

# Chapter K5: Low-level sanctions

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# Chapter K5: Low-level sanctions

## Introduction

K5001 This Chapter should be read with ADM Chapter K1 (Sanctions – general principles), which gives guidance on the

1. meaning of terms
2. what general considerations apply when determining whether a sanction applies
3. the compliance condition
4. the prior information requirement,
5. the burden of proof **and**
6. the notification of requirements.

**Note:** See ADM Chapter K2 for guidance on Good reason, ADM Chapter K8 for guidance on when the reduction has effect, and Chapter K9 for guidance on the amount of the reduction.

K5002 A low-level sanction is a reduction of an award of UC for a sanctionable failure by a claimant<sup>1</sup> who

1. falls within specified work-related requirements groups<sup>2</sup> - see K5010 **and**
2. fails for no good reason to comply with specified work-related requirements<sup>3</sup> - see K5015.

See ADM Chapter J2 for guidance on work-related requirements groups, and Chapter J3 for guidance on work-related requirements. See Chapter K1 (Sanctions - general principles) for the meaning of a sanctionable failure and meaning of current sanctionable failure and ADM Chapter K2 for guidance on good reason.

**Note 1:** All low-level sanctionable failures limit imposing a sanction on claimants that fail to comply for no good reason with work-related or connected requirements. See further guidance in ADM Chapter K1 (Sanctions - general principles).

**Note 2:** Conditionality and sanctions cannot be imposed on a claimant when there is no entitlement to UC (see further guidance in ADM Chapter K1).

*1 WR Act 12, s 27; UC Regs, reg 104(1); 2 WR Act 12, s 21 or 22; 3 s 15(1), 16(1), 17(1)(b) & 23(1), (3) & (4)*

K5003 The low-level reduction period is in two parts:

1. an open period which ends as in K5020 1. or K5025 1.<sup>1</sup> **and**
2. where the claimant is aged
  - 2.1 18 or over, a fixed period of 7, 14 or 28 days<sup>2</sup> (see K5020 2.) **or**

- 2.2** 16 or 17, a fixed period of 7 days, but **only** if there was a previous sanctionable failure which resulted in a low-level sanction<sup>3</sup> (see K5205 2.).

*1 UC Regs, reg 104(2)(a) & (3)(a); 2 reg 104(2)(b); 3 reg 104(3)(b)*

K5004 The length of the fixed period reduction in K5003 2.1 depends on whether there have been previous sanctionable failures resulting in a low-level sanction. See K5020 et seq for further details.

K5005 – K5009

## When does a low-level sanction apply

### Which work-related groups are subject to low-level sanctions

K5010 Claimants in the

1. Wfl and work preparation only group<sup>1</sup> **or**
2. all work-related requirements group<sup>2</sup>

who fail for no good reason to comply with the work-related requirements in K5015 are subject to a low-level sanction<sup>3</sup>. See ADM Chapter J2 for guidance on work-related requirements groups and ADM Chapter K2 for guidance on good reason.

*1 WR Act 12, s 21; 2 s 22; 3 UC Regs, reg 104(1)(a)*

K5011 – K5014

### Which work-related requirement failures are subject to low-level sanctions

K5015 Low-level sanctions apply where the claimant fails for no good reason to comply with<sup>1</sup>

1. a Wfl requirement<sup>2</sup> **or**
2. a work preparation requirement<sup>3</sup> **or**
3. a work search requirement – but **only** in relation to a requirement to take particular action specified by the Secretary of State<sup>4</sup> **or**
4. a requirement to
  - 4.1 take part in an interview about the imposition of or compliance with a work-related requirement<sup>5</sup> **or**
  - 4.2 provide information or evidence of compliance with a work-related requirement<sup>6</sup> **or**
  - 4.3 report changes of circumstances relevant to the imposition of or compliance with a work-related requirement<sup>7</sup> (see further guidance at K5151).

**Note 1:** See ADM Chapter J3 for detailed guidance on work-related and work preparation requirements.

**Note 2:** See K5051 et seq for further details where the work preparation requirement is to participate in an employment programme or a work placement (other than MWA). See guidance at K5121 where the work preparation requirement is to participate in work experience.

*1 UC Regs, reg 104(1)(b); 2 WR Act 12, s 15(1); 3 s 16(1); 4 s 17(1)(b); 5 s 23(1); 6 s 23(3); 7 s 23(4)*

## Imposition of requirements

K5016 For guidance as to when and how a

1. work preparation requirement<sup>1</sup> **or**
2. connected requirement<sup>2</sup> (participating in an interview)

is imposed by the Secretary of State see ADM Chapter J3 (Work-related requirements).

**Note:** See guidance at K5121 et seq where the work preparation requirement is to apply for, attend or take part in work experience. See guidance at K5051 et seq for guidance on employment schemes.

*1 WR Act 12, s 16; 2 s 23*

K5017 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 of the

1. specific requirement **and**
2. consequences of failing to comply

if a sanction is to be imposed.

**Note 1:** The DM has to be satisfied that there is a sanctionable failure, that the 'prior information requirement' has been met and the claimant has been adequately notified of the specific requirement and the consequences of failing to comply (see further guidance in ADM Chapter K1 (Sanctions – General principles). Only then will the DM consider whether the claimant can show good reason for the failure and whether a sanction applies (see ADM Chapter K2 – Good reason).

**Note 2:** Providers of certain employment schemes can be authorised persons under relevant legislation<sup>1</sup> to act on behalf of the Secretary of State (see K5054 and further guidance on delegating and contracting out functions in ADM Chapter K1(Sanctions - General principles).

*1 WR Act 12, s 29*

K5018 – K5019

# What is the reduction period

## Claimant aged 18 or over

K5020 Where the claimant is aged 18 or over on the date of the sanctionable failure, the reduction period is the total of<sup>1</sup>

1. the number of days beginning with the date of the sanctionable failure and ending with
  - 1.1 the day before the day on which the claimant meets a compliance condition specified by the Secretary of State **or**
  - 1.2 the day before the day on which the claimant falls into the “no work-related requirements” group<sup>2</sup> **or**
  - 1.3 in the case of a work preparation requirement, the day before the day on which the claimant is no longer required to take specified action<sup>3</sup> **or**
  - 1.4 the date on which the award terminates (other than because the claimant ceases to be, or becomes, a member of a couple)whichever is soonest **and**
2. a fixed period of
  - 2.1 7 days where there has not been a previous low-level sanctionable failure within 365 days, but not 14 days, of the date of the current sanctionable failure **or**
  - 2.2 14 days if, within 365 days, but not 14 days, of the date of the current sanctionable failure, there was another low-level sanctionable failure for which a 7 day reduction was imposed **or**
  - 2.3 28 days if, within 365 days, but not 14 days, of the date of the current sanctionable failure, there was another low-level sanctionable failure for which a 14 day or 28 day reduction was imposed.

**Note 1:** See ADM Chapter K1 (Sanctions – general principles) for the meaning of compliance condition, and ADM Chapter K8 (When a reduction is to have effect) for guidance on when the reduction begins where there is more than one sanctionable failure.

**Note 2:** For each low-level sanctionable failure the DM will consider whether a sanction applies. There is no discretion not to impose a sanction where the conditions to sanction apply. For each sanction doubt referral there must be a sanction decision and an outcome notified to the claimant. Wherever the claimant fails to comply then a low-level sanction decision has to be made and a sanction applied if appropriate. This means where there are multiple failures more than one open-ended period can be running at the same time for the same period (see further guidance in ADM Chapter K1 (Sanctions – General principles)).

K5021 This means

1. a failure **must** be within 365 days of the previous most recent sanctionable failure in order to escalate to the next penalty **and**
2. where there are two low-level sanctionable failures within 14 days of each other, a sanction will be imposed for each failure, but the duration of the second sanction will not escalate but remain at the same duration as the previous sanction.

**Note:** The DM considers whether there has been another sanctionable failure within 14 days or 365 days of the date of the current sanctionable failure in question.

K5022 A sanctionable failure which

1. is within 14 days of the current sanctionable failure under consideration<sup>1</sup> (see ADM Chapter K1) **or**
  2. resulted in a reduction at a different level **or**
  3. was imposed for a sanctionable failure as in K5020 (claimant aged 16 or 17)
- does not count for the purposes of calculating which period in K5025 applies.

*1 UC Regs, reg 101(4)*

**Example 1**

**Jamie has multiple low-level sanctionable failures as per the table below:**

<b>Dates of the low-level sanctionable failures</b>	<b>Period between current low-level sanctionable failure &amp; most recent previous sanctionable low-level failure</b>	<b>Duration of sanction</b>
29.7.16 – Jamie fails to participate in an interview with his Wp provider without a good reason	None	<p><b>10 days</b> - this is Jamie's first low-level sanctionable failure. His compliance requirement is to arrange and attend an interview with his provider. He contacts the provider on 1.8.16 and arranges an appointment which he attends on 4.8.16.</p> <p>A 10 day reduction period applies – a 3 day open ended sanction from 29.7.16 to 31.7.16 plus a 7 day fixed period sanction.</p>
3.8.16 – Jamie fails to attend his normal work search review with his Work Coach without a	5 days	<p><b>12 days</b> - on 8.8.16 Jamie compiles. A 12 day reduction period applies - a 5 day open ended</p>

good reason.		sanction plus a 7 day fixed period sanction. As there has been a previous low-level sanctionable failure on 29.7.16 which is within 365 days and also within 14 days of the current sanctionable failure on 3.8.16, the fixed period sanction is also for 7 days and cannot escalate to the next level.
24.8.16 – Jamie fails to participate in an interview with his Wp provider without a good reason	21days	<b>20 days</b> - Jamie complies on 30.8.16. A 20 day reduction period applies – a 6 day open ended sanction from 24.8.16 to 29.8.16 plus a 14 day fixed period sanction. As there has been a previous low-level sanctionable failure on 3.8.16 which is within 365 days but not within 14 days of the current sanctionable failure on 24.8.16, the fixed period sanction escalates to 14 days.
5.9.16 – Jamie fails to attend an appointment with his Wp provider without good reason.	12 days	<b>17 days</b> - Jamie complies on 8.9.16. A 17 days reduction period applies - a 3 day open ended sanction for the period 5.9.16 to 7.9.16 plus a 14 day fixed period sanction. As there has been a previous low-level sanctionable failure on 24.8.16 which is within 365 days and also within 14 days of the current sanctionable failure on 5.9.16, the fixed period sanction is also for 14 days and cannot escalate to the next level. The fixed period sanction must be for the same duration as the previous sanction, i.e. 14 days.

<p>4.10.16 – Jamie fails to attend his normal work search review appointment with his work coach without good reason</p>	<p>29 days</p>	<p><b>30 days</b> - Jamie complies on 6.10.16. A 30 day reduction period applies. A 2 day open ended sanction from 4.10.16 to 5.10.16 plus a 28 day fixed period sanction. As there has been a previous low-level sanctionable failure on 5.9.16 which is within 365 days but not 14 days of the current sanctionable failure on 4.10.16, the fixed period sanction escalates to 28 days.</p>
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### Example 2

Lily is entitled to UC. She is in the all work-related requirements group, and a 91 day higher-level sanction is imposed from June 2014 when she failed without good reason to apply for a suitable job vacancy.

Lily's health deteriorates and the DM determines that she has LCW. Lily is now in the work preparation group, and on 22.9.14 she fails to attend an initial WFI. Lily's previous higher-level sanction is not used to calculate the fixed period of the lower-level sanction imposed due to the failure to take part in a WFI. There are no previous low-level sanctionable failures and so the fixed period sanction will be for 7 days.

K5023 – K5024

### Claimant aged 16 or 17

K5025 Where the claimant is aged 16 or 17 years old on the date of the sanctionable failure, the reduction period is the total of<sup>1</sup>

1. the number of days beginning with the date of the sanctionable failure and ending with the day before the day on which
  - 1.1 the claimant meets a compliance condition specified by the Secretary of State **or**
  - 1.2 the claimant falls into the "no work-related requirements" group<sup>2</sup> **or**
  - 1.3 in the case of a work preparation requirement, the claimant is no longer required to take specified action<sup>3</sup> **or**

**1.4** the award is terminated (other than because the claimant ceases to be, or becomes, a member of a couple)

whichever is soonest **and**

**2.** where there has been a previous low-level sanctionable failure within 365 days of the current sanctionable failure, a fixed period of 7 days.

**Note:** Once a claimant reaches 18 any subsequent failures will be at the aged 18 or over level.

*1 UC Regs, reg 104(3); 2 WR Act 12, s 19; 3 s 16*

### **Example**

Gracie is 17 and entitled to UC. She has LCW and is in the work preparation group. She has already had a low-level sanction for failure to attend a Wfl in June 2014, and a further sanction is imposed when she fails to attend a further Wfl in August 2014. Gracie still hasn't agreed to take part in a Wfl in September 2014 when she moves in with her partner Brian, who is also entitled to UC. The low-level reduction for Gracie's sanctionable failure continues for the new award of UC paid to Gracie and Brian as joint claimants.

Gracie provides evidence that from 14.12.14 she is within 11 weeks of her EDC. Gracie is no longer required to meet any work-related requirement, and the open period part of the low-level reduction ends on See ADM Chapter K9 for guidance on the amount of the reduction.

K5026 – K5050

## **Participating in an employment programme**

K5051 A low-level sanction can be imposed where the claimant fails for no good reason to comply with a work preparation requirement which

- 1.** is specified by the Secretary of State **and**
- 2.** in the opinion of the Secretary of State makes it more likely that the claimant will obtain paid work, more paid work or better-paid work<sup>1</sup>.

This includes participating in an employment programme<sup>2</sup> (see K5015 **2.**).

**Note 1:** Providers of certain employment programmes and schemes, for example the Work Programme, can be authorised persons under relevant legislation<sup>3</sup> to act on behalf of the Secretary of State (see K5054 and further guidance on delegating and contracting out functions in ADM Chapter K1 (Sanctions- General principles)).

**Note 2:** For the meaning of 'specified' see ADM Chapter K1 (Sanctions – general principles).

*1 WR Act 12 s 16; 2 s 16(3)(d); UC Regs, reg 104(1)(b)(ii); 3 WR Act 12, s 29*

K5052 Individual programmes are not defined in UC legislation, but for the purposes of K5051 employment programmes may include

1. The sector-based work academy (sbwa) (see K5056)
2. Skills Conditionality (Sc) (see K5057)
3. The Work Programme (Wp) (see K5058)
4. Community Work Programme (CwP) (see K5061)
5. Youth Obligation (see K5062)
6. Traineeships (see **Note 3.**)
7. Work and Health Programme (WHP) (see K5071)
8. Public Sector Comparator (PSC) (see K5076).

**Note 1:** This does **not** include the MWA scheme<sup>1</sup>. For detailed guidance on MWA see ADM Chapter K3 (Higher-level sanctions).

**Note 2:** Some schemes are defined in JSA legislation<sup>2</sup>. Definitions of those schemes are the same for the purposes of UC claimants see K5056 et seq..

**Note 3:** Traineeships are defined in UC legislation<sup>3</sup> (see guidance in ADM Chapter H6 – Students and student income). Also see further guidance at K5068 regarding traineeships and Youth Obligation.

**Note 4:** For guidance on work experience see K5121.

*1 WR Act 12, s 26(2)(a) & 27(3); UC Regs, reg 114; 2 JSA (SAPOE) Regs;*

*3 UC Regs, reg 12(1B)*

K5053 All these schemes aim to support UC claimants towards or into paid work, more paid work or better-paid work, 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 1:** Any requirements **must** have been correctly and adequately notified to the claimant in order to meet the Secretary of State's obligation to meet the 'prior information requirement' (see guidance in ADM Chapter K1 – Sanctions – general principles). 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 specified were unreasonable, taking into account all the individual facts and circumstances of the case (see full guidance in ADM Chapter K2 - Good reason).

**Note 2:** Employment schemes 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. There is no provision 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 (see guidance on the prior information requirement in ADM Chapter K1 (Sanctions – General principles)).

K5054 Providers of certain employment programmes, e.g. the Work Programme scheme and the Work and Health Programme, can be authorised persons to act on behalf of the Secretary of State to mandate claimants to participate in the scheme as part of a work preparation requirement<sup>1</sup>. See ADM Chapter K1 (Sanctions - General principles) for guidance on delegation and contracting out of certain functions to authorised persons.

*1 WR Act 12, s 29*

K5055

## **Definition of schemes**

### **The sector-based work academy**

K5056 The sbwa is a scheme which provides for

1. a period of up to 6 weeks training to enable a claimant to gain the skills needed in the work place **and**
2. a work experience placement for a period to be agreed with the claimant **and**
3. either a guaranteed job interview with an employer or support to help participants through an employer's application process.

**Note 1:** The academies are designed to support claimants aged 18 years or over who are relatively job ready. The training and work experience is tailored to employers' needs to help fill vacancies more efficiently whilst supporting participants into sustained employment.

**Note 2:** Participation in the sbwa is voluntary but once the claimant has agreed to participate they are then mandated to attend the training element and guaranteed job interview but they cannot be mandated to take part in the work experience element. Once they have agreed to participate they can be sanctioned if they fail to comply for no good reason with either the training element or guaranteed job interview but not the work experience element unless they are dismissed for gross misconduct (also see K5121 for further guidance on work experience). This includes a claimant who has been on Youth Obligation for 6 months who agrees to participate in a sbwa (also see K5062 for further guidance on Youth Obligation).

**Note 3:** The guaranteed job interview forms part of the sbwa which is an employment programme and a failure to comply with the requirement to participate

in that interview for no good reason is a failure to comply with a work preparation requirement. Therefore the DM can only ever consider a low-level sanction for the failure.

## **Skills Conditionality**

K5057 Sc is a scheme comprising of training or other activity designed to assist a claimant to obtain skills needed to obtain employment. Sc embraces all types of training. Claimants are referred on a mandatory basis to undertake activity to address an identified skills search.

## **The Work Programme**

K5058 The Wp is a scheme designed to assist a claimant at risk of becoming long-term unemployed in which, for a period of up to 2 years, the claimant is

1. given such support as the provider of the Wp considers appropriate and reasonable in the claimant's circumstances **and**
2. subject to minimum levels of support published by the provider, to assist the claimant to obtain and sustain employment which may include work search support, provision of skills training and work placements for the benefit of the community.

K5059 The Wp is designed to assist a claimant at risk of becoming long-term unemployed to move into and stay in work. The scheme is delivered by contracted private, public and voluntary and community sector providers.

**Note:** The long term unemployed are those claimants who are in the AWRR conditionality group and have not moved into employment within 24 months of their claim.

K5060 From 31.3.17 referrals to the Wp scheme will cease. All claimants referred to the scheme up to and including 31.3.17 will be expected to complete their usual 104 weeks of participation which includes claimants coming back onto UC within that time. Current processes should be followed for considering a sanction for any failure to participate in the scheme where the original date of referral to the scheme is on or before 31.3.17.

**Note:** Existing Wp scheme participants in Scotland referred to the scheme on or before 31.3.17 will be expected to participate as normal and DMs will consider failures to participate following current processes but see K5081 for guidance on new employment provision in Scotland from 3.4.17.

## **Community Work Placements**

K5061 CwP is a scheme lasting up to 30 weeks, designed to assist a claimant who requires further support in order to obtain and sustain employment, in which participants undertake

1. work placements for the benefit of the community **and**
2. work-related activity.

The CwP is primarily aimed at claimants returning from the Wp who require additional support to find employment. CwP is an external provision to support claimants whose key barriers to employment are lack of work history and/or lack of motivation. It is a mandatory programme delivered by providers who are expected to deliver work placements for claimants of up to 26 weeks, alongside supporting job search of at least 2 hours a week but with the flexibility to deliver up to 10.

**Note 1:** Except for in certain areas, the CwP scheme ends on 27.10.16. The final date a Work Coach can refer a claimant to the CwP scheme is 31.3.16 and the last date claimants can participate in the CwP scheme will be 26.10.16 (see further guidance in Appendix 1 to this chapter).

**Note 2:** CwP are removed from relevant legislation<sup>1</sup> from 20.11.17 as they are no longer in use.

*1 JSA (SAPOE) Regs, reg 3*

## Youth Obligation

K5062 Youth Obligation is not defined in legislation. It is a policy lead initiative where from day 1 of their claim, an 18-21 year old in the AWRR group, will be required to participate in an intensive period of support to help them become effective jobseekers as quickly as possible.

**Note 1:** Claimants are required to take part in Youth Obligation as a work preparation requirement<sup>1</sup> (i.e. an action that the Secretary of State thinks will make it more likely that the claimant will obtain paid work (more or better-paid work)).

**Note 2:** The Secretary of State has an obligation to 'specify' any work-related or connected requirement clearly to the claimant (see guidance in ADM Chapter K1 for the meaning of 'specify' and notifying requirements).

*1 WR Act 12, s 16*

K5063 Claimants may face a low-level sanction where they fail for no good reason to comply with mandatory requirements while on Youth Obligation in the first 6 months of participation. For example, failing to participate in

1. the intensive activity programme
2. workshops
3. coaching sessions ('follow-up') interviews **or**

#### 4. work search reviews

which are mandatory requirements and will be subject to the imposition of a low-level sanction where the claimant cannot show good reason for any failure to comply<sup>1</sup> (see K5096 et seq).

**Note:** A 2 to 8 weeks work experience placement may be available to Youth Obligation claimants in the first 6 months of their claim but participation is not mandated and is purely voluntary, therefore no sanction can be applied for failing to participate or if they leave or are dismissed for misconduct.

*1 WR Act 12, s 27(2)(a)*

#### **Example**

Tom is participating in Youth Obligation. He has been in receipt of UC for 2 months. He is notified of the requirement to participate in a workshop on 18.5.17 and a follow up interview by phone with his work coach on 23.5.17.

Tom attends and participates in the workshop but fails to take part in the follow up call.

Tom cannot show good reason for his failure to comply. He states he forgot about the interview.

The DM is satisfied that Tom was adequately notified of the requirement to take part in the follow up interview and of the circumstances of failing to comply and that it was reasonable in the circumstances.

The DM imposes a low-level sanction for the failure.

#### **At six months of the claim**

K5064 Those on Youth Obligation still claiming UC after six months will be encouraged to

1. apply for
  - 1.1 an apprenticeship **or**
  - 1.2 a traineeship **or**
2. gain work-based skills through a guaranteed work experience opportunity lasting 3 months **or**
3. participate in a sbwa

to give them the skills they need to move into sustainable employment.

K5065 Referral to any of the options in K5064 is voluntary. Claimants opt in to the opportunity they agree will provide the support they need. See further guidance at

1. K5066 for those claimants who volunteer to participate in a sbwa

2. K5067 for those claimants who volunteer for the guaranteed 3 month work experience placement
3. K5068 for those claimants who volunteer for a traineeship

### **Participating in a sbwa**

K5066 If a claimant who has been on Youth Obligation for 6 months agrees to a sbwa, they are required to participate in the training element and the guaranteed interview (if one is offered). If they fail to do so without good reason, a sanction will apply. The claimant will also be offered a work experience placement as part of their participation in the sbwa. Taking part in work experience is voluntary but if a claimant starts work experience but they or the employer later decides that the placement is not suitable they may leave and a sanction will not apply. However, if they start the work experience placement and are asked to leave because of their misconduct they may be sanctioned. See further guidance at K5056.

### **Example**

Adam is on Youth Obligation and has been in receipt of UC for 6 months. He volunteers to take part in the sbwa scheme and participates as required in the training element and guaranteed job interview. He agrees to and starts a work experience placement and after week 2 the employer and Adam agree the work is not suitable for him.

A sanction cannot be considered.

### **Guaranteed 3 month work experience placement**

K5067 Participation in a work experience placement is voluntary and therefore no sanction can be applied for failing to participate or if a claimant loses or is dismissed from a placement due to misconduct. If a claimant agrees to participate in a guaranteed 3 month work experience opportunity but changes their mind before they start or during their placement, a sanction cannot be applied. However, if they do take up the guaranteed 3 month work experience placement and are dismissed for gross misconduct they may be sanctioned. See further guidance at K5121

### **Example 1**

Poppy is offered a 3 month guaranteed work experience placement as part of Youth Obligation and agrees to take part. She has been in receipt of UC for 6 months.

She attends the interview and agrees to start the work experience placement in a warehouse.

After the third week Poppy decides to leave the work experience placement as she does not think the work is for her. She is struggling to keep up with the heavy physical demands of the job to meet the required targets set for a warehouse operative.

No sanction can be considered.

### **Example 2**

Peter is on Youth Obligation and volunteers for a 3 month guaranteed work experience placement at a garage. He is dismissed from the work experience placement for assaulting a colleague and causing actual bodily harm. His conduct can be regarded as gross misconduct and a low-level sanction imposed.

### **Traineeships**

- K5068 If a claimant who has been on Youth Obligation for 6 months agrees to a traineeship, they are required to participate in the training element. If they fail to do so for no good reason a sanction will apply.
- K5069 The claimant will also be offered a work experience placement as part of their participation in the traineeship. Taking part in the work experience element is voluntary and if the claimant starts work experience but they or the host employer later decides that the placement is not suitable they may leave and a sanction will not apply. However, if they start the work experience placement and are asked to leave because of their misconduct they may be sanctioned. See further guidance on work experience at K5121.

K5070

### **Work and Health Programme**

- K5071 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 employment<sup>1</sup>.

**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 are in the AWRR conditionality group and have not moved into work within 24 months of their claim to UC will be eligible to be

referred to the scheme under a work-preparation requirement on a mandatory basis after February 2018 (see K5072).

K5072 From 3.4.18 UC claimants who are

1. within the intensive work search regime of the AWRR conditionality group  
**and**
2. till unemployed after 24 months of their claim

will be eligible for referral to the WHP scheme on a mandatory basis.

**Note:** 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<sup>1</sup>. See K5081 for guidance on employment support in Scotland.

*1 Scotland Act 2016*

K5073 – K5075

### **Public Sector Comparator (PSC)**

K5076 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.

K5077 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.

K5078 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 using the same legal provisions<sup>1</sup>.

**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.

*1 WR Act 12, sec 16(3)(d)*

K5079 – K5080

## Work Able Scotland and Work First Scotland

- K5081 From 3.4.17 the Scottish Government will use its powers<sup>1</sup> 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 UC claimants with LCW, **and**
  2. Work First Scotland, which will deliver employment support for disabled UC claimants with complex needs.

*1 Scotland Act 2016*

- K5082 Referrals to the schemes at K5081 **1.** and **2.** 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 K5058).

K5083 – K5090

## Selection to participate

- K5091 There may also be a connected requirement<sup>1</sup> which provides that the Secretary of State may require a claimant to participate in an interview for any purpose relating to the imposition of a work-related requirement on the claimant. This provision is used to mandate the claimant to participate in an interview prior to mandating to certain employment programmes, for example a pre-selection interview to discuss participation in the WHP.

*1 WR Act 12, s 23*

- K5092 At this interview the work coach will determine whether the claimant will be referred to the specific programme using a selection process to assess the individual's eligibility for referral onto the relevant provision following the criteria detailed in the policy for the scheme and operational instructions. A claimant who fails for no good reason to attend and participate in this interview will be liable to a low-level benefit sanction<sup>1</sup>.

*1 WR Act 12, s 27(2)(b)*

K5093 – K5095

## Meaning of fails to comply

K5096 Fails to comply is not defined in legislation and therefore takes its everyday meaning of failing 'to meet a specific requirement'. For employment programmes, this includes a failure to take part in any activity which is specified by the Secretary of State in relation to

1. the specific placement with what the provider expects **and**
2. what is considered
  - 2.1 reasonable **and**
  - 2.2 acceptable

in the claimant's individual circumstances, which makes it more likely in the opinion of the Secretary of State that the claimant will obtain paid work, more paid work or better-paid work.

**Note 1:** For the meaning of 'specified' see ADM Chapter K1 (Sanctions – general principles).

**Note 2:** In order for a low-level sanction to be imposed for any failure to comply the DM has to be satisfied that there is a sanctionable failure, that the 'prior information requirement' has been met and the claimant has been adequately notified of the specific requirement and the consequences of failing to comply before considering good reason and whether a sanction should be imposed (see further guidance in ADM Chapter K1 (Sanctions – General principles)).

K5097 Actions may include, for example

1. turning up for an interview
2. preparing an action plan
3. writing a CV
4. working as a team
5. displaying interpersonal skills
6. taking part in skills training
7. developing a business plan
8. improving personal presentation
9. attending a skills assessment
10. taking part in work experience or work placement (but also see K5121)
11. taking part in workshops.

This is not an exhaustive list. The action can be any reasonable work-related activity which in the opinion of the Secretary of State will improve a claimant's chances of

obtaining paid work, more paid work or better-paid work. However see further guidance at K5121 regarding work experience.

**Note 1:** The Secretary of State has an obligation to 'specify' any work-related or connected requirement clearly to the claimant (see guidance in ADM Chapter K1 for the meaning of 'specify' and notifying requirements).

**Note 2:** It would be for the DM to consider all the facts and circumstances of the case and the claimant's reasons for any failure to comply with any work-related or connected requirement when determining whether to impose a sanction. If the DM can show there has been a sanctionable failure the burden of proof is then on the claimant to show good reason for the failure. For detailed guidance on burden of proof see ADM Chapter K1 (Sanctions – general principles) and for guidance on good reason see ADM Chapter K2 (Sanctions - Good reason).

K5098 – K5100

## **Inappropriate behaviour**

K5101 Employment programmes such as those listed at K5052 are designed to help certain claimants enhance their employment prospects and gain opportunities to develop skills and disciplines associated with a normal working environment such as

1. attending on time,
2. carrying out tasks,
3. working as a team,
4. gaining work experience **and**
5. developing interpersonal skills..

Those skills and disciplines also include 'behaviours' acceptable in a place of work.

K5102 Whilst on an employment programme, if a claimant uses inappropriate behaviour once participating in the programme, this may be regarded as a failure to comply with a specified work-related requirement, for example participating in the Wp, sbwa or a traineeship and a low level sanction could apply.

K5103 A claimant's acts and omissions will be considered by the DM under good reason with reference to that claimant's personal circumstances – see ADM Chapter K2 (Good reason).

**Note:** Inappropriate behaviour can be any unreasonable act or omission shown towards the employer, other employees or customers, or a refusal to do a specific task, or where a claimant is particularly obstructive, uncooperative or unwilling. However the DM should be mindful of any mitigating factors or circumstances that may have impacted on how the claimant reacted or behaved (for example; complex needs or mental health problems) and whether that was reasonable in the

circumstances. Care should be taken to ensure all facts and circumstances are taken into account before deciding to sanction (see full guidance on good reason in ADM Chapter K2).

### **Example**

Em starts a work placement as agreed in a charity shop, but is sent home on her first day because of her attitude and rude behaviour towards the other staff and customers. She continually uses obscene language. The DM can consider a sanction as Em's loss of the placement due to her behaviour is a failure to comply with a work preparation requirement as specified by the Secretary of State. Her behaviour is not considered acceptable or reasonable in a working situation. Em is given a chance to explain her behaviour and the DM would fully consider all the individual facts and circumstances and the reasons given by Em for her behaviour.

K5104 – K5120

## **Work experience**

K5121 In UC legislation there is no definition of work experience. Participation in a work experience opportunity is on a purely voluntary basis and a low-level sanction cannot be imposed where the claimant fails to comply for no good reason with a work experience opportunity unless the claimant is dismissed for gross misconduct.

### **Example**

Poppy is mandated to a work experience placement as part of Youth Obligation. She has been in receipt of UC for 6 months. She attends the interview and starts the work experience placement in a warehouse.

After the first week Poppy decides to leave the work experience placement, as she does not think the work is for her. She is struggling to keep up with the heavy physical demands of the job.

No sanction can be considered.

K5122 Claimants should be encouraged to take part in work experience as it can improve their prospects of employment. It provides the opportunity to gain some tangible work related experience and claimants should gain an insight into the skills and behaviours employers require and see how the skills they have can be adapted to the work place. It gives the claimant opportunity to

1. learn new skills
2. demonstrate they
  - 2.1 are reliable, for example by turning up on time every day,
  - 2.2 can follow instructions

2.3 can work and cooperate with others

3. get an up to date entry for their CV **and**
4. impress so that ideally they get a work related reference from the employer.

K5123

## Gross misconduct

K5124 Gross misconduct is not defined in legislation but suggests misconduct that is 'blatantly wrong' or 'unacceptable'. It is conduct that is so serious that only one instance of such behaviour will warrant the employer's immediate termination of the work experience.

**Note:** For full guidance on misconduct see ADM Chapter K3.

K5125 The DM should be able to establish when making a decision to sanction for gross misconduct that it was fair and reasonable in all the circumstances. Instances of gross misconduct and the seriousness of the conduct will need to be assessed in the light of all the individual particular circumstances having regard to all the relevant facts and evidence.

**Note:** The claimant will be given the opportunity to comment on allegations made against them but good reason will not apply to gross misconduct.

K5126 Examples of gross misconduct which would normally justify the imposition of a sanction are

1. dishonesty or theft from the employer or co-workers
2. fighting with or assault on another person in the workplace
3. abusive behaviour towards co-workers or customers
4. deliberately damaging the employer's property
5. a serious act of insubordination towards a person in a position of authority in the workplace
6. endangering the safety of self or others by some deliberate act or omission
7. serious incapability through the use of alcohol or illegal drugs.

**Note 1:** This list is not exhaustive and each case should be considered on its own merits.

**Note 2:** Repeated instances of minor misconduct such as lack of punctuality or carelessness in performing tasks will not amount to gross misconduct.

### **Example 1**

Vicky is participating in a work experience placement and has an argument with her supervisor regarding her standard of work. She storms off and deliberately punches and smashes a glass door panel. She says she needed to let off steam. She is dismissed from her work experience placement. Her actions were deliberate and damaged the employer's property and could have endangered her safety or the safety of others. Her conduct can be regarded as gross misconduct and a low-level sanction imposed.

### **Example 2**

Dom is constantly late for his work experience opportunity. He says he finds it hard to get up in the mornings. Although his actions are minor misconduct and he is dismissed from his work experience opportunity, they do not amount to gross misconduct and so no sanction would be imposed.

### **Example 3**

Evie is participating in a sbwa work experience placement. She tells her employer she has decided to leave her work experience placement and then turns up for work drunk. She is asked to leave the placement immediately.

A low-level sanction is imposed on the grounds of her having lost the work experience placement on account of gross misconduct.

Evie requests a review of the decision stating she had already decided to leave the placement before the gross misconduct occurred and she didn't think it would matter as her attendance on the work experience is voluntary.

The DM determines the sanction is still appropriate as Evie failed in her obligation to maintain a minimum standard of good behaviour whilst participating in the work experience regardless of the fact that she had already announced an intention to leave the work placement and is regarded as having failed to participate for no good reason.

K5127 – K5150

## **Fails to comply with a requirement to report a specified change in circumstances**

K5151 Low-level sanctions can apply where a claimant fails without good reason to comply with a requirement to report specified changes of circumstances relevant to the

1. imposition of **or**
2. compliance with a work-related requirement<sup>1</sup>.

The DM will also have to consider whether the claimant lost pay or paid work through their own actions when deciding the length and number of sanctions to apply.

**Note:** It is for the DM to consider each case on its own individual facts and circumstances and what is reasonable and appropriate for the claimant in consideration of whether the claimant can show good reason for any failure. For further guidance on good reason see ADM Chapter K2.

*1 WR Act 12, s 23(4); UC Regs, reg 104(1)(b)*

## **Requirement to notify within 5 working days that the claimant has left paid work**

K5152 Where the Secretary of State has set a requirement to notify losing pay or leaving paid work within 5 days, the responsibility is on the claimant to re-engage with Jobcentre Plus as quickly as possible after leaving the paid employment or losing pay to

1. set revised work-related requirements as appropriate
2. build on their recent spell of employment **and**
3. provide immediate support to help them find
  - 3.1 alternative work **or**
  - 3.2 better-paid work.

The requirement to notify UC of leaving employment within 5 days will be included on the Claimant Commitment.

**Note 1:** A claimant is expected to be doing everything reasonable to find work and the period of 5 days or more of failing to report the loss of pay or paid work is a period where they should have been set a work-related requirement to do that. Because UC continues to be payable depending on the level of earnings UC could continue to be paid without the claimant meeting any conditionality.

**Note 2:** Reference to days is 'working days' excluding Saturdays, Sundays and bank holidays and allowance for posting must be made where the claimant notifies the loss of paid work by post.

K5153 The claimant will have lost paid work or pay

1. through their own actions without a good reason in which case a higher-level sanction would be considered for
  - 1.1 leaving voluntarily without a good reason **or**
  - 1.2 misconduct<sup>1</sup> **or**

2. as a result of other factors the claimant is not in control of, for example redundancy, but failed to report it within 5 days as specified by the Secretary of State, in which case a low-level sanction would be considered<sup>2</sup>.

**Note 1:** Where the claimant has left employment or lost pay voluntarily without a good reason and also failed to notify the loss of employment within 5 days without a good reason there are 2 separate failures and 2 sanctions to consider. See example 2.

**Note 2:** For further guidance on higher-level sanctions and leaving employment voluntarily see ADM Chapter K3.

*1 WR Act 12, s 26(2)(d); 2 s 27(2)(b)*

### **Example 1**

Donald has a requirement on his Claimant Commitment that he will notify the Secretary of State within 5 days if he leaves his job.

Donald ceases work on 2.10.15.

He was made redundant and did not report the change until 12.10.15. He cannot show good reason for failing to notify the change within the 5 days allowed by the Secretary of State as specified on his Claimant Commitment.

The date of failure is 9.10.15 (the date after the 5 days allowed to notify ended).

The date of compliance is 12.10.15 when Donald informs his work coach the job ended.

The appropriate sanction reduction will be a low-level sanction and will be an open-ended sanction for 3 days for the period 9.10.15 – 11.10.15 (date of failure to the day before the date he complies) plus a fixed period of 7, 14 or 28 days depending on whether there have been previous low-level sanctions applied within 365 days of the date of the current failure.

### **Example 2**

Ross has a requirement on his Claimant Commitment that he will notify the Secretary of State within 5 days if he leaves his job.

He leaves his job on 6.11.15. He has no good reason for leaving the job and does not inform his work coach he has left the job until 19.11.15. He has no good reason for not notifying he left his job within 5 days.

In this case there are 2 sanctionable failures:

- (1) Ross left his job voluntarily without good reason on 6.11.15 and a 91 day higher-level sanction would be appropriate (there are no previous higher-level failures).

- (2) Ross also did not show good reason for failing to notify he left his job on 6.11.15. The date of failure is 13.11.15 (the date after the 5 days allowed to notify ended). The date of compliance is 19.11.15 when Ross informs his work coach the job ended.

The appropriate sanction reduction would be a low-level sanction of 13 days; a 6 days open-ended sanction for the period 13.11.15 – 18.11.15 (date of failure to the day before the date he complies) plus a fixed period of 7 days as there have been no previous low-level failures.

The DM imposes a 91 day higher-level sanction for leaving the job voluntarily without a good reason and a 13 day low-level sanction for failing to notify he had left the job within 5 days without a good reason.

K5154 – K5170

## **Fails to comply with a requirement to create an on line profile and public CV**

K5171 Where the claimant refuses or fails to comply with a mandatory request to create an on line jobseeking profile and public CV, the DM has to decide whether in the specific case the

1. request to create a profile and public CV was reasonable in the claimants particular circumstances (see guidance at K5180 and **Note 2:** below) **and**
2. claimant can show good reason for the failure to do what they were required to do considering all the individual facts and circumstances of the case and the reasons for non-compliance.

**Note 1:** Guidance on good reason is in ADM Chapter K2.

**Note 2:** If one or more of the circumstances in K5179 applies and it is considered unreasonable for the claimant to create an on line jobseeking profile and public CV the claimant should not be mandated to do so. However if this only comes to light after a referral to the DM, for example, in the claimants good reasons, the claimant would be able to show good reason for a refusal or failure to comply. In such cases the DM should make a decision not to sanction. The referral should not be cancelled

K5172 If the claimant cannot show good reason for the failure the DM will impose a low – level sanction<sup>1</sup>.

**Note:** If the claimant has failed to apply for a specific vacancy see the guidance in ADM Chapter K3 (Higher-level sanctions).

If there is a consideration of whether the claimant has failed to meet their general work search requirements see the guidance in ADM Chapter K4 (Medium-level sanctions).

### **Example**

Henryk is in the AWRR group and is required to register with UJ and create a profile and public CV. He has agreed and signed his Claimant Commitment which contains the following requirement; "I will create a profile and public CV within Universal Jobmatch as agreed with my work coach. I will use my computer. If I am unable to do this I will contact my work coach to gain access to a public computer in a Universal Credit outlet by 28.6.16".

Henryk fails to meet the requirement and tells his work coach at his next work search review on 28.6.16 this is because his internet connection was down and although he made several attempts at different times and on different days the system kept crashing. He also says he had no credit on his mobile phone to access the internet or to contact the work coach to gain access to the DWP IAD. The work coach makes Henryk an appointment to access the DWP IAD in order to register and create a public CV and profile on UJ.

## **Universal Jobmatch (UJ)**

K5173 UJ is DWP's web based job posting and matching service that the Secretary of State can require claimants to use as part of their work search requirements to create a profile and public CV for the purpose of obtaining work (more paid work or better-paid work)<sup>1</sup>.

**Note:** UJ, the DWP's on line jobseeking service, is to be replaced by a new job matching service, 'Find a Job' (see K5174). 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.

*1 WR Act 12, sec 17*

## **'Find a Job'**

K5174 'Find a job' is a free government recruitment service that will continue to connect jobseekers with thousands of employers across the UK from 14.5.18. One of the fundamental differences to its predecessor UJ 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.

K5175 In terms of claimants, the new service will no longer have free text functionality to enable claimants to

1. type any ad-hoc activity they have done to look and/or apply for jobs,

2. enable them to receive on-going job matches to their account,
3. send anonymous matches to employers jobs posted on the site from information recorded on the claimants public CV **or**
4. enable employers to send messages to them.

K5176 UC claimants are expected to do all that is reasonably expected of them to seek employment and give them the best prospects of securing employment. It is therefore expected they would look for work through as many different sources as possible including creating and maintaining an online profile<sup>1</sup>. This may include using UJ or from 14.5.18 using the 'Find a Job' service (see K5174) if it is reasonable taking into account the claimant's circumstances.

*1 WR Act 12, sec 17(3)(c)*

K5177 Through using the governments recruitment on line service claimants can

1. search and view jobs
2. set up an account
3. build and upload their public CV
4. receive automatic matches to employer's jobs from the profile they create
5. allow the Work Coach to help them look for suitable vacancies and save them to their account so they can review and apply for those which are suitable
6. achieve enough work related activity each week by enabling a claimant to fulfil a requirement to take all reasonable action for the purpose of obtaining work, in any given week.

However see the guidance at K5174 regarding the facilities available in the 'Find a Job' service.

K5178 For the majority of claimants, creating an on line jobseeking profile and public CV will be an important part of improving employment prospects and where using UJ or 'Find a Job' is required this will normally be included on the Claimant Commitment. However, mandating a claimant to create an on line profile can only be done if all the relevant criteria have been considered and are met (see K5193).

K5179 – K5190

### **Registering from day 1 of the claim to UC**

K5191 Some claimants who are in the AWRR and work preparation groups will be encouraged to do certain work search activities from day 1 of their claim to UC and operational processes are in place so that when a claimant makes a claim to UC online they are advised that it would be beneficial for them to create

1. a profile and public CV **and**
2. an email account **and**

3. a CV

if they haven't already done so.

K5192 Claimants are not mandated to complete any of these actions at this stage and therefore if they fail to do so sanction action cannot be taken and any referrals to consider a sanction should be cancelled by the DM.

K5193 There is no mandate until the claimant attends the UC outlet for an initial work search interview where the Work Coach will

1. discuss with the claimant what advised actions the claimant has done so far and the reasons why if they haven't completed any **and**
2. decide whether it is reasonable in the claimants specific circumstances to mandate the claimant to create a UJ or 'Find a Job' account (see K51938) **and**
3. set and agree any actions the claimant is required to take on the Claimant Commitment (also see further guidance in ADM Chapter K3 (Higher-level Sanctions) with regard to specified vacancies **and**
4. issue the cookie fact sheet (see further guidance at K5207) **and**
5. explain the consequences of sanctions if the claimant fails to comply with an agreed action without good reason.

**Example 1**

Dorek makes a claim to UC on line on 25.4.16. He is requested to attend the UC outlet on 27.4.16 for his initial Wfl with his work coach and is encouraged to register with UJ, create an email address and create a CV. Dorek attends the interview on 27.4.16 and confirms he has an email address and a CV but has not registered with UJ yet, he has however used several other on line job sites to look for suitable work and has already applied for several jobs.

The Work Coach must now consider if it is reasonable for Dorek in his circumstances to open a UJ account.

A sanction referral would not be appropriate at this stage.

**Example 2**

Christie makes a claim to UC on 16.5.18. She is requested to attend the UC service centre on 22.5.18 for an initial Wfl 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 Wfl.

Mandating Christie to register with 'Find a Job' would only be appropriate if she has not done so when she attends her next Wfl.

K5194 – K5200

## **Mandating a UC claimant to create a profile and public CV online**

K5201 Claimants in the AWRR and work preparation groups can only be mandated to create an on line profile and public CV when

1. it has been explained to the claimant the benefits of creating a profile and public CV **and**
2. it is reasonable in the claimant's circumstances **and**
3. an IAD service is reasonably available to the claimant should they need to use one (see K51205) **and**
4. they have been issued with the cookies fact sheet (see K518207).

### **Access to the claimant's account**

K51202 A UC claimant cannot be mandated to give DWP access to their UJ account, this is a voluntary action by the claimant and so it follows that a claimant cannot be sanctioned for refusing access to the UJ account. See guidance at K5174 regarding access to the 'Find a Job' service.

**Note:** The Work Coach should encourage the claimant to give access 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 K51203. Access to the claimant's UJ account will help provide evidence of job search activity and the Work Coach can provide extra support to the claimant by looking out for and saving jobs for the claimant in the UJ 'Saved Jobs page'. Work Coaches can set this up as one of the claimants work search activities helping them achieve enough work related activity each week.

### **Exceptions to mandating**

K51204 Creating a profile and public CV online will be an important part of improving employment prospects for the majority of claimants. However, creating a profile, a public CV and using a recruitment site 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 condition **or**
2. for whom English is their second language **or**
3. who lack the 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) **and**
  - 4.3 a DWP IAD in the local DWP office because for example, the office has a high number of claimants who need access to a DWP IAD and availability to access an IAD may be over subscribed or have restricted availability.

**Note:** The particular barrier to using an on line recruitment service should be addressed first (e.g: English language or numeracy skills).

#### **Example**

Ranjit has English as a second language and is unable to use UJ. He cannot be mandated to use UJ at present. The Work Coach must address Ranjit's other barriers first and sets him a requirement to attend an English language skills course.

#### **Reasonable access to an IAD**

K51205 Before deciding whether to mandate the claimant to create a profile and public CV in UJ or 'Find a Job' from 14.5.18, the work coach must also take into account whether the claimant can reasonably access a DWP IAD should they

1. not have reasonable access to the internet **or**
2. wish to exercise their right not to accept cookies.

K51206 All the claimant's individual circumstances should be considered. For example,

1. health problems
2. any restrictions on their availability
3. whether they have childcare available or have other caring responsibilities **and**
4. whether they have reasonable access to an IAD.

**Note 1:** The list of examples is not exhaustive it is up to the Work Coach to consider all the claimant's individual circumstances and what would affect reasonable access

to the internet depending on the claimants capabilities, capacity and their own resources.

**Note 2:** A suitable alternative IAD may not be one on a DWP site but may be located nearer or more accessible to the claimant, for example in a library or community resource site or at a friend or relatives house. If it is reasonable and has been agreed by the claimant then it could be used in a requirement.

**Note 3:** Claimants must be given an appointment time to access a DWP IAD that is reasonable in their circumstances so they are able to carry out the requirement if no other reasonable alternative is available to the claimant.

### **Example**

Evelyn discusses setting up a UJ account with her Work Coach 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 other public IAD access. She has no family living nearby to arrange to use internet access. The Work Coach arranges for Evelyn to have access to the DWP IAD and makes her an IAD appointment which fits in with her availability.

### **Cookies fact sheet**

K51207 When it is considered reasonable to require a claimant to create an on line profile and public CV

1. this activity should be included as a requirement on their Claimant Commitment
2. the Cookies fact sheet must be attached to the Claimant Commitment, explaining the use of an IAD should the claimant not wish to accept cookies **and**
3. a record of it's issue made on system records.

A sanction will not be able to be imposed if the cookies fact sheet has not been issued.

**Note 1:** It must be recorded in the claimant's history that the cookies fact sheet has been issued for evidentiary reasons should it be needed in the event of any sanction determination or subsequent appeal. Failure to do this may affect whether or not a sanction can be imposed in the event of any failure to comply by the claimant.

**Note 2:** The cookies fact sheet explains what cookies are used, why, and the choices that are available to the claimant in relation to cookies.

### **Evidence**

K51208 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. Evidence can be a copy of the claimant commitment, copies of letters or copies of computer records which hold details of any on going meetings, interventions, conversations, texts sent between the claimant and the Work Coach regarding the use of an on line account which show the claimant was correctly mandated to use one and had been given a copy of the cookies fact sheet.

### **Evidence of Public CV**

K51209 A claimant can be asked to produce evidence of their public CV. This can be produced on a smart phone or to bring a screen print from the IAD or send it by email account.

**Note:** A sanction should not be imposed where the claimant does not send the CV by email but can produce the evidence by an alternative source, for example, by screen print from the IAD or on a smart phone. The sanctionable failure would occur for not having a public CV when required and not for the method in which they can show evidence of the CV.

K5210 – K5300

## **Fails to comply with work-related requirements during a period of sickness**

### **Fails to comply during first 14 days of sickness**

K5301 When a claimant is unfit for work in UC no work search or availability requirements are imposed on the claimant for the first 14 consecutive days of sickness<sup>1</sup>. However this does not include the requirement to comply with

1. a work preparation requirement, for example participating in an appointment with the Work Programme provider, **or**
2. a requirement to participate in an interview<sup>2</sup>.

**Note:** For further guidance on turning off work-related requirements during periods of sickness see ADM Chapter J3.

*1 WR Act s 13(1)(c) & (d), s 17 & s 18; UC Regs, reg 99(4); 2 WR Act, s 13(1)(a) & (b)*

K5302 A claimant can still be required to carry out work preparation and Wfl requirements during a period of sickness. If the claimant fails to comply with those requirements during the first 14 days of sickness the DM will consider whether the claimant can show a good reason for not complying taking into consideration the claimant's sickness along with any other reasons, facts and circumstances of the case when deciding whether to impose a low-level sanction.

### Example

Meghan is required to attend a Jobs Fair on 12.9.17. She fails to attend and a sanction doubt is raised.

Meghan says she had flu for the period from 7.9.17 to 17.9.17 and was too ill to attend.

No work search or availability requirements can be imposed for the period of sickness and the DM considers whether Meghan has good reason for the failure to participate in the Jobs Fair.

Meghan's explanation is that she had flu.

From a health point of view it was appropriate and common sense for her to refrain from attending if she did indeed have flu as it could be passed onto other people and general medical advice would be to refrain from attending a public place. There is no contradictory or conflicting evidence that does not lend support to the credibility or plausibility of Meghan's account and no evidence of previous non-compliance.

The DM considers Meghan had good reason for not attending the Jobs Fair and no sanction is imposed.

### Work-related requirements where sickness continues after 14 days up to the WCA

K5303 Where a claimant reports

1. a third episode of sickness in a rolling 12 month period **or**
2. sickness that continues beyond 14 days (up to the point when the WCA process determines the claimant's capability for work)

any period of on-going sickness needs to be supported by a 'fit note' and the claimant is referred for the WCA<sup>1</sup>.

**Note:** See further guidance at ADM J3226 et seq.

*1 UC Regs, reg 99(5)(c).*

K5304 Where K5303 applies the work coach will consider what work-related actions may be necessary and reasonable in the individual circumstances. The work coach has the discretion to apply work search and work availability requirements after 14 days but any work-related requirements should be tailored to reflect the claimant's individual capabilities. Any requirements need to be reasonable based on the claimant's medical condition and individual circumstances and what they are able to do. For example; a claimant with vertigo would not reasonably be expected to apply for vacancies that involve working at heights such as a roofer, window cleaner or a Sky engineer.

K5305 Work coaches should use discretion and judgement to decide what activities would be practical and reasonable to set for the individual claimant in their circumstances. The claimant commitment should be reviewed and amended accordingly.

**Note:** Reasonable is not defined in legislation and so takes it's every day meaning of 'fair' and sensible' and 'as much as is appropriate' in the circumstances.

K5306 Whether a claimant can be sanctioned if they do not comply with any work-related or connected requirement will depend on

1. what is expected of them at the relevant time **and**
2. what was agreed on the revised claimant commitment **and**
3. whether the claimant can show a good reason for the failure to comply.

**Note:** The DM will consider each case on its individual merits, facts and circumstances having regard to the appropriate guidance for the relevant sanctionable failure. See guidance in ADM Chapters K1 – K9.

**Example:**

Harry has a fractured wrist and provides a fit note for a period of 6 weeks from 22.8.17.

From day 15 of his sickness the work coach agrees a revised claimant commitment with Harry which refines his work search and availability requirements to being subject to work preparation requirements only.

His work-related requirements are tailored and limited to what is reasonable and practicable in his circumstances and it is agreed he will continue to participate in the Wp and attend interviews with his Wp provider.

Any referrals to work-related activities and job opportunities have to be restricted to his current capabilities taking account of his left hand being immobilised in a cast.

At day 29 of the sickness the work coach refers Harry for a WCA.

On 13.9.17 Harry fails to attend an interview with the Wp provider. Harry can show no good reason for the failure, he says he got up late and missed the bus.

The DM considers it was reasonable in Harry's circumstances to have expected him to attend the interview as agreed on his revised claimant commitment and the DM imposes a low-level sanction for the failure to participate.

On 18.9.17 Harry attends an interview with his Wp provider and refuses to apply for an identified job vacancy given to him by the provider.

Although Harry is a skilled machinist he is currently incapable of doing that occupation due to his fractured wrist and the start date for the successful applicant would be immediately for an agency on a sub-contracting basis.

The DM considers Harry has good reason for not applying for the vacancy and no higher-level sanction can be imposed (for further guidance on higher-level sanctions see ADM Chapter K3).

## **Claimant continues to provide medical evidence after WCA**

K5307 Following a WCA, a DM determines if a claimant is

1. fit for work and remains in the AWRR group **or**
2. has LCW and enters the work-preparation group **or**
3. has LCWRA and enters the NWRR group.

**Note:** The evidence that can be used to determine which conditionality group the claimant goes into is the WCA report with any other available evidence provided, i.e. 'fit notes'. This will be evidence to help the work coach decide and agree any appropriate limitations or restrictions on the claimant commitment with the individual claimant in line with what is reasonable in the individual circumstances.

K5308 Whichever conditionality group the claimant falls into as per K5307 will decide whether the DM can consider a sanction for any failure to comply with work-related requirements following normal processes and guidance for the appropriate conditionality group and relevant sanctionable failure.

**Note:** For guidance on conditionality groups see ADM Chapter J3. For guidance on sanctions see ADM Chapters K1 to K9.

K5309 – K5999

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



# APPENDIX 1

## CwP scheme ends

- 1 Unless paragraph 3 applies, the CwP programme will end on 27.10.16. The final date a work coach can refer a claimant to the CwP scheme is 31.3.16 and the last date claimants can participate in the CwP scheme will be 26.10.16.
- 2 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:** The definition of and referral to CwP are removed from relevant legislation<sup>1</sup> from 20.11.17 as they are no longer in use.

*1 JSA (SAPOE) Regs, reg 3*

## Early termination

- 3 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.
- 4 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 1:** Referrals to the CwP scheme in these areas will not be made after 29.2.16.

**Note 2:** All CwP scheme providers, including those with early termination, are contractually obliged to deliver the provision, in full, for those claimants referred on or before the final referral date.

## Effect on sanctions

5 DM action should be undertaken as normal following current processes for considering a low-level 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 paragraph 4).

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

6 The period of any sanctions applied will not be affected by the end of provision date. The appropriate sanction period is applied to either the

1. next available Assessment Period **and/or**
2. added to the TORP in the usual way.

It is the date of failure which is the important date for the DM to consider and that must occur on or before the last date for participation in the relevant scheme (see paragraph 5).

**Note:** For further guidance on applying sanctions see ADM Chapter K1 (General Principles – Sanctions).

### Example

Brie was referred to the CwP scheme on 30.3.16.

The provider is not one with an early termination date.

On 26.10.16 Brie fails to attend an appointment with her CwP provider by way of participation in the scheme.

The compliance condition is to contact the provider and agree and attend the first available appointment.

Brie makes no contact with either the provider or the UC outlet.

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.

As the last date Brie can participate in the CwP scheme is 26.10.16, the open ended sanction begins and ends on 26.10.16 as the date of failure and the date of compliance would be 26.10.16 (see further guidance on compliance conditions at paragraphs 12 and 13).

A 7 day fixed low-level sanction is appropriate as there have been no previous low - level sanctions within 365 days of the date of the current failure.

The 8 day sanction is applied to the next available Assessment Period.

## Compliance condition for low-level sanctions

7 Where a claimant has been referred to the CwP scheme and a failure to participate results in an open-ended part of a low-level sanction being imposed, the date the open-ended sanction must end is on

1. 26.10.16 **or**
2. 25.9.16 for CwP providers with early termination

unless it can end sooner (see paragraph 8 to consider varying the compliance condition).

### Example

On 20.10.16 Asif should have attended an appointment with his CwP provider.

The provider is not one with an early termination date.

He has no good reason for the failure.

The compliance condition is to contact the provider and agree and attend the first available appointment. Asif makes no contact with either the provider or the UC outlet.

The open ended sanction will run from the date of the failure 20.10.16 and end on the last date the claimant can participate in the CwP scheme, i.e. 26.10.16. The fixed period low-level sanction will be imposed from 27.10.16.

## Varying the compliance condition

8 Where the claimant

1. makes enquiries to end the open-ended sanction before the end date of the scheme **and**
2. it is no longer reasonable or appropriate for the claimant to participate in the CwP scheme

the work coach should set a revised compliance condition that is reasonable and achievable before the end date of the scheme.

9 The revised compliance condition could be, for example, to attend an interview with the work coach to discuss next steps. The effective date of compliance would then be

1. the date the claimant complies with the revised compliance condition **or**
2. 26.10.16 **or**

**3.** 25.9.16 for CwP providers with early termination

whichever date is the sooner.

**Note 1:** The open ended part of a low-level sanction cannot run beyond 26.10.16 for a failure to participate in the CwP scheme or 25.9.16 for CwP providers with early termination (see paragraph 7). It must end on the last date a claimant can participate in the scheme.

**Note 2:** See further guidance on compliance conditions in ADM Chapter K1.

**Example**

Alicia has received a letter telling her she is to be sanctioned as she failed to attend an appointment with her CwP provider on 3.10.16.

The provider is not one with an early termination date.

Alicia does not have a good reason for failing to participate in the appointment on 3.10.16.

On 11.10.16 she phones the UC outlet. Her original compliance condition is to contact the provider and agree a date for future attendance and attend a re-arranged appointment. However as the last date a claimant can participate in this CwP provision is 26.10.16 this is no longer appropriate as the provider has told her there are no more appointments available.

The work coach makes an appointment to discuss next steps with Alicia on 12.10.16 and advises her that this is her new compliance condition and the open-ended sanction will end if she attends the interview.

Alicia attends and participates in the interview with the work coach on 12.10.16. Alicia can therefore be treated as having complied on 11.10.16, the date she made contact with the UC outlet.

The open-ended sanction will run from 3.10.16 (the date of the failure) until 10.10.16 (the day before the date of compliance).