has been agreed on the JSAG, the claimant will not have to show good reason (also see DMG 34214). The claimant must show that they have reasonable prospects of obtaining employment with all restrictions (also see further guidance in DMG Chapter 21).

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 which cannot reasonably be avoided in this particular job.

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 the product is 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 that Akinta 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 on his JSAg to restrict his job search to meet his religious observance and has demonstrated that even within the restraints of his religion he has reasonable prospects of securing employment.

Isaac does not have to show good reason for the failure to accept the job.

Example 6

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

Due to a reorganisation of the factory floor and 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.

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. The policy is to make all the operators multi skilled and flexible rather than to concentrate on being skilled in just one part of the process.

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 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.

34324 - 34325

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

34326 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 DMG 34321).

Example

Sophia claims JSA. She left her job as a midwife as she was ordered to have direct involvement with abortion procedures which she morally objected to. Sophia has good reason for leaving her job on moral grounds. However see the guidance at DMG 34436 et seq, Sophia should have raised the issue through the normal grievance procedures before leaving her job but full consideration should be given to all the facts and evidence in the individual circumstances.

34327 DMG 34326 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.

34328 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 DMG 34236 and DMG 34246 if the reasons for leaving were due to mental health issues, harassment or bullying.

1 R(U) 16/52

34329 - 34330

Caring responsibilities

34331 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 employment because working hours are incompatible with caring responsibilities

Note: Advisers should have identified any reasonable constraints when setting activities in the JSAG (see DMG Chapter 21).

34332 However where DMG 34331 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 the JSAG, see DMG Chapter 21 and it is only where any easements do not apply that the DM will be considering good reason.

34333 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)

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

Note: 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.

34334 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 the JSAg.

1 R(U) 20/60

Employee Shareholder Contracts

34335 Employee Shareholder Contracts were introduced from 1.9.13. An employee shareholder will be given an equity share of the company and have different employment rights to an employee or a worker. Employee Shareholder Contract jobs are entirely voluntary and JSA claimants must not be mandated to apply for such vacancies. Therefore sanction referrals for RE should not be made.

34336 It may not be obvious from the details available whether the vacancy is actually an Employee Shareholder job or not. It will be dependent on the employer stating this when they advertise the vacancy, so may only become apparent during the interview stage, or when the individual and employer are discussing the terms and conditions of the job. If it later becomes apparent that the vacancy is an Employee Shareholder job, and the claimant no longer wishes to pursue the vacancy, then Refusal of Employment sanction action must not be taken.

34337 If a claimant voluntarily takes up an Employee Shareholder job on the full understanding and acceptance of the associated terms and conditions, and then leaves voluntarily or is dismissed, Leaving Voluntarily and Misconduct should be considered in the normal way. As part of this consideration claimants would have good reason for leaving voluntarily if

1. they had not fully understood the financial implications associated with an Employee Shareholder contract. Employee Shareholders may be liable for upfront Income Tax and National Insurance Contributions charges on any share value received and these expenses could be a source of financial difficulties **or**
2. some aspects of the Employee Shareholder terms and conditions only became apparent after their employment had started.

34338 If an existing employee is made redundant or is forced to leave their job because they refused to accept a move to an Employee Shareholder contract, then a claimant would have good reason and a sanction would not be appropriate.

34339

Circumstances that may show good reason for a refusal or failure to apply for or accept if offered a job vacancy

34340 Other circumstances the DM may take into account when determining the doubt relating to a refusal or failure to apply for or a failure to accept if offered a job vacancy which an Emp O has notified is vacant or is about to become vacant 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 DMG 34341)
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 DMG 34346 et seq)
3. any other factor that appears relevant (see DMG 34416).

Note: For guidance on what constitutes a refusal or failure see DMG 34721 et seq. Also see guidance at DMG 34928 where the refusal or failure is to carry out a JSD which relates to an employment vacancy.

Restrictions on work search

34341 It is extremely important for advisers to ensure that any job vacancy is weighted to the specific claimant and their personal circumstances and any limitations or restrictions identified in the JSAg taken into consideration.

34342 The JSAg sets the context of the claimant's jobsearch. Types of jobs recorded on the JSAg as the types of jobs the claimant is looking for are not necessarily restrictions. Jobs identified are the best prospects at the time the JSAg is signed and that may change with time, however, the advisor should update and amend the JSAg at the regular job search fortnightly review.

Example:

Samara has been claiming JSA for 3 months. She agreed on her JSAg 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.

34343 - 34345

Employment expenses

34346 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.

34347 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).

34348 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.

34349 – 34350

Child care expenses

34351 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.

34352 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.

34353 The DM should consider employment expenses as in DMG 34346 and child care expenses as in DMG 34351 separately. They should not be aggregated when considering good reason.

34354 – 34359

Unreasonably high proportion of pay

34360 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.

34361 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.

34362 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.

34363 - 34365

Employment of less than 24 hours a week

34366 If a claimant refused to apply for or accept a job involving fewer than 24 hours work a week they may be able to show good reason (see DMG 34368).

Note 1: Claimants are not automatically allowed good reason and the DM should consider each case on its individual merits where the claimant raises the hours issue as the reason for not applying for a vacancy.

Note 2: This does not apply if the claimant refuses or fails to carry out a JSD although a claimant may be able to challenge the direction as unreasonable (see DMG 34908)

34367 This guidance also applies when considering whether employment is for less than 16 hours a week. If

1. it has been agreed that the claimant can restrict their hours of availability to less than 24 hours in a benefit week, for example because of caring responsibilities **and**

2. the employment on offer is for less than 16 hours a week

the claimant may have good reason for refusing or failing to apply for or accept that employment.

34368 Claimants should not be mandated to vacancies of

1. less than 24 hours where that is not appropriate **or**
2. where a claimant has a pattern of availability of less than 24 hours, to vacancies where the hours are less than 16 hours a week.

If the number of hours are not shown on the advertised vacancy and the claimant has raised the hours as the reason for not applying for the vacancy then the JCP adviser or member of staff in the Jobcentre must seek to establish the hours before the referral to the DM is made.

34369 The DM **must** only then consider hours on the basis of good reason as a fact of the case rather than an automatic allowance, bearing in mind that the hours alone may not in itself count as good reason. The DM should consider all the available evidence and information the claimant presents covering the reasons for their actions and the circumstances in which they were in. The number of hours is just one factor the DM should consider in the overall picture of the claimant's circumstances.

Note: This also applies to vacancies advertised in UJ – see further guidance at DMG 34911.

Example 1

Alexander is notified of a job vacancy. At his next fortnightly job-search review he confirms he did not apply for the vacancy because he couldn't be bothered. He didn't think he'd like the job. The DM considers Alexander did not have good reason for the failure to apply for the vacancy.

Example 2

Sergei fails to apply for a notified job vacancy and states that when he checked out the details of the vacancy with the employer it was for 10 hours a week and his JSAg shows he has a pattern of availability of over 24 hours a week. The advisor has confirmed with the employer that the vacancy was for 10 hours. The claimant has good reason for not applying for the vacancy.

Example 3

Remi has an agreed limitation of looking for work for up to 20 hours per week on his JSAg. He fails to apply for a notified job vacancy which is for 20 hours a week. He can show no good reason for the failure. He states his reason was he forgot about

the vacancy and when he remembered the deadline date to apply had passed. The DM considers Remi does not have a good reason for failing to apply for the vacancy.

Example 4

Francis fails to apply for a vacancy. He says the reason he didn't apply for the vacancy was the travelling distance which is 80 minutes each way from his home and he cannot afford the costs of the travel. He does not mention the hours. In consideration of good reason the DM considers the travelling time in itself does not provide good reason as it is less than 90 minutes (see DMG 34261). In consideration of good reason the DM thinks the hours may be a relevant factor and asks the jobcentre to contact the employer for the number of hours involved. On checking, it is confirmed the vacancy is only for 20 hours per week - 4 hours per day over 5 days. The DM decides that we would not reasonably expect a claimant to travel 80 minutes to work for 4 hours a day followed by a return journey of 80 minutes and taking into account the travel costs in comparison to possible earnings. Francis is looking for full time work and it is not practicable or reasonable in the circumstances. The DM considers in this case Francis has good reason for not applying for the vacancy.

Example 5

Horace's JSAG shows that he has no restrictions and is available for work for 40 hours per week, Monday to Saturday. A suitable vacancy is put into the Saved Inbox of his UJ account and the advisor informs Horace he must apply for the vacancy before the closing date. No hours are provided.

Horace applies for the job and is called for an interview.

The employer advises JCP that Horace has been offered the job but he has refused it on the grounds that there are not enough hours for him. The maximum number of hours they can offer him at the present time is 18 hours per week.

As the vacancy was outside his agreed availability on his JSAG and Horace says this is the reason he refused the job, Horace has a good reason for the refusal and cannot be sanctioned for refusing to accept the job.

Shifts or rota systems

34370 If the employment on offer requires work on a shift or rota system where the claimant would have to work for 24 or more hours in some weeks, and less than 24 hours in others, the hours should be averaged. A claimant who refused or failed to apply for or accept employment averaging less than 24 hours a week may have good reason, and the DM should not impose a sanction.

34371 - 34375

Other circumstances that may amount to good reason

34376 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.

34377 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

34378 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.

1 R(U) 1/52; 2 R(U) 9/64

Possible return to previous employment

34379 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.

1 R(U) 1/52

Laid off and short time workers

34380 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.

- 34381 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

- 34382 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

- 34383 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 DMG 34384 if the claimant's reason for refusing other employment was that notice had to be given to end the current job.
- 34384 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 NMW rate is offered four 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

34385 Subject to DMG 34384 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 individual's circumstances and apply the reasonableness test in consideration of good reason. Temporary employment can assist the claimant by

1. updating existing skills
2. learning new skills
3. becoming more confident
4. improving their CV
5. showing employers they can keep regular hours and stay committed to a task
6. meeting people who can help them find work
7. giving them something to talk about in a job interview **and**
8. gaining references to improve their prospects of further employment.

