

# ADM Chapter S4: JSA Sanctions – General principles

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# Introduction S4001 - S4005

## Introduction

S4001 The Jobseekers Act 1995 is amended by the Welfare Reform Act 2012 to provide for the operation of New Style Jobseekers Allowance. This is sometimes referred to as the New Style Jobseeker's Act. The provisions for imposing sanctions on claimants for failure to comply with work-related requirements are set out in sections 6 to 6L of the Jobseeker's Act 1995 as amended by the Welfare Reform Act 2012.

S4002 From 29.4.13, claims for and awards of JSA under the provisions as in force before amendments to remove JSA(IB) will gradually be phased out. Legislation<sup>1</sup> provides for a benefit to be known as JSA which replaces the existing benefit of the same name. This chapter gives guidance in respect of the general principles relating to sanctions in new style JSA only (hereafter referred to as JSA).

**Note:** ADM Chapter M1 (UC Pathfinder) provides guidance on the meaning of new style JSA. The essential difference between old style JSA and new style JSA is that there can be entitlement to the latter only on the satisfaction of contribution conditions. The role of what was formerly JSA(IB) is taken over by UC as a separate benefit.

1 JS Act 95 sec 6 to 6L; [JSA Regs13](#)

S4003 Where a claimant fails to meet their responsibilities without good reason, their JSA may be reduced. This is known as a sanction. Legislation contains provisions relating to sanctions<sup>1</sup>.

**Note:** For guidance on sanctions for awards of JSA before 29.4.13 see DMG Chapter 34.

1 JS Act 95, secs 6J & 6K; [JSA Regs13, Part 3](#)

## Dual entitlement to UC and JSA

S4004 Where

1. the claimant is entitled to both UC and JSA **and**
2. a sanction is appropriate

the sanction will be applied against UC only<sup>1</sup>.

1 [JSA Regs 13, reg 5\(3\)](#)

**Note:** For guidance on sanctions in UC see ADM Chapters K1 – K9.

## **Hardship**

S4005 There are no hardship payments for JSA new style claimants as they are in receipt of a contributory benefit. If hardship payments are required, the claimant must claim and be entitled to UC and a sanction must have been imposed. For full guidance on Hardship in UC see ADM Chapter L1.

## **Scope of chapter S4006 - S4010**

S4006 This Chapter gives guidance on

- 1.** terms that are used throughout the ADM Chapters on JSA sanctions (S4011 – S4020)
- 2.** the general principles on JSA sanctionable failures (S4026 – S4031)
- 3.** when a reduction is to have effect (S4036 – S4052)
- 4.** the termination of a reduction (S4056 – S4058)
- 5.** the amount of a reduction (S4061)
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S4007 – S4010

## Definitions S4011 - S4025

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### Meaning of higher-level sanction

S4011 A higher-level sanction<sup>1</sup> is a sanctionable failure (see S4016) where a claimant

1. fails for no good reason to comply with a work preparation requirement to undertake a specified work placement (i.e. MWA)<sup>2</sup>**or**
2. fails for no good reason to comply with a work search requirement to apply for a particular vacancy for paid work<sup>3</sup>**or**
3. fails for no good reason to comply with a work availability requirement by not taking up an offer of paid work<sup>4</sup>**or**
4. by reason of misconduct, or voluntarily and for no good reason, ceases paid work or loses pay<sup>5</sup>.

**Note:** See ADM Chapter R4 for guidance on Claimant responsibilities: Work- Related Requirements, Chapter K2 for guidance on good reason, and Chapter S5 (JSA Higher-level sanctions) for detailed guidance on failures to comply with MWA placements, failures to apply for or take up a vacancy and voluntarily or through misconduct ceases or loses paid work.

1 JS Act 95, s 6J; JSA Regs 13, reg 19; 2 JS Act 95, s 6J(2)(a); JSA Regs 13, reg 29

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

## Meaning of low-level sanction

S4012 A low-level sanction<sup>1</sup> is a sanctionable failure (see S4016) where a claimant fails to comply for no good reason with a

1. specified work preparation requirement<sup>2</sup> **or**
2. work search requirement for the purpose of obtaining paid work, more paid work or better paid work<sup>3</sup> **or**
3. requirement to participate in an interview for any purpose relating to a work-related requirement<sup>4</sup>.