Note: For the purposes of a failure to apply for or accept if offered, any employment opportunity, regardless of the duration of the employment, the sanction duration is for a fixed period. The failure is not a failure prescribed for in relevant legislation² which allows for the sanction to be reduced (see DMG 34097 et seq).

1 R(U) 35/52; 2 JSA Regs, reg 69(3)

Definite chance of other employment

34386 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

34387 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

34388 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

34389 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.

34390 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.

34391 – 34394

Employment which the claimant has previously left

34395 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 DMG 34236).

- 34396 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

- 34397 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.

- 34398 In extreme cases the claimant may be able to show that such employment would be likely to cause
1. unreasonable mental stress (see DMG 34309) **or**
 2. be grounds for a sincere religious objection (see DMG 34321).

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.

- 34399 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

- 34400 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.

34401 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

34402 - 34405

Seafarers

34406 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.

34407 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.

34408 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

34409 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.

34410 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

34411 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

34412 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.

34413 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

34414 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.

Zero hours contracts

34415 A claimant should never be mandated to apply for or accept a zero-hours contract but if the details of the zero-hours contract comes to light after the claimant starts work or during the application process then they will always have good reason for leaving voluntarily or due to misconduct, or for failing or refusing to accept the contract and a sanction should never apply.

34416 A zero-hour contract is a contract of employment used in the UK which is not defined in legislation and whilst meeting the terms of the relevant legislation¹ by providing a written statement of the terms and conditions of employment, contains provisions which create an "on call" arrangement between employer and employee. It does not oblige the employer to provide work for the employee. The employee agrees to be

available for work as and when required, so that no particular number of hours or times of work are specified. The employee is expected to be on call and receives compensation only for hours worked.

1 ER Act 96

- 34417 Zero-hour contracts may be ideal for some people such as retirees and students who want occasional earnings and are able to be entirely flexible about when they work, but people in the general working population, including those with mortgages and responsibility for supporting a family, run the risk of unpredictable hours and earnings. The possibility of the use of such contracts by management as a tool to reward or reprimand employees for any reason or no reason raises issues about how workers can adequately assert their employment rights or maintain decent employment relations. Therefore there can be no mandate to any zero hours contract (exclusive or not) and there can be no sanction imposed for Refusing Employment, Leaving Voluntary or losing work because of misconduct.

Employee Shareholder Contracts

- 34418 Employee Shareholder Contracts are entirely voluntary and JSA claimants must not be mandated to apply for such vacancies. For further guidance on Employee Shareholder Contracts see DMG 34335

Other reasons

- 34419 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. The DM should not just consider one factor but should consider the overall picture of the claimant's individual circumstances.

Note: Where the claimant changes their mind or the vacancy is withdrawn there will be no refusal or failure and no need to consider good reason (see DMG 34723 and DMG 34724).

34420

Circumstances that do not show good reason

- 34421 A claimant cannot refuse to apply for a job because of the rate of pay offered, except where this is below the NMW, (see DMG 34423) or because
1. of their income or outgoings 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. 'Outgoings' excludes expenses (such as for childcare) taken into

account that would be an unreasonably high proportion of the claimant's income

2. they argue they need a high wage because they have a large mortgage or an expensive lifestyle.

34422 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.

National minimum wage

34423 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.

34424 – 34425

Circumstances that may show good reason where a claimant leaves employment

General

34426 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.

34427 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)

34428 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 JSA⁴.

Note: In all cases the DM should have regard to the guidance at DMG 34231 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

34429 – 34430

Other circumstances that may show good reason

34431 The DM should have regard to the following when considering good reason that can apply to JSA 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 sources available 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 DMG 34451).

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.

34432 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 DMG 34496)
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 DMG 34436 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 DMG 34473)

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 DMG 34474 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 DMG 34446)
6. the claimant left their job because of a firm offer of alternative employment, but claimed JSA 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 DMG 34501).

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 and any of the circumstances listed at DMG 34226.

34433 – 34435

Terms and conditions of employment

34436 Claimants cannot show good reason for leaving employment because

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

34437 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.

34438 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.

34439 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.

34440 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)

34441 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 DMG 34236 and DMG 34246 where a claimant leaves or loses employment because of mental health issues, harassment or bullying).

34442 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.

34443 Claimants may have good reason for leaving if they suffered detriment under the national minimum wage legislation (see DMG 34423).

34444 – 34445

Employer changes terms and conditions

34446 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.

34447 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.

34448 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 period **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 DMG 34701.

Police officers

- 34449 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

34450

Grievances

- 34451 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 DMG 34 on contracts, terms and conditions.

- 34452 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.

1 ER Act 96, s 1 & 3

- 34453 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.

Note: Consideration should also be given to the guidance in DMG 34236 and DMG 34246 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 and are used for illustrative purposes only.

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

Example 4

Sophia claims JSA. She left her job as a midwife as she was ordered to have direct involvement with abortion procedures which she morally objected to. Sophia has good reason for leaving her job on moral grounds (see DMG 34326). Sophia should have raised the issue through the normal grievance procedures and with her trade union before leaving her job as there is certain legislation regarding midwives which cannot require them to assist in abortion procedures and so she would not have good reason for leaving. However full consideration should be given to any mental health, stress or harassment issues raised in her reasons for leaving.

Work outside of agreed duties

34454 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 DMG 34236 and DMG 34246 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 but are used for illustrative purposes only.

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

34455 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 DMG 34456. 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

34456 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.

34457 - 34460

Short time and overtime working

- 34461 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.

- 34462 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

- 34463 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.

34464 If claimants

1. left employment only because they **wanted** to work overtime, or more overtime (see DMG 34746) **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 DMG 34236 and DMG 34246 if the reasons for leaving were due to mental health issues, harassment or bullying and also see DMG 34456 where an employer breaches the terms and conditions of employment.

34465

Retirement and resignation

34466 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.

34467 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

34468 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 but are used for illustrative purposes only.

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

- 34469 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.

1 R(U) 3/81 Appendix

Leaving to take better paid or preferred employment

- 34470 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.

34471 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

34472 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 disallowance if not available for work. If the questions have been referred to the DM for a decision, the DM should consider availability during the period of the course (see DMG Chapter 21 for full guidance on availability).

Personal and domestic circumstances

34473 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.

1 R(U) 20/64(T)

The facts in the following examples are not exactly the same as the case law quoted but are used for illustrative purposes only.

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

34474 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

34475 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.

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 DMG 34236 et seq).

1 R(U) 20/64(T)

34476 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.

34477 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.

34478 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.

34479 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

34480 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

34481 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

34482 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.

34483 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

34484 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 JSA¹

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

34485 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

34486 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 DMG 34236).

34487 – 34490

Living away from home

- 34491 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

34492 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

34493 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 DMG Chapter 21.

Long or awkward working hours

34494 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.

Note1: 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 DMG Chapter 21.

Note 2: Consideration should also be given to the guidance in DMG 34236 and DMG 34246 if the reasons for leaving were also due to mental health issues, harassment or bullying.

34495

Chances of getting other employment

34496 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

34497 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.

34498 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.

34499 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.

34500 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 JSA only for a very short time.

Firm offer of other employment

34501 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.

34502 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.

34503 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 JSA during the interval **or**
2. the offer fell through and they are claiming JSA for longer than they expected.

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

34504 – 34530

Example

Jamhal is informed by his advisor of a suitable job vacancy when he attends his job search review on 29.10.13. The advisor informs Jamhal that he has to apply for the vacancy before his next review on 12.11.13. On 12.11.13 Jamhal attends his job search review and informs his advisor he did not apply for the vacancy because he thinks it will be a waste of time. The vacancy is still open until 1.12.13 but Jamhal has failed to apply by 12.11.13. The advisor refers the case to the DM to consider a sanction for the failure.

Claimants change their mind

34735 Claimants who refuse or fail 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. There is no consideration of good reason.

Note: If claimants change their minds after a sanction has been imposed the DM should consider revising or superseding the original decision.

Example

See example at DMG 34733. Jamhal attends his job search review on 26.11.13 and informs his advisor that he has changed his mind and has applied for the vacancy and the employer has accepted his application. The DM has not yet determined whether to impose a sanction but as Jamhal has changed his mind and applied for the vacancy before the closing date has passed no sanction is imposed.

Vacancy suspended or withdrawn

34736 If a claimant changes his mind, but can't apply because the vacancy has been either suspended or withdrawn, his change of mind will not assist him and he can still be sanctioned.

Example

Jamie-Lee fails to apply for a vacancy given to her at the Jobcentre and the DM decides a sanction can be applied. A 13 weeks sanction is imposed to Jamie-Lee's JSA for a first higher-level failure. Jamie-Lee contacts the Jobcentre and says she has changed her mind and will apply for the vacancy after all, however the closing date for applications has passed. The DM decides the decision to sanction was

correct and the decision is not revised, Jamie-Lee failed for no good reason to apply for a specified vacancy.

Self-service vacancies

- 34737 A claimant reading a job advertisement displayed in a Jobcentre Plus office does not by itself amount to being informed by an Emp O. There must be some communication between an Emp O and the claimant about the vacancy (see DMG 34727) in order for the DM to consider a sanction if the claimant does not apply for it.

Universal Jobmatch

- 34738 Claimants can search and view jobs, set up an account and build and upload their public CV through Universal Jobmatch (UJ). Claimants will receive automatic matches to employer's jobs from the 'Profile' they create.

Note: UJ is to be replaced by a new job matching service, 'Find a Job'. The free government recruitment service will continue to connect jobseekers with thousands of employers across the UK. The change will come into effect on 14.5.18 and access to existing UJ accounts will be available up until 23:59 hours on 17/06/18, although employers will no longer be able to post new jobs from 17/05/18. This means 'Find a job' and UJ will run side by side between 14/05/18 and 23:59 hours on 17/06/18. See further guidance at 34917 et seq.

- 34739 A claimant will be expected to apply for any vacancies identified through UJ as suitable in the same way as any other vacancy. If a claimant refuses or fails to apply for a vacancy identified through the UJ service the normal considerations for a refusal or failure apply following the guidance in DMG 34721 - 34736. However see DMG 34740 if the vacancy relates to a UJ employer/recruiter account that has been suspended or closed and DMG 34366 if the vacancy is for less than 24 hours.

UJ account closed or suspended

- 34740 Where a vacancy is linked to a UJ employer/recruiter account that has been closed or suspended the DM must check the status of the UJ account. Under **no** circumstances should a sanction be imposed where a claimant refuses/fails to apply for a job linked to a UJ employer/recruiter account that has been closed because no actual job vacancy exists regardless of whether the claimant has demonstrated good reason or not.
- 34741 Where DWP has suspended the employer/recruiter account and the claimant has not demonstrated good reason the DM should wait until the UJ service is restored to determine whether a sanction can be applied. The DM should check the status of the account at regular intervals. If the suspension is lifted and normal service is

resumed the DM considers a sanction following existing guidance on refusals and failures following the guidance in DMG 34721 – 34736. If the account is closed no sanction can be applied regardless of whether the claimant has demonstrated good reason or not.

Exempt vacancies

Work Trials

- 34742 It is fundamental to the concept of Work Trials that they offer the claimant the opportunity to test the suitability of a job, as well as for the employer to test the suitability of the claimant. Therefore, if a claimant is offered a Work Trial but decides not to accept it the claimant cannot have refused employment.

Zero Hours Contract

- 34743 Claimants cannot be mandated to apply for vacancies which include a Zero Hours Contract. Therefore, if a claimant refuses or fails to apply for or accept a notified Zero Hours Contract vacancy the claimant has not failed or refused employment and a sanction should not be considered (also see DMG 34415).

Employee Shareholder Contracts

- 34744 Employee Shareholder Contracts are entirely voluntary and JSA claimants must not be mandated to apply for such vacancies. For further guidance on Employee Shareholder Contracts see DMG 34335.

Apprenticeships

- 34745 Sanctions should not be imposed where a claimant is referred to an apprenticeship vacancy that is advertised prior to 7.9.15 and meets the criteria at DMG 34708 and the claimant

1. fails to apply or take up a place **or**
2. neglects to avail themselves

of that apprenticeship opportunity

Note: Following a change in policy, from 7.9.15 advisors **can** mandate claimants to apply for suitable apprenticeship vacancies irrespective of whether the vacancy meets the criteria in DMG 34708 (see further guidance at DMG 34708).

- 34746 All referrals made to DMs to consider a sanction for RE or NTA failures where the apprenticeship offer fits the criteria in DMG 34708 and where the date of mandation is on or after 15.11.13 but prior to 7.9.15, should be returned to the relevant JCP office as the advisor should not have mandated. No sanction action should be taken.

34747 For any failure where the date of mandation to a suitable apprenticeship vacancy is on or after 7.9.15 the DM should consider good reason and whether a sanction applies in the normal way following guidance at

1. DMG 34721 et seq for RE failures **or**
2. DMG 34751 et seq for NTA failures.

Note: For guidance on apprenticeship vacancies and LV failures see DMG 34708.

Schemes for assisting claimants to obtain employment

Introduction

34846 It is a failure without good reason to comply with regulations under relevant legislation¹ that allows a claimant's JSA to be sanctioned². Failures for schemes as described in relevant legislation³ are sanctionable at the low-level. For guidance on the length of a low-level sanction and when it should begin see DMG 34161 et seq.

Note 1: The MWA scheme is not a prescribed scheme for low-level sanctions purposes, see DMG 34762 et seq for guidance on the MWA scheme.

Note 2: These schemes are known as Schemes for Assisting Claimants to Obtain Employment, commonly referred to as 'SAPOE' schemes or may also be referred to as 'work for your benefit' schemes.

1 JS Act 95, s 17A; 2 s 19A (2)(b); 3 JSA (SAPOE) Regs

34847 The following schemes are prescribed as schemes in which claimants are required to participate under relevant legislation¹

1. Day One Support for Young People (see **Note 5.**)
2. The Derbyshire Mandatory Youth Activity Programme (see **Note 5.**)
3. Full-time Training Flexibility
4. New Enterprise Allowance
5. The sector-based work academy
6. Skills Conditionality
7. The Work Programme
8. Community Work Placements (see **Note 5.**)
9. Work and Health Programme.

Note 1: All these schemes aim to support JSA claimants towards or into employment and address various issues such as a lack of experience of work and the associated skills needed within the work place which can have a significant effect on the chances of unemployed people.

Note 2: Unless the exemptions at DMG 34893 – 34895 apply, claimants are required to continue to comply with the jobseeking conditions (i.e. JSAg, ASE and availability) whilst participating in a relevant prescribed scheme (see DMG Chapter 21 for guidance on the jobseeking conditions).

Note 3: SAPOE ('work for your benefit') schemes¹ are not designed to provide claimants with experience of work of a suitable type or status to that which they have

undertaken previously or have aspirations to obtain but are designed to offer transferable skills to other employments and help to develop disciplines to improve the chances of obtaining and sustaining employment and making the claimant more attractive to prospective employers. They do not provide for consultation with claimants about what placements would be most suitable or beneficial for them but the claimant should understand fully what is required of them and by when and what the consequences of failing to comply will be, to be able to raise any meaningful representations at the relevant time (also see DMG 34865 et seq for guidance on selection and notification for participation in a relevant scheme and 34033 for guidance on the 'prior information requirement').

Note 4: A claimant cannot be mandated to participate in any scheme or notified activity on a day when there is no award of JSA.

Note 5: The Day One Support for Young People, The Derbyshire Mandatory Youth Activity Programme and the Community Work Placements are removed from relevant legislation⁴ from 20.11.17 as they are no longer in use.

1 JS Act 95, s 17A(1); JSA (SAPOE) Regs, reg 3(1);

3 JS Act 95, s 17A (1); 4 JSA (SAPOE) Regs, reg 3

Day one Support for Young People

34848 The Day One Support for Young People is a scheme comprising up to

1. 30 hours per week in a work placement for the benefit of the community **and**
2. 10 hours per week of supported work search

over a period of 13 weeks for any claimant between 18 and 24 years who has less than 6 months work history since leaving full-time education¹.

Note 1: Work history includes employment, voluntary work, internships and work experience².

Note 2: This scheme is no longer in use and removed from relevant legislation³ from 20.11.17.

1 JSA (SAPOE) Regs, reg 3(2); 2 reg 3(9); 3 JSA (SAPOE) Regs, reg 3

Derbyshire Mandatory Youth Activity Programme

34849 The Derbyshire Mandatory Youth Activity Programme is a scheme comprising up to

1. 30 hours per week in a work-related activity for the benefit of the community **and**
2. 6 hours per week of supported work search

over a period of 8 weeks for any claimant aged between 18 and 34 years¹.

cannot be mandated to take part in the work experience element of Traineeships. The only reason a claimant could be sanctioned for a failure to take part in the work experience element of the Traineeship is if the claimant lost the place due to gross misconduct (see DMG 34921).

Work and Health Programme

34859 The Work and Health Programme (WHP) is a scheme designed to assist a claimant who is long-term unemployed in which, for a period of up to 456 calendar days, the claimant is

1. given such support **and**
2. required to participate in such activity

as the provider of the WHP considers appropriate and reasonable in the claimant's circumstances to assist the claimant to obtain and sustain employment¹.

Note 1: From 24.11.17 the WHP will be the DWP's new contracted employment provision that will help claimants with a disability or member of an early access disadvantaged group to find sustained work.

Note 2: The scheme will be rolled out in stages in England and Wales from November 2017 and claimants will be referred on a voluntary basis because they need the additional support to move into employment.

Note 3: The long term unemployed who have not moved into work within 24 months of their claim to JSA will be eligible to be referred to the scheme on a mandatory basis from 3.4.18.

Note 4: The long term unemployed are those claimants who have not moved into employment within 24 months of their claim. The work coach will select claimants for the WHP following the eligibility criteria detailed in the policy for the scheme and operational instructions. The current guidance for notification and participating in a SAPOE scheme will apply equally to the WHP (see DMG 34865 et seq).

Note 5: The WHP will not roll out in Scotland or Northern Ireland. The power to create employment support programmes for the long term unemployed and disabled people in Scotland has been devolved to the Scottish Government. See DMG 34860 for guidance on employment support in Scotland.

1 JSA (SAPOE) Regs, reg 3(8C)

Work Able Scotland and Work First Scotland

34860 From 3.4.17 the Scottish Government will use its powers¹ to deliver new employability support in Scotland. The current Wp and Work Choice schemes run by DWP (UK) will be replaced by two new schemes for Scottish claimants;

1. Work Able Scotland, which will offer support to claimants with LCW, **and**
2. Work First Scotland, which will deliver employment support for disabled claimants with complex needs.

1 Scotland Act 2016

34861 Referrals to both schemes will commence from 3.4.17 and cease on 22.12.17. Participation will be on a purely voluntary basis and therefore will not attract a sanction for any failure to participate.

Note: Existing claimants living in Scotland who are already participating in the Wp prior to 3.4.17 will be expected to continue to participate as normal and will be subject to a sanction for any failure to participate without good reason (see 34854).

Public Sector Comparator (PSC)

34862 PSC has been given the resource and flexibility to deliver a successful programme of Work & Health Programme (WHP) provision for the most vulnerable customers and long term unemployed alongside the WHP.

Note: The purpose of the PSC is to provide an assessment of whether, given similar resources and freedoms to a contracted provider, DWP can deliver the same level or better performance than contracted provision.

34863 The PSC will not operate nationally. Only a small number of selected districts will run the provision alongside the WHP. Those districts are

1. Lincolnshire, Nottingham and Rutland
2. Leicestershire and Northamptonshire
3. Devon and Cornwall
4. Dorset, Hampshire, Isle of Wight and Wiltshire.

Note 1: Selection, Notification & Participation in the programme is done in exactly the same way as for the WHP and other employment schemes.

Note 2: Normal WHP letters will be issued to mandate the claimant to the programme and the PSC has its own MAN's and MEN's which are equivalent to those issued by providers to mandate to appointments, activities and job vacancies.

34864

Selection for and participation in a relevant scheme

Selection for participation

34865 The Secretary of State may select a claimant for participation in a scheme described in relevant legislation¹.

Note 1: The meaning of claimant means a person who claims a JSA².

Note 2: The work coach will select claimants for a SAPOE scheme following the eligibility criteria detailed in the policy and operational instructions for the individual scheme (also see DMG 34869).

Note 3: The 'prior information requirement'³ (see DMG 34033) may be relevant to whether a claimant has been validly selected and referred to a relevant scheme. The Secretary of State has to be able to show that relevant DWP operational guidance has been considered before a claimant is referred to a scheme in the interests of fairness to allow the claimant to make representations regarding their suitability for the scheme (also see guidance at DMG 34871). The onus is then on the claimant to establish that any representations would have changed the decision to refer the claimant to the relevant scheme.

Note 4: Even though the 'prior information requirement' means claimants should have the relevant information about a scheme prior to referral to a scheme, there is no obligation to allow claimants to negotiate and decide which scheme they participate in.

1 JSA (SAPOE) Regs, reg 4(1) & reg 3(1); 2 reg 2(1);

3 SSWP v Reilly and Hewstone and SSWP v Jeffrey and Bevan [2016] EWCA Civ 41

Requirement to participate and notification

34866 Claimants who are selected to participate in a relevant scheme have to be notified of this in a written notice¹ which specifies

1. that the claimant is required to participate in the scheme²
2. the day on which the claimant's participation will start³
3. the details of what the claimant is required to do by way of participation⁴
4. that the claimant is required to participate until
 - 4.1 notice is given by the Secretary of State that participation is no longer required **or**
 - 4.2 the award of JSA endswhichever is earlier⁵

5. information about the consequences of failing to participate in the relevant scheme⁶.

Note 1: Any changes to the details at 3. (ie: details of what the claimant is required to do by way of participation) after the date the claimant starts participating in a relevant scheme must be notified to the claimant in writing⁷.

Note 2: Where the written notice is given by post it is taken to have been received on the second working day after posting⁸.

Note 3: Also see guidance on the 'prior information requirement' at DMG 34033. The claimant has to fully understand what is required of them, by when and the consequences (i.e. sanctions) of failing to participate.

*1 JSA (SAPOE) Regs, reg 5(1); 2 reg 5(2)(a); 3 reg 5(2)(b); 4 reg 5(2)(c);
5 reg 5(2)(d); 6 reg 5(2)(e); 7 reg 5(3); 8 reg 2(2)*

Contracting out

34867 Certain functions in relation to a relevant scheme can be contracted out by the Secretary of State¹ to providers including the

1. requirement to participate in the prescribed scheme and notify (see DMG 34865) **and**
2. notification that requirement to participate in the prescribed scheme ends (see DMG 34874).

Note 1: Functions relating to the consideration of good reason and the imposition of sanctions cannot be contracted out. It is for the DM to determine those questions.

Note 2: Of the relevant schemes listed at DMG 34847, Day One Support for Young People, the Derbyshire Mandatory Youth Activity Programme, the Wp, the CwP and the WHP are delivered by third party providers. **N.B.** National Careers Service do not have contracted out functions for the Sc scheme and cannot mandate claimants to attend skills training or skills assessments. Notifications for participating in Sc must be sent by JCP.

Note 3: Providers of relevant prescribed schemes are not necessarily Emp Os for the purpose of notifying a job vacancy, employment or training scheme. Other than the Wp, CwP, and WHP (see DMG 34879 et seq), contracting out provisions for prescribed work schemes do **not** give providers Emp O status. See the guidance on Emp O at DMG 34015.

Note 4: The Day One Support for Young People, The Derbyshire Mandatory Youth Activity Programme and the Community Work Placements are removed from relevant legislation² from 20.11.17 as they are no longer in use. From 24.11.17 the WHP is introduced and becomes the new contracted employment provision (see DMG 34859)².

1 JSA (SAPOE) Regs, reg 17; 2 reg 3

Requirement to notify

34868 The requirement to notify¹ is usually met by

1. the issue of a letter to the claimant by the JCP advisor at the point of referral to the relevant scheme (also see **Note 3.** and DMG 34869) **and**
2. a notification from JCP or the provider to tell the claimant what specific activity they are actually being mandated to do.

Note 1: As long as all the requirements at DMG 34866 are fulfilled, even if it is by a combination of **1.** and **2.**, this will meet the legal requirement for notification and a sanction may be considered if the claimant fails to participate without good reason (see guidance on evidence of notification at DMG 34872).

Note 2: The notifications at **1.** and **2.** contain the crucial information required for mandatory participation in an employment scheme. The combined effect of these two notices meet the obligations to properly notify¹ which have been tested in the courts² and found to be valid notices within the legal requirements. Also see guidance on the 'prior information requirement' at DMG 34033 et seq.

Note 3: The claimant will also usually be issued with a leaflet outlining the specific scheme. For example, Wp claimants are issued with an information leaflet which outlines the responsibilities whilst participating in the scheme to include attending meetings and taking phone calls as arranged and completing activities the provider tells the claimant to do. All notifications should be recorded and copies made available for the judiciary in the event of an appeal (also see guidance at DMG 34872).

Note 4: See guidance at DMG 34853 with regard to the Sc scheme.

1 JSA (SAPOE) Regs, reg 5;

2 SSWP v Reilly and Hewstone and SSWP v Jeffrey and Bevan [2016] EWCA Civ 413

34869 In addition to the notifications outlined at DMG 34868 **1.** and **2.** the JCP advisor will have discussed with or advised the claimant

1. the benefits of participation in a relevant scheme,
2. what is expected of them whilst participating **and**
3. the consequences of failing to participate

before they are mandated to take part.

Note 1: This gives the claimant opportunity to raise any representations about the scheme in order to meet the 'prior information requirement' (also see DMG 34033).

Note 2: The onus is on the claimant to establish that any representations would have changed the decision to refer the claimant to the scheme (also see guidance at DMG 34865).

Failure to participate in the prescribed scheme

34870 A claimant is regarded as failing to participate in a prescribed scheme where they fail without good reason to comply with any of the requirements notified to them¹.

Note 1: A sanction for a failure to participate can only be imposed where the Secretary of State complies with the notification requirements. If the notice does not meet the requirements the claimant cannot be sanctioned. See DMG 34872 for guidance on evidence of notification.

Note 2: See further guidance on the 'prior information requirement' at DMG 34033.

1 JS Act 95, s 19A(2)(b)

Participating in a relevant scheme

34871 Fails to participate is not defined in legislation and therefore takes its everyday meaning of failing 'to take part in'. For the schemes listed at DMG 34847 this will include a failure to take part in any activity which is notified by the Secretary of State

1. in relation to the specific placement **and**
2. what is considered
 - 2.1 reasonable **and**
 - 2.2 acceptable

in a working situation and in the claimant's individual circumstances.

Note 1: All these schemes aim to support JSA claimants towards or into employment and address various issues such as a lack of experience of work and the associated skills needed within the work place which can have a significant effect on the chances of unemployed people finding and sustaining employment.

Note 2: Any requirements must have been adequately notified to the claimant in order to meet the Secretary of State's obligation to meet the 'prior information requirement' (also see guidance at DMG 34033 and DMG 34867 to 34869). Once selected to participate and mandated to a scheme, the DM would determine under good reason if the claimant advocated the requirements or any activity as notified were unreasonable, taking into account all the individual circumstances of the case (see guidance at DMG 34200 et seq on good reason).

Evidence of notification

34872 The issue of all notifications should be recorded in departmental records for evidentiary reasons and a copy should be able to be produced in the event of a reconsideration and/or appeal. The onus is on the Secretary of State to show there has been a sanctionable failure and notifications form an integral part of any appeal submission to demonstrate that the department was legally compliant and have to

be available if requested by the judiciary (also see the guidance at DMG 34033 on the 'prior information requirement').

Note 1: As long as the Secretary of State can show the notifications were sent, then the DM can go on to consider the reasons for the non-compliance. If the claimant raises the issue of notification in their reasons for failing to comply also see DMG 34772.

Note 2: It is not essential that the DM routinely sees a copy of every notification in order to be able to consider good reason and whether a sanction would apply but they should be satisfied records show the claimant was adequately notified and that copies can be obtained if required for an appeal. For example many notifications are standard issue forms. Evidence of the issue of the WP05, for example, to notify a claimant of the requirement to participate in the Work Programme is a standardised computer based letter and copies are not kept on individual records but it's issue should be recorded in system records. Therefore the DM should be checking system records to ensure there is a record that a WP05 was sent to the claimant.

Claimant raises issue of notification

34873 Where a claimant fails to participate in a mandatory scheme but raises the issue of notification in their good reasons, for example the claimant says they did not receive the relevant notification, the DM will have to investigate further and 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.

34874 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
6. whether the claimant received a text reminder of the appointment **and**
7. 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

See example at DMG 34223.

Naveed responds to say there have been problems on a couple of occasions 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.

Records show that the letter was addressed to Mr Ali at number 1 Accommodation Close. 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. The date of the appointment was 19.12.14 and there was extra post due to Christmas.

He cannot recall receiving a text reminder to attend the appointment.

There are no records of any previous non-compliance. Naveed has been participating in the Wp for 6 months.

The DM considers it is probable that the appointment letter could have been delivered to the incorrect address and decides on the balance of probabilities that on this occasion Naveed has shown that the notification was not properly served.

Example 2

Lynsey fails to attend a Wp appointment on 2.9.15 with the provider. In her good reasons for the failure Lynsey says she did not receive the letter notifying her of the appointment on 2.9.15.

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. Indeed she has received all other appointment letters posted to the same address. She lives with her parents and the address is considered a 'safe' address for the delivery of post. There is no evidence to suggest she is not capable of dealing with her own post.

Lynsey has had two previous incidents of non-compliance when she failed to attend a Wp appointment when she forgot or got confused over the date of the appointment and sanctions are currently imposed on her benefit.

Lynsey confirms she received a text reminder from the provider but didn't understand which appointment the text was referring to but didn't consider to chase the matter up.

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 as she can provide no evidence that she did not and it was reasonable in her circumstances to have expected her to chase up the text reminder from the provider.

By way of participation

34875 By way of participation is not defined in legislation and means any activity that is reasonable in the individual circumstances. For further guidance see DMG 34777 - 34781. The guidance for the MWA scheme applies equally to the prescribed schemes listed at DMG 34847. Also see example at DMG 34876.

Note: It would be for the DM to consider the claimant's reasons for any failure to participate and the claimant would have to show good reason for the failure. For detailed guidance on good reason see DMG 34200 et seq.

Sanctions and good reason

34876 Once the DM is satisfied that claimants have

1. been adequately notified of a requirement to participate in one of the schemes listed in DMG 34847 **and**
2. there is a sanctionable failure **and**
3. no good reason for that failure

a relevant sanction can be imposed.

Note: For detailed guidance on low-level sanctions see DMG 34161 et seq. For guidance on good reason see DMG 34200 et seq.

Example

Bob is participating in the CwP scheme. He is single and in receipt of JSA. He was issued with a notification to attend a CwP placement starting on Monday 13.4.15 at 09:00am.

The sanction referral from the provider states that Bob attended on 13.4.15 at the correct time. He was requested to complete some basic gardening duties and all appropriate tools were provided. The placement host stated that Bob appeared very unhappy at being asked to do this type of work and informed them that this was not the kind of work he was looking for. The host stated he was very bad tempered and became abusive and left.

When contacted for his reasons for the failure to participate, Bob stated he turned up to the CwP on time. Although his notification from the provider did not specifically state what kind of work he would be expected to carry out, he was under the impression it would involve some local driving or delivery duties. However, when the host explained what he was going to be expected to do, he stated that this was incorrect and not the kind of work he had been lead to believe he would be doing. He stated he was not abusive and on the contrary the CwP placement host was very abrupt telling him that this was the kind of work they had available and that is the work he would be doing so he should just get on and do it or leave. He stated at that point he left quietly due to being upset of how he had been spoken to.

History - there is no evidence held in Departmental records that Bob has ever previously failed to participate in any mandatory activity. He has previously completed 104 weeks participating in the Wp. All relevant mandatory notifications are recorded as being issued.

Did the claimant fail to participate?

Bob failed to participate as he left the placement early. He was not happy doing the activities he was asked to do by the placement host as part of his participation in the CwP scheme.

Has he demonstrated good reason for the failure?

Bob was issued with the relevant notifications for participation in the CwP scheme therefore he was fully aware

- of what being mandated to the CwP would entail and what types of activities he may be required to do,
- that he was required to participate until told otherwise
- of the consequences should he fail to take part in any of the activities the CwP provider or placement host asked him to do as part of his participation in the scheme **and**
- of the complaints procedures to follow if he was not happy.

The DM considers it was not reasonable that Bob thought he would get a driving/delivery placement.

The notification of referral to the scheme contains the following information:

“Your work placement(s) will be of benefit to the community, but the type of placement won't be decided until you have met with your provider and discussed what is appropriate for you.

It may consist of a single or multiple placements. You could be placed in a variety of roles within the voluntary and community sector, such as cleaning public spaces, recycling services, or supporting local charities. The particular placement will vary from person to person, and will depend on your own individual needs and local placement opportunities.

Your provider will assess your needs, and arrange your work placement and jobsearch. Your provider will explain to you when and where these will take place. They will also tell you what kind of things you will need to do on your work placement.”

The notification does not refer to a specific activity and the claimant could have been under no mistaken belief that he would be given a driving/delivery placement. On the balance of probabilities, therefore, it is inherently improbable that the advisor, the provider or the placement host would have led him to believe he could have a certain type of placement even though driving may have been mentioned as one of the types of activities he may be asked to do.

Moreover the CwP notification clearly sets out the following:

“What if you are not happy?

Whether you are dealing with the Jobcentre or with one of our providers, you should expect to be treated fairly. Your provider must explain the minimum standards of service you can expect from them.

If you're not happy with our service or that of the provider, you can make a complaint. Making a complaint will not affect your Jobseeker's Allowance. If you wish to complain about the service of the provider, please get in touch with them first. They will explain their complaints procedures to you at your first meeting”.

Therefore there was a complaints procedure that was clearly set out for the claimant that he should have followed if he was not happy on the placement.

The DM considers a reasonable person in the same circumstances would have followed the complaints procedure before leaving the placement.

Was it reasonable to expect Bob to participate in the placement?

The DM considers it was reasonable to expect Bob to participate in a work placement. He had been unemployed for over 2 years and the placement would have provided the opportunity to get an up to date work-related entry for his CV. He would also would have had opportunity to gain some tangible work related experience and gain an insight into the skills and behaviours employers require and how those skills can be adapted to the work place. For example; attending on time, following instructions, being cooperative, reliable, willing, motivated and hard working.

He may even have got an employer based reference if he had done well on the placement. All which could have made him a more attractive employee to other prospective employers. Therefore Bob failed to participate in the CwP scheme and could not show a good reason for the failure and a sanction would be appropriate.

Circumstances where requirement to participate is suspended or ceases to apply

34877 A requirement to participate in a relevant scheme is suspended¹ where the claimant is not required to meet the jobseeking conditions².

Note: For guidance on jobseeking conditions (availability, ASE and having a JSAg) see DMG Chapter 21.

1 JSA (SAPOE) Regs, reg 6(1); 2 JS Act 95, s 17A(4) & (10)

34878 A requirement to participate in a relevant scheme ceases to apply if the

1. Secretary of State gives notice in writing that the claimant is no longer required to participate **or**
2. award of JSA ends

whichever is the earlier¹.

Note 1: If DMG 34876 1. applies the requirement ceases to apply on the date specified in the notice².

Note 2: If the award of JSA ends and then the claimant returns to JSA, the claimant has to be re-notified of all the requirements of participation in a relevant scheme as per DMG 34867 for the new claim. Any notifications issued on the previous claim **cannot** apply to any failures to comply that occur in the new award.

This is regardless of whether the claimant is referred to the same provider from the previous claim and regardless of how short the break in the claim.

1 JSA (SAPOE) Regs, reg 6(2); 2 reg 6(3)

Designation of Employment Officers Changes

34879 From 27.10.14¹ employees of specified organisations (see Appendices 3 and 4) are designated as Emp Os for the purposes of requiring claimants

1. to apply for **or**
2. accept if offered

a situation in any employment which an Emp O has informed them is vacant or about to become vacant².

Note 1: For the definition of Emp O see DMG 34015 and for the meaning of employment see DMG 34016.

Note 2: From 3.4.18 employees of specified organisations are designated as Emp Os³ for the purposes of mandating JSA claimants participating in the WHP (see guidance at DMG 34886 and Appendix 5).

1 Wp (Emp O) Des O 14, art 1; CwP (Emp O) Des O 14, art; 2 JS Act 95, s 19(2)(c)

3 The Jobseeker's Allowance (Work and Health Programme) (Employment Officers) Designation Order 2017

Approved Sub-contractor

34880 Approved Sub-contractor means, in relation to any Prime Contractor, an organisation engaged by the Prime Contractor to perform its obligations under a relevant contract and which is approved by the Secretary of State, whether at the date of the order or from time to time, pursuant to that contract¹.

Note: This refers only to sub-contractors who are contracted to provide specific services or facilities for the provision of the Wp and CwP scheme (also see definition of relevant contract at DMG 34882).

1 Wp (Emp O) Des O 14, art; CwP (Emp O) Des O 14, art 2

Prime Contractor

34881 Prime Contractor means an organisation specified in the Schedule (see Appendices 3 and 4) and appointed by the Secretary of State to provide services or facilities for the provision of the Wp¹ and CwP scheme.

1 Wp (Emp O) Des O 14, art; CwP (Emp O) Des O 14, art 2

Relevant contract

34882 Relevant contract means¹, in relation to any Prime Contractor, a call-off contract made between the Secretary of State and the Prime Contractor for the provision of services or facilities for the Wp and CwP scheme.

1 Wp (Emp O) Des O 14, art; CwP (Emp O) Des O 14, art 2

Employees of Authorised Providers

34883 Employees of

1. a Prime Contractor **or**
2. an Approved Sub-contractor

are designated as Emp Os¹.

Note 1: For details of authorised Prime Contractors see Appendices 3, 4 and 6.

Note 2: For details of designated sub-contractors see the guidance at DMG 34890.

Note 3: Where guidance refers to the provider it means the Scheme provider which are designated employees of a Prime Contractor or Approved Sub-contractor.

*1 Wp (Emp O) Des O 14, art 3(1); CwP (Emp O) (Des O 14), art 3(1);
The Jobseeker's Allowance (Work and Health Programme) (Employment Officers) Designation Order 2017*

Work Programme

34884 Wp¹ has the same meaning as in the definition at DMG 34854.

Note: The order² gives specific Emp O powers to designated employees of Prime Contractors and Approved sub-contractors who have a relevant contract for the provision of the Wp scheme. Other than the CwP Scheme (see DMG 34885), it does not give Emp O status to the providers of any other SAPOE scheme or the MWA scheme.

*1 Wp (Emp O) Des O 14, art 2; JSA (SAPOE) Regs, reg 3(8);
2 Wp (Emp O) Des O 14*

Community Work Placements

34885 CwP¹ has the same meaning as in the definition at DMG 34855.

Note 1: The order² gives specific Emp O powers to designated employees of Prime Contractors and Approved sub-contractors who have a relevant contract for the provision of the CwP scheme. Other than the Wp (see DMG 34884) it does not give Emp O status to the providers of any other SAPOE scheme or MWA scheme.

Note 2: The CWP scheme ends on 27.10.16 and in certain areas will end earlier (see DMG 34893 et seq for further guidance).

Note 3: The CwP scheme is no longer in use and removed from relevant legislation from 20.11.17³.

*1 CwP (Emp O) (Des O 14), art 2; JSA (SAPOE) Regs, reg 3(8A);
2 CwP (Emp O) (Des O 14); 3 JSA (SAPOE)(Amdt) Regs 2017*

Work and Health Programme

34886 WHP¹ has the same meaning as in the definition at DMG 34859. From 3.4.18 employees of specified organisations are designated as Emp Os² for the purposes of mandating JSA claimants participating in the WHP

1. to apply for **or**
2. accept if offered

a situation in any employment which an Emp O has informed them is vacant or about to become vacant³ ((see Appendix 5).

Note 1: The order gives specific Emp O powers to designated employees who have a relevant contract for the provision of the WHP scheme.

Note 2: The guidance in DMG 34887 to 34892 equally applies to WHP.

1 JSA (SAPOE) Regs ,reg 3(8C); 2 The Jobseeker's Allowance (Work and Health Programme) (Employment Officers) Designation Order 2017; 3 JS Act, s 19(2)(c)

Refuses or fails to take up employment.

34887 Legislation provides that a failure is a sanctionable failure at the higher-level where a claimant refuses or fails without good reason to

1. apply for **or**
2. accept if offered

a situation in any employment which an Emp O has informed the claimant is vacant or is about to become vacant¹.

Note 1: For the meaning of Emp O see DMG 34015 and for the meaning of employment see DMG 34016.

Note 2: DMs should follow the existing guidance for making Refusal of Employment (RE) decisions. For guidance on good reason see DMG 34200 et seq and for guidance on higher-level sanctions see DMG 34091 et seq.

1 JS Act 95, s 19(2)(c)

Refusal or failure

34888 Claimants may not actually refuse or fail to apply for or accept employment for it to be a sanctionable failure. A failure includes not taking the appropriate steps to improve chances of getting the job such as

1. failing to attend an interview **or**
2. behaving in such a way that they lose the chance of getting the vacancy

The guidance in DMG 34732 gives further examples of failures to take the appropriate steps to improve chances of getting the job.

Note: For detailed guidance on refusal or failure to take up employment see DMG 34721 to 34744.

Employment Officer status

34889 From 27.10.14 designated Wp and CwP scheme providers and from 3.4.18 designated WHP providers have Emp O status and can

1. inform the claimant of a reasonable vacancy or employment opportunity
2. mandate a claimant to attend a job interview
3. gather evidence to send to the DM (also see DMG 34891, **Note 2**) **and**
4. make a higher-level sanction referral to the DM if the claimant fails to comply.

Note 1: Emp O status does not give providers the power to make determinations on good reason or to impose sanction decisions. Those decisions are determined by the DM.

Note 2: The CwP scheme ends on 27.10.16 and in certain areas will end earlier (see DMG 34893 et seq for further guidance).

Note 3: The CwP scheme is no longer in use and removed from relevant legislation from 20.11.17¹.

1 JSA (SAPOE) (Amdt) Regs 2017

Evidence of Authorised Providers

34890 Appendices 3, 4 and 5 list the Prime organisations that have been authorised by the Secretary of State to act as Emp Os in respect of the Wp, CwP and WHP schemes respectively¹. Emp O status also applies to the employees of any approved sub-contractors of those Prime contractors listed² who have a relevant contract for the provision of the Wp and CwP scheme (see definitions at DMG 34880 to 34885).

Note 1: DMs should not routinely ask for evidence of an approved sub-contractor in every case. The DM should be able to check Departmental records to ensure a sub-contractor is approved and has a related Prime Contractor which are listed at Appendices 3, 4 and 5.

Note 2: The DM should only seek evidence in cases where the claimant, the claimant's representative or a FtT or UT have asked for that evidence in a specific case.

1 Wp (Emp O) Des O 14, sch 1; CwP (Emp O) (Des O 14), sch 1;

The Jobseeker's Allowance (Work and Health Programme) (Employment Officers) Designation Order 2017;

2 Wp (Emp O) Des O 14, art 2; CwP (Emp O) (Des O 14), art 2;

Evidence to determine refusal or failure

34891 The provider will send a sanction referral to the DM to consider whether the claimant has good reason for any refusal or failure and to determine whether a sanction is appropriate. The provider will provide

1. full details of the job vacancy or opportunity
2. details of the refusal or failure **and**
3. where appropriate any relevant information regarding the failure
 - 3.1 from the employer should they contact them
 - 3.2 that the claimant volunteers as evidence (see **Note 2**),

Note 1: The provider may provide copies of the relevant job vacancy as evidence as providers do not have access to Departmental computer systems such as LMS and UJ.

Note 2: The relevant Wp, CwP or WHP provider will not normally ask the claimant for their good reasons for the failure, the DM will usually ask the claimant for their reasons following existing processes, however, the provider will give the DM any information the claimant volunteers as evidence of good reason on the referral form.

34892 The provider will not routinely send a copy of the MEN notification with the referral to the DM. The relevant information from the MEN should be duplicated on the sanction referral form but copies of the MEN will be available from the provider should the DM require it at any time as evidence, for example

1. in the event of an appeal **or**
2. if the claimant raises the issue of notification in their good reasons.

Note 1: The DM may contact the provider, the claimant or a third party for further information if required at any time where it is considered necessary in order to clarify reasons or seek further evidence as sufficient proof to justify good reason and to determine whether a sanction is appropriate (also see guidance at DMG 34873).

Note 2: DMs should follow the existing guidance for making RE decisions and on good reason in this chapter.

CwP Scheme ending

34893 Unless DMG 34895 applies, the CwP programme will end on 27.10.16. Therefore the final date a work coach can refer a claimant to CwP is 31.3.16 and the last date claimants can participate in the CwP scheme will be on or before 26.10.16.

34894 Claimants referred to the CwP scheme prior to 31.3.16 will, generally, participate for the 30 weeks allotted time on the scheme. The exception is those claimants who either do not attend their initial engagement meeting or do not start the placement offered. Those claimants will be required to attend a standard work search interview to discuss the next steps to move the claimant closer to or into work with their advisor.

Note: This scheme is no longer in use and removed from relevant legislation¹ from 20.11.17.

1 JSA (SAPOE) Regs, reg 3

Early termination

34895 Referrals to the CwP scheme in certain areas will end early, i.e. at the close of business on Monday 29.2.16. Accordingly, the corresponding referral opportunities will also end at 6pm on that date and the last date a claimant can participate in the scheme for a provider affected by early termination will be 25.9.16.

The areas affected by early termination are:

1. CPA1 (Seetec) - covering East Anglia, Essex, and Bedfordshire & Hertfordshire districts
2. CPA 8 (Learn Direct) - covering all districts in Scotland
3. CPA 10 (Seetec) - covering Kent district along with the Surrey & Sussex sides of Berkshire, Surrey & Sussex district and
4. CPA 14 (Seetec) - covering Black Country and Birmingham & Solihull districts.

Note: Referrals to the CwP scheme in these areas will not be made after 29.2.16.

Effect on sanctions

34896 DM action should be undertaken as normal following current processes for considering a sanction for any failures to participate in the CwP scheme received with a date of failure to participate on or before

1. 26.10.16 for CwP **or**
2. 25.9.16 for CwP providers with early termination (see DMG 34895).

Note 1: All CwP scheme providers, including those with early termination are contractually obliged to deliver the provision, in full, for those claimants referred to the scheme on or before the final referral date.

Note 2: Any sanction referrals received with a date of failure to participate in the CwP scheme after the relevant last date a claimant can participate in the scheme should be cancelled.

34897 The period of any sanctions applied will not be affected by the end of provision date. The sanction will run to a date after the provision has ended until the duration of the sanction period ends as normal. If the claimant leaves benefit during the period of the sanction, any balance of sanction will be applied to a new claim to JSA following the normal rules for sanctions (see DMG Chapter 34061 et seq). It is the date of failure which is the important date the DM has to consider and that must occur on or before the last date for participating in the CwP (see DMG 34896).

Example 1

Brie was referred to the CwP scheme on 30.3.16.

On 26.10.16 Brie fails to attend an appointment with her CwP provider by way of participation in the scheme. The provider is not one with an early termination date.

On 15.11.16 the DM considers Brie cannot show a good reason for the failure to participate in the CwP scheme on 26.10.16 and a 4 week sanction is appropriate as there has been no previous low-level sanctions within 52 weeks of the current sanctionable failure.

Brie was last paid JSA up to 10.11.16. Her benefit week ending day is Thursday.

The sanction runs from 11.11.16 to 8.12.16.

Example 2

Alicia is referred to the CwP scheme on 29.2.16. The provider is one affected by early termination.

On 23.9.16 Alicia fails to participate in a required case management meeting with her CwP provider.

On 12.10.16 the DM determines Alicia does not have a good reason for the failure to participate in the scheme on 23.9.16 and a 13 week sanction is appropriate as there has been a previous low-level sanctionable failure within the previous 52 weeks but not 2 weeks of the current failure.

Alicia was last paid JSA up to 4.10.16. Her benefit week ending day is Tuesday.

The 13 week sanction runs from 5.10.16 to 3.1.17.

On 14.11.16 Alicia starts temporary employment for 4 weeks. Her JSA award ends on 13.11.16.

On 10.12.16 Alicia reclaims JSA as her contract of employment ended on 9.12.16.

The balance of the sanction, 3 weeks and 4 days, is imposed on her new award for the period 10.12.16 to 3.1.17. (The period off benefit 14.11.16 to 9.12.16 (3 weeks and 5 days) is deducted from the sanction period).

Exemptions from requirement to meet the jobseeking conditions

New Enterprise Allowance scheme

34898 Where a claimant is participating in the NEA scheme¹ (see DMG 34851) they are not required to be ASE under JSA legislation². However the claimant may be required to do some jobseeking activity as a condition of participating in the scheme³.

Note: For guidance on ASE see DMG Chapter 21.

1 JSA (SAPOE) Regs, reg 3(5); 2 reg 7(1); 3 reg 5(2)(c)

Full-time student

34899 Where a claimant is participating in a relevant scheme¹ as a F/T student² (see DMG Chapter 30 for the meaning of F/T student) they are not required to meet the jobseeking conditions of availability and ASE under JSA legislation³. However the claimant may be required to do some jobseeking activity as a condition of participating in a relevant scheme⁴.

Note: For guidance on availability and ASE see DMG Chapter 21.

1 JSA (SAPOE) Regs, reg 3; 2 JSA Regs, reg 1(3); 3 JSA (SAPOE) Regs, reg 7(2); 4 reg 5(2)(c)

Discharged from detention in prison

34900 claimant who is participating in a relevant scheme¹ is not required to meet the jobseeking conditions of availability and ASE under JSA legislation for a period of one week beginning with the date of discharge, if they have been discharged from detention in a prison, remand centre or youth custody centre². Instead these claimants will be subject to the requirements of the relevant scheme³.

1 JSA (SAPOE) Regs, reg 3; 2 reg 7(3); 3 reg 5(2)(c)

aid on the day she attended the Jobcentre. It is reasonable to have expected her to check and make a correct note of the date and time of the course in advance.

The DM determines Karina has no good reason for the failure and imposes a sanction. (See DMG 34200 et seq for further guidance on good reason).

Back to Work sessions

34912 Back to Work Session means¹ a seminar or appointment referred to as a “Back to Work Session” arranged by or on behalf of the Secretary of State to

1. provide a person who attends with information, support and advice to help them find employment **and**
2. improve their chances of finding employment.

If Back to Work Sessions are structured to help claimants find employment or improve their chances of finding employment, e.g. they will find out about actual vacancies or meet prospective employers who are recruiting to find out about the skills and qualifications required, they should meet the requirement for a JSD to be used to mandate the claimant to attend the session. However if the sessions are to provide general information, for example; a Group Information Session (see DMG 34913) they do not.

1 JSA Regs, reg 1(3)

Group Information Sessions

34913 Generally a claimant cannot be mandated to attend a Group Information Session. These sessions can range from informing new claimants of the conditionality requirements and expectations of them during their claim, to details about how to go about finding suitable vacancies or training opportunities, to more specific information about a particular type of employment. However in order to issue a JSD there needs to be a clearly identified and tangible benefit to the individual claimant in terms of improving their employment prospects by attending the session (see DMG 34905).

34914 For example, if it is identified that a particular claimant needs a CV or a better CV, the Secretary of State can require attendance at something that helps address that need, but if that help is provided within the wider context of a general group information session, lots of which the claimant may or may not need or which may or may not improve their employment prospects, we cannot require them to attend the whole session. Therefore if the session on CV writing means the claimant will leave with an improved CV, that would be tangible evidence that could improve the claimant’s prospects of employment (see example at DMG 34911). However if the session also includes advice on, debt counselling or better off in work calculations or conditionality information. Whilst it may be desirable knowing how work affects their finances it is not a specific activity that will assist a specific claimant to get work or

improve their prospects of work. So as long as the claimant attends the CV writing element of the Group Information Session they could not be sanctioned for not attending the rest of the session.

Example

Pontus has been unemployed for 4 years. His advisor has identified he would benefit from some training on how to complete a good job application. He has shown an interest in working in the retail sector.

Pontus is given a direction to attend a Group Information Session as it includes a session on how to complete good job applications and what the employer looks for in a good applicant for a job by a representative from a local major supermarket.

Pontus attends the session but in the general session regarding the sanctions regime he was asked to leave because he was disruptive by asking questions and heckling.

As Pontus attended and fully participated in the session on job applications a sanction cannot be applied for his failure to participate (misconduct) during the remainder of the session.

Whilst his behaviour was unacceptable and inappropriate and he was rightly asked to leave, participation in that part of the session was not mandatory and would not meet the criteria for a JSD and therefore he could not be sanctioned.

- 34915 There needs to be a clearly identified and tangible benefit to the individual claimant in terms of improving their employment prospects and the activity **must be** reasonable in the claimant's circumstances.

Example:

If a JSD states that the requirement to attend a GIS will give them information about European Skills Funding and it explains that the benefit for the claimant is the additional support available through the fund, the benefit to the claimant is not in attending the GIS, but in taking part in European Skills Funding. The benefit of attending the GIS is simply that the claimant will have more information about the fund and the benefits it can provide. It does not help the claimant find work or improve their chances of doing so.

Day 1 conditionality

- 34916 Claimants will be advised to do certain job search activities from day 1 of their claim and operational processes are in place so that when a claimant makes a claim online they are advised that it would be beneficial for them to

1. register with an online jobseeking site (usually UJ before 14.5.18 or from 14.5.18 'Find a Job', see **Note 2) and/or**

2. create an email address **and/or**
3. create a CV

if they haven't already done so. Claimants are not mandated to do so at this stage. There is no mandate until the claimant attends the jobcentre. The advisor will check what the claimant has done and the reasons why if they haven't. The advisor can decide whether to mandate or not using a JSD but for a period out with the period of waiting days.

Note 1: A JSD should not be issued to mandate a claimant to do some activity during waiting days as there is no entitlement to JSA. A JSD can be issued during the period of waiting days but it should mandate the action/activity for a date after waiting days have been served. (See DMG Chapter 20 for further guidance on waiting days).

Note 2: See guidance at DMG 34917 **Note 1:** regarding the 'Find a Job' service which replaces UJ as the government's online recruitment service from 14.5.18. Day 1 conditionality will still apply to all claimants from 14.5.18 but because of the differences in the new 'Find a job' service in comparison to UJ, it may be more appropriate for claimants to create an account and upload a CV in another jobsite instead. Where the claimant has already created an account and uploaded a CV with another jobsite prior to the Initial Work Search Interview, or where the claimant has not done so, but after discussion between the work coach and claimant at this interview it is deemed more appropriate to do this instead of creating an account and uploading a CV in 'Find a job', then the claimant will have met Day 1 conditionality or alternatively may be mandated to complete this activity.

Example 1

Dorek makes a claim to JSA on line on 11.5.15. He is requested to attend the jobcentre on 14.5.15 for his initial worksearch interview with an advisor and is advised to register with UJ, create an email address and create a CV.

Dorek attends the interview on 14.5.15 and confirms he has an email address and a CV but has not registered with UJ yet. The advisor advises Dorek that he must create a UJ account by his next fortnightly review on 28.5.15. (See DMG 34916 et seq). The advisor issues a JSD to mandate Dorek to register with UJ in the period from 18.5.15 to 28.5.15 allowing for 7 waiting days to be served.

Example 2

Christie makes a claim to JSA on line on 16.5.18. She is requested to attend the Jobcentre on 22.5.18 for an initial work search interview with an advisor and is advised to register with 'Find a Job', create an email address and create a CV on line.

Christie attends the interview on 22.5.18 and confirms she already had registered with Reed and Indeed jobsites on line and has an email address and public CV. Christie has met her requirements for Day 1 conditionality. The work coach advises Christie about the free government site 'Find a Job' and she agrees to also register with 'Find a Job' before her next work search review. A JSD is not appropriate.

Issuing a JSD to mandate JSA claimants to create an on line jobseeking profile and public CV

34917 A DM may receive a referral to consider a sanction for a failure or refusal to create an on line jobseeking profile. The DM considers the

1. guidance for JSDs (see DMG 34901 et seq) and good reason (see DMG 34200 et seq) **and**
2. guidance at DMG 34918 - 34925 regarding creating an online jobseeking account.

Only if they are satisfied that it was reasonable to require the claimant to create an account and that there has been a failure to comply with the JSD without good reason can a sanction be imposed.

Note 1: UJ, the DWP's on line jobseeking service, is to be replaced by a new job matching service, 'Find a Job'. The free government recruitment service will continue to connect jobseekers with thousands of employers across the UK. The change will come into effect on 14.5.18 and access to existing UJ accounts will be available up until 23:59 hours on 17/06/18, although employers will no longer be able to post new jobs from 17/05/18. This means 'Find a job' and UJ will run side by side between 14/05/18 and 23:59 hours on 17/06/18.

Note 2: One of the fundamental differences between the 2 services is that DWP staff will not be able to access the claimant's 'Find a Job' account and so will not be able to save jobs for claimants to apply for or send messages to claimants. In terms of claimants, the new service will no longer have free text functionality to enable claimants to type any ad-hoc activity they have done to look and/or apply for jobs, enable them to receive on-going job matches to their account, send anonymous matches to employers jobs posted on the site from information recorded on the claimants public CV or enable employers to send messages to them.

34918 A claimant can only be mandated to create an online jobseeking account and public CV if

1. it has been explained to the claimant the benefits of creating an on line account and public CV and they refuse **and**
2. a DWP IAD service is reasonably available to the claimant should they need to use one (see DMG 34923) **and**

3. none of the exceptions at DMG 34922 apply **and**
4. a cookies fact sheet has been issued (see DMG 34925).

Note: A JSD **cannot** be issued to mandate a claimant to give JCP access to their UJ account, this is a voluntary action by the claimant (see guidance at DMG 34919). See **Note 2.** at DMG 34917 regarding access to 'Find a Job' accounts from 14.5.18.

Example

Dear M

When you are claiming Jobseeker's Allowance, you must make suitable efforts to find a job and put yourself in the best position to get offers of work.

I am directing you to take the action stated below.

You are currently seeking work in the X, Y, Z sectors. Hundreds of new jobs, in these sectors are, advertised every day through the Jobcentre Plus website UJ. Therefore, as a current JSA Jobseeker, you must register yourself with a UJ account and create a public CV. This will significantly increase your prospects for finding work.

You must complete the UJ registration and have a public CV by _____ date and then confirm this to your personal adviser in the Jobcentre no later than _____.

If you refuse or fail to carry out this JSD and cannot show good reason for this or that it is unreasonable in your circumstances, you could lose Jobseeker's Allowance/National Insurance credits. (Details of the progression of sanctions would be included here).

Access to the claimant's UJ account

34919 A JSA claimant **cannot** be mandated to give DWP access to their UJ account, this is a voluntary action by the claimant. The advisor should encourage the claimant to do so, but the benefits need to be explained fully to the claimant and it needs to be exactly clear what this means and what the access will be used for.

Note 1: Access to the claimant's UJ account will help provide evidence of job search activity and the advisor can provide extra support to the claimant by looking out for and saving jobs for them in the UJ saved inbox. Advisors can set this up as one of the claimants work search activities helping them achieve enough work related activity each week.

Note 2: See **Note 2:** to DMG 34917 regarding access to a claimant's 'Find a Job' account from 14.5.18 (also see **Note 1.** and **Note 2.** to DMG 34917).

Evidence

34920 A record of

all advice **and**

1. issue of the cookies fact sheet **and**
2. whether the claimant agrees for DWP to access the UJ account (but see **Note 2.** at DMG 34917 regarding access to the 'Find a Job' service) **and**
3. any other relevant issues regarding the account

should be recorded in the claimant's action plan for evidentiary reasons should it be needed in the event of any sanction determination or subsequent appeal.

Note: Failure to record the relevant evidence may affect whether or not a sanction can be imposed in the event of any failure to comply by the claimant.

34921 Claimants can be asked to produce evidence of their public CV but we cannot dictate how they produce the evidence, for example, by email. Evidence can be provided via a smart phone or a screen print brought in or printed off using the IAD.

Exceptions

34922 For the majority of claimants, creating an online profile and public CV will be an important part of improving employment prospects. However, creating a profile, a public CV and using on line jobseeking sites may be less than straightforward for some claimants if they are not reasonably able to use the service, for example those

1. with a learning difficulty, cognitive impairment or other health-related conditions **or**
2. for whom English is their second language **or**
3. who lack appropriate literacy and/or numeracy skills **or**
4. who are not reasonably able to access
 - 4.1 their own computer/device (for example, because they do not have such a device or cannot afford to access the internet) **and**
 - 4.2 an alternative internet access device in their area (for example, because of their personal circumstances, poor internet service in the area or lack of access to affordable internet access).

Note: The particular barrier to using an on line jobseeking site should be addressed first (e.g: English language, numeracy or IT skills).

Example

Ranjit has English as a second language and refuses to use UJ. He does not wish to accept cookies and has no reasonable access to an IAD. He cannot be mandated to use UJ and a JSD would not be appropriate. His other barriers to work should be addressed first and Ranjit is referred to an English Language Skills course.

Access to a DWP IAD

34923 Whether the claimant can reasonably access a DWP IAD should they either not have reasonable access to the internet or should they wish to exercise their right not to accept cookies should be taken into account. All the claimant's individual circumstances should be considered (for example, their health, any restrictions on their availability, whether they have childcare available) and the availability of IADs in the local office. For example, if the office has a high number of claimants who need access to a DWP IAD or because they do not have access to the internet or are required to use UJ and wish to exercise their choices relating to cookies. Claimants using an IAD must be offered an IAD appointment time so they are able to carry out the direction.

Note: The examples are not exhaustive it is up to the advisor to consider all the claimant's individual circumstances and what would affect reasonable access to the internet depending on the claimants capabilities and capacity and their own resources.

Example

Evelyn discusses setting up a UJ account with her advisor and is happy to do so but she does not have internet access at home and has restricted availability during school hours due to childcare arrangements. She lives in a remote village where there is no public library or public access to free Wifi. The advisor arranges for Evelyn to have access to the DWP IAD and makes her an IAD appointment which fits in with her availability.

34924 If one or more of the circumstances in DMG 34922 apply and it is unreasonable for the claimant to use an on line jobseeking site, a JSD should not be issued but if this only comes to light after a referral to the DM, the claimant would be able to show good reason for a refusal or failure to comply. The referral should not be cancelled.

Cookies fact sheet

34925 When it is reasonable to issue a JSD, the claimant should be informed they must create an online jobseeking profile and public CV (see **Note 3**). The Cookies factsheet should always be attached to the JSD letter, explaining the use of an IAD should the claimant not wish to accept cookies. A sanction will **not** be able to be imposed in any case if the cookies fact sheet has not been issued.

Note 1: The cookies fact sheet gives the claimant assurances on how data is protected in terms of reported data-fishing by bogus employers, that relevant checks are in place to ensure that these are not placed on the system again, that employers comply with the terms and conditions of the use of the site and that there is a process of 'accepting cookies' and EU data protection principles so that the site is secure.

Note 2: A record of the issue of the cookies fact sheet should be made in the claimant's action plan for evidentiary reasons should the claimant appeal any decision to sanction. Failure to record the issue of the cookies fact sheet could result in a sanction, that would otherwise be appropriate, not being imposed.

Note 3: Whichever online jobseeking site the claimant is mandated to set up an account with, a cookies fact sheet **must** be issued. This can be with UJ up to 23:59 on 17/06/18 or with the 'Find a Job' service from 14.5.18 (see **Note 1** to DMG 34917).

Refusal or failure to carry out a JSD

34926 The guidance at DMG 34732 with regard to employment vacancies applies equally if a JSD was to direct a claimant to contact an employer or training provider in some way.

Note: See guidance at DMG 34176. Normally a JSD will not be used to mandate a claimant to apply for an employment vacancy, normal RE action will be taken (see DMG 34721 et seq) but also see guidance at DMG 34928. It will be for the DM to decide which action was the more appropriate in the individual case and whether the claimant can show any good reason for any failure to comply. When any failure occurs which is both a failure at the higher-level and the low-level only the higher-level sanction will apply¹, for example failing to carry out a JSD to apply for an employment vacancy.

1 JS Act 95, s 19A(3)

Claimants change their mind

34927 If claimants who refuse or fail to carry out a JSD

1. change their minds **and**
2. can still achieve something by following the JSD **and**
3. notify an Emp O that they have changed their minds

they have not refused or failed to carry it out.

Example 1

On Wednesday, Janice is directed to send her CV to a local employer, which she does not wish to do. The following Tuesday, she changes her mind. She can still send her CV to the employer, still carry out the JSD, and still achieve something by doing so.

Example 2

On Wednesday, Jacob is directed to contact an employer who is advertising a job vacancy in the local press. He does not do so. The following Tuesday he decides that he would like to apply for the job, and contacts the employer, however the closing date for applications was Friday. Although Jacob can still follow the JSD, he cannot achieve anything by doing so. Therefore he has failed to comply with the JSD.

Example 3

John lives in a remote area of Scotland and cannot get into his nearest Jobcentre Plus office at all during the winter months. The Jobcentre Plus office send him a letter on Monday telling him to phone them on Thursday between 10am and 11am, using a freephone number. This is to discuss a Jobskills course that is being run in his local village hall, starting the following Tuesday.

John is not interested in the course and does not telephone on Thursday as directed. He changes his mind and telephones on Friday. Even though they will still be able to discuss the course when John rings on the Friday, and it is not too late to start it, he has not and cannot now follow the JSD because it was time specific and required him to phone on Thursday between 10am and 11am, which he did not do. He therefore has failed to comply with the JSD.

Good reason – refusal or failure relates to the employment

- 34928 A JSD may require a claimant take steps to get a particular employment or type of employment. If so, the claimant will have good reason for refusing or failing to carry out the JSD if they would have had good reason for refusing or failing to apply for the employment concerned. The DM should also follow the guidance at DMG 34721 et seq but also be aware of the guidance at DMG 34926.

Example

Alexander worked as a painter and decorator five years ago. He then trained as a furniture restorer, and has worked at this employment for the last four years. He claims JSA, and agrees with an Emp O that he will look for work only as a furniture restorer for 13 weeks. After ten weeks, the Emp O issues a JSD which requires him to go on a course to update his painting and decorating skills, as a new employer is

moving into the area and will have 30 vacancies for painters and decorators. Alexander refuses to go on the course. He will have good reason to refuse. He is being asked to take steps (such as joining a training course) to get a particular type of employment, but he is in his permitted period, and has restricted the type of employment he is available for to his usual occupation (see DMG Chapter 21 for guidance on permitted period). Alexander will have good reason for the refusal of employment and a refusal to carry out the JSD.

Good reason – refusal or failure relates to the JSD itself

34929 A claimant might refuse or fail to carry out a JSD

1. which was not aimed at any particular employment or type of employment **or**
2. because they did not want to carry out the JSD itself (rather than having any objection to the employment or type of employment it may have led to).

The DM should follow the guidance in DMG 34200 et seq when deciding good reason in these circumstances taking all the individual circumstances of the case into account.

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Appendix 5

List of approved Prime Contractors (Work & Health Programme)

Contract Package Area	Prime Contractor
1 Central England	Shaw Trust
2 North East	Reed In Partnership
3 North West	Ingeus
4 Southern	Pluss
5 Home Counties	Shaw Trust
6 Wales	Remploy
7 Greater Manchester	InWorkGM
8 Central London Forward	Ingeus
9 Local London	Maximus
10 South London Partnership	Reed In Partnership
11 West London Alliance	Shaw Trust

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