**Note:** See ADM Chapter R4 for guidance on Claimant responsibilities: Work Requirements, ADM Chapter K2 for guidance on good reason and ADM Chapter S7 for detailed guidance on low-level sanctions.

1 JSA Regs 13, reg 17; JS Act 95, s 6K; 2 s 6K(a); 3 s 6K(a); 4 s 6K (b)

## Meaning of medium-level sanction

S4013 A medium level sanction<sup>1</sup> is a sanctionable failure (see S4016) where a claimant fails to comply with a

1. work search requirement under relevant legislation<sup>2</sup> to take all reasonable action to obtain paid work **or**
2. requirement to be available for work under relevant legislation<sup>3</sup>.

**Note:** See ADM Chapter R4 for guidance on Claimant responsibilities: Work Requirements and ADM Chapter S6 for detailed guidance on medium-level sanctions.

1 JSA Regs 13, reg 17; JS Act 95, s 6K; 2 s 6D(1)(a) ; 3 s 6E(1)

## Meaning of pre-claim failure

S4014 A pre-claim failure means a sanctionable failure (see S4016) where a claimant fails

1. without good reason to take up an offer of paid work **or**
2. by reason of misconduct or voluntarily and for no good reason ceases or loses paid work<sup>1</sup>.

**Note:** For detailed guidance on pre-claim failures see ADM Chapter S5 (JSA Higher-level sanctions).

1 JS Act 95, s 6J(3)

## Meaning of reduction period

S4015 The reduction period is the number of days for which an award of JSA is reduced for each sanctionable failure<sup>1</sup> (see S4016).

**Note:** For detailed guidance on reduction periods see S4026 et seq.

1 JSA Regs 13, reg 17

## Meaning of sanctionable failure

S4016 A sanctionable failure is a failure that has incurred a sanction under relevant legislation<sup>1</sup>.

**Note:** See S4021 for the meaning of current sanctionable failure.

1 JS Act 95, s 6J & 6K

S4017 Sanctionable failures can result in a reduction of JSA at the higher, medium or low-level<sup>1</sup>. In some cases no reduction is applied<sup>2</sup> (see ADM Chapter S5 - JSA Higher-level sanctions).

1 JSA Regs 13, reg 17; 2 reg 28

S4018 Where a failure is a sanctionable failure, the claimant's award of JSA is normally reduced. The period and amount of reduction depends on<sup>1</sup>

1. which work-related requirement the claimant failed to comply with **and**
2. the number of sanctionable failures **and**
3. the period between failures.

**Note:** See ADM Chapter S5 for detailed guidance on JSA Higher-level sanctions, ADM Chapter S6 for JSA Medium-level sanctions and ADM Chapter S7 for JSA Low-level sanctions.

1 JS Act 95, s 6J & 6K

## **Meaning of total outstanding reduction period**

S4019 The total outstanding reduction period is the total number of days of a reduction period for which an award of JSA has not yet been reduced<sup>1</sup>. This includes all sanctions that have not yet been applied, i.e. higher-level, medium-level, low-level and reductions transferred from UC (see S4026 et seq for guidance on calculating reduction periods).

1 JSA Regs 13, reg 17

## **Meaning of UC sanctionable failure**

S4020 A UC sanctionable failure means a failure by a claimant which is sanctionable under UC legislation<sup>1</sup>.

**Note:** For guidance on Sanctions on an award of UC see ADM Chapters K1 – K9.

1 JSA Regs 13, reg 17; JS Act 95, s 26 & 27

## **Meaning of current sanctionable failure**

S4021 Current sanctionable failure<sup>1</sup> means a failure which the Secretary of State has not yet determined is to be reduced under relevant legislation<sup>2</sup>.

1 JSA Regs 13, reg 17; 2 JS Act 95, s 6J & 6K

S4022 – S4025



# General principles for calculating reduction periods S4026 - S4035

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## Reduction period

S4026 The reduction period is the number of days for which an award of JSA is reduced for each sanctionable failure<sup>1</sup> (see also S4015).

**Note 1:** Depending on the circumstances in which the failure occurs the reduction period that applies is provided for in a table for each level of sanctions<sup>2</sup>. The circumstances of the failure are described in the first column of each table and has effect for the period set out in the second column.

**Note 2:** It is the date of the failures that determines which reduction period applies, i.e. the period between the date of the current sanctionable failure and the most recent previous sanctionable failure, not the dates of the DMs decisions. (For definitions of sanctionable failure see S4016 and for current sanctionable failure see S4021).

**Note 3:** Where there have been previous sanctionable failures at the same level and the most recent previous failure is within 14 days of the current sanctionable failure the reduction period that applies will not escalate to the next level. A sanction will apply but at the same level as the relevant previous most recent sanction.

1 JSA Regs 13, reg 18 (1); 2 JS Act 95, s 6J & 6K; JSA Regs 2013, reg 19, reg 20 & reg 21

S4027 Reduction periods run consecutively<sup>1</sup>, i.e. one sanction period follows immediately after the other. If it is determined that an award of JSA should be reduced as a result of a sanctionable failure, and a reduction has already been imposed for a previous sanctionable failure, the later reduction is added to the total outstanding reduction period, and takes effect once the previous reduction has ended.

1 JSA Regs 13, reg 18(2)

## Example

Sue has had several different sanctions imposed for failure to comply with work-related requirements since her entitlement to JSA began on 15.8.13. She had a higher-level sanction of 91 days imposed on 9.10.13, because she left her part-time job voluntarily for no good reason. Sue later refused to apply for a job vacancy on 19.12.13, and a further higher-level sanction of 182 days was imposed. The reduction period for the failures began on 15.9.13, and is due to end on 14.6.14.

After Sue failed to attend a MWA work placement which started on 12.5.14, the DM decides on 20.5.14 to impose a further higher-level sanction. This ought to be for 1095 days, as there was a previous 182 day higher-level sanctionable failure within 365 days. However, as at 20.5.14 the total outstanding reduction period is 25 days, that is the number of days for which Sue's award of JSA has not yet been reduced. The DM therefore imposes a reduction period of 1070 days, effective from 15.6.14.

S4028 The reduction period depends on whether the sanctionable failure results in a

1. higher-level sanction<sup>1</sup> (see ADM Chapter S5) **or**
2. medium-level sanction<sup>2</sup> (see ADM Chapter S6) **or**
3. low-level sanction<sup>3</sup> (see ADM Chapter S7).

1 JSA Regs 13, reg 19; 2 reg 20; 3 reg 21

S4029 Reduction periods can be for

1. an open period until the claimant meets a compliance condition **or**
2. a fixed period **or**
3. a combination of both.

Higher and medium-level sanctions are for a fixed period, low-level sanctions have a combination of an open period until the specified compliance condition is met, followed by a fixed period.

**Note:** See ADM Chapters S5 – S7 for further specific examples in relation to higher, medium and low-level sanctions.

## Maximum reduction period

S4030 Where imposing a reduction period for a sanctionable failure would mean that the total outstanding reduction period (see S4019) would exceed 1095 days, the number of days in the reduction period is adjusted to ensure that this limit is not exceeded<sup>1</sup>. The calculation of the total outstanding reduction period is made at the date when the DM makes the determination of the reduction period.

**Note:** This guidance relates specifically to the TORP and should not be confused with the maximum duration period for any individual higher-level sanction period which from 27.11.19 is 182 days (see further guidance in ADM Chapter S5).

S4031 - S4035

## When a reduction is to have effect S4036 - S4060

[Start of the reduction period](#) S4036 - S4040

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### Start of the reduction period

S4036 The reduction period takes effect from the first day of the

- 1.** benefit week in which the sanctionable failure occurred where the claimant has not been paid JSA<sup>1</sup>**or**
- 2.** first benefit week for which the claimant has not been paid JSA<sup>2</sup>**or**
- 3.** first benefit week in which the award is no longer subject to a reduction<sup>1</sup> if the JSA award is already subject to a reduction as in **1.** or **2.**<sup>3</sup>.

The reduction period determination is incorporated in a supersession decision which takes effect from the same date. See also ADM Chapter A4 (Supersession) for guidance on the supersession effective date rules.

**Note:** The definition of benefit week<sup>4</sup> can be found in ADM Chapter S2.

1 JSA Regs13, reg 22(a); 2 reg 22(b); 3 reg 22(c); 4 reg 2(2)

#### Example 1

On 15.7.13 Jamil fails to attend an interview with a Work Programme provider as required. On 31.7.13 the DM determines Jamil failed without good reason to participate with a work-related requirement and imposes a sanction. Jamil's benefit week ends on a Thursday and he was last paid JSA to 18.7.13. The reduction period begins on 19.7.13.

#### Example 2

On 10.6.13 Anila fails to comply with a requirement to join a job club. On 3.7.13 the DM determines that Anila failed without good reason to comply with a work-related requirement and imposes a low-level sanction. Anila joined the job club on 21.6.13 and a reduction period of 19 days is appropriate (12 days of non-compliance plus 7 days for a first lower level failure). Anila's benefit week ends on a Monday. On checking Anila's records a higher-level sanction of 91 days is already imposed on her JSA from 28.5.13 – 26.8.13. The reduction period for the failure in question will begin on 27.8.13. The total outstanding

reduction period on 3.7.13 is 73 days.

S4037 – S4040

## Reduction period to continue where JSA award terminates

S4041 If an award of JSA terminates while there is an outstanding reduction period, the reduction period continues to run as if a daily reduction were being applied<sup>1</sup>. If the claimant becomes entitled to a new award of JSA before the period expires, that award is subject to a reduction for the remainder of the total outstanding reduction period<sup>2</sup>.

**Note 1:** All sanctions run consecutively, see the guidance at S4027.

**Note 2:** See S4046 where the award of JSA terminates before a determination to sanction is made.

1 JSA Regs 13, reg 23(1)(a); 2 reg 23(1)(b)

### Example

Jonathan is entitled to JSA and has a 91day reduction period imposed on his JSA award from 12.5.14 – 10.8.14.

On 2.6.14 Jonathan starts a 2 month temporary work contract. His award of JSA terminates from 2.6.14.

He finishes work on 1.8.14 and re-claims JSA on 4.8.14.

A 7 day reduction period will be imposed on his new award for the balance of the outstanding reduction period as follows:

**1.** sanctionable days already served 12.5.14 – 2.6.14 = 21 days.

70 days in total outstanding reduction period **minus**

**2.** period off JSA 2.6.14 – 3.8.14 = 63 days

7 days balance in the total outstanding reduction period will be imposed on the new award of JSA.

S4042 – S4045

## Award terminates before determination made

S4046 If an award of JSA terminates

**1.** before the DM determines that the award will be subject to a reduction **and**

**2.** that determination is made **after** the claimant becomes entitled to a new award of JSA

the reduction period in relation to that failure is to have effect as if the determination had been made on the day **before** the previous award of JSA terminated<sup>1</sup>.

**Note 1:** In effect the decision to sanction is delayed or 'reserved' because the claimant does not have a current claim to JSA, but anytime away from benefit is treated as served towards the reduction period if when the claimant re claims JSA a sanction is appropriate.

**Note 2:** The date the reduction period starts will depend on whether the claimant has already been paid<sup>2</sup>.

1 JSA Regs 13, reg 23(2); 2 reg 23(3)

### Example

Josie makes a new claim to JSA on 16.10.14. Her previous award of JSA terminated on 30.7.14. When her previous award terminated there was an outstanding determination for a failure to apply for an advertised vacancy. The DM determines that a 91 day reduction period would have been appropriate. The 91 day reduction period is calculated from 29.7.14 – 27.10.14. Josie will serve a 12 day reduction period on her new claim to JSA.

S4047 – S4050

### Suspension of a reduction where a fraud penalty applies

S4051 A reduction period for a sanctionable failure is suspended for any period during which a fraud penalty also applies to that award of JSA<sup>1</sup>.

**Note:** For detailed guidance on fraud penalties see ADM Chapter B2 Restrictions on payment of benefit - benefit offences.

1 JSA Regs 13, reg 24(1)

S4052 The reduction

1. ceases to have effect on the day on which the period of the fraud penalty begins **and**
2. begins again on the day after that period ends<sup>1</sup>.

1 JSA Regs 13, reg 24(2)

### Example 1

On 8.12.14 Mo fails without good reason to comply with a work preparation requirement and the DM decides to impose a low-level sanction for a reduction period of 9 days (2 days non-compliance, followed by a 7 day fixed period) for a first low-level failure.

Mo already has a fraud penalty imposed on his JSA of 26 weeks which is due to expire on 4.3.15. The reduction period is suspended and can be imposed from 5.3.15.

## **Example 2**

Mary has a 182 day reduction period imposed on her JSA from 6.1.15. On 15.4.15 a fraud penalty of 26 weeks is imposed on her award of JSA. The reduction period is suspended from 15.4.15 – 13.10.15. An 83 day reduction period will be imposed, which is the balance of the reduction period still to be served, from 14.10.15, the day after the fraud penalty ends.

S4053 – S4055

## **When a reduction is to be terminated**

S4056 A reduction imposed for a sanctionable failure will be terminated where, since the date of the most recent sanctionable failure which resulted in a reduction being imposed, the

**1.** claimant has been in paid work for

**1.1** a period of at least 26 weeks **or**

**1.2** at least one period of employment where the total of those periods amounts to more than 26 weeks<sup>1</sup>**and**

**2.** claimant's weekly earnings are at least equal to their expected number of hours per week multiplied by the national minimum wage which would apply for a person of the claimant's age<sup>2</sup> (see ADM Chapter R4 for guidance on expected hours).

1 JSA Regs 13, reg 25(1); 2 reg 25(3)

S4057 The termination of the reduction has effect from the beginning of the

**1.** benefit week in which the conditions in S4056 fall **or**

**2.** first benefit week in relation to any subsequent award where the conditions in S4056 fall outside a period of entitlement to JSA<sup>1</sup>.

1 JSA Regs 13, reg 25(2)

## **Example**

On 18.11.14 Adok fails without good reason to comply with a requirement to attend his MWA placement and on 26.11.14 the DM determines a 1095 day reduction period is to be imposed on his award of JSA as this is Adok's third higher level failure. Adok's benefit week ends on a Monday and he was last paid JSA to 17.11.14. The reduction period is imposed from 18.11.14.

On 2.1.15 Adok starts work. His award of JSA terminates 2.1.15.

On 1.10.15 Adok makes a further claim to JSA. His contract of employment ended on 30.9.15.

The balance of the previous sanctionable failure outstanding on the previous award of JSA cannot be applied to his new award as Adok has been in employment for more than 26 weeks and his earnings meet the conditions in S4056 **2.**

S4059 – S4060



## Amount of the reduction for each benefit week S4061 - S4065

[Daily reduction rate](#) S4062 - S4065

S4061 Where it is determined that an award of JSA is to be reduced because of a sanctionable failure, the amount of the reduction for each benefit week in respect of which a reduction has effect is calculated as follows<sup>1</sup>

**1.** take the number of days in

**1.1** the benefit week **or**

**1.2** if lower, in the total outstanding reduction period (see S4019)

deducting any days in that benefit week for which the reduction is suspended (see S4051)

**2.** multiply the number of days at **1.** by the daily reduction rate (see S4062) **and**

**3.** deduct the amount produced from **2. and 3.** from the amount of the award for the benefit week.

1 JSA Regs 13, reg 26

### Daily reduction rate

S4062 The daily reduction rate is the applicable amount appropriate to the claimant<sup>1</sup>

**1.** multiplied by 52 **and**

**2.** divided by 365<sup>2</sup>.

**Note 1:** The daily amount calculated is rounded down to the nearest 10 pence<sup>3</sup>.

**Note 2:** See ADM Chapter S1 (Amounts of JSA and part weeks) for guidance on applicable amounts.

1 JSA Regs 13, reg 49; 2 reg 27(1); 3 reg 27(2)

#### Example 1

Brad, who is aged 23, is awarded JSA. On 26.3.14 the DM determines that Brad had no good reason for not complying with a work search requirement and a 28 day reduction of JSA is imposed for a first medium-level sanctionable failure.

The daily rate of reduction is £8.00 (£56.80 x 52 ÷ 365).

Brad's benefit week ends on a Tuesday and he was last paid JSA to 18.3.14. The first benefit week for

which a reduction can be imposed is from 19.3.14.

The amount of the reduction for that week and the three weeks following is calculated as the number of days in the benefit week i.e. 7 days x £8.00 (the daily reduction rate) = £56.00.

## **Example 2**

Justine is aged 27 years and claims JSA. Her benefit week ends on a Thursday.

On 6.11.14 the DM determines that Justine has failed without good reason to comply with a specified action as part of a work search requirement. Justine has no previous low-level sanctionable failures so the DM imposes a sanction of 6 days for the period of non-compliance and a further 7 days (fixed period) following compliance.

Justine already has a higher-level sanction imposed on her JSA award of 91 days which still has 30 days outstanding. The new total outstanding reduction period is 43 days as all sanctions run consecutively.

The daily reduction rate is £10.20 ( $£71.70 \times 52 \div 365$ ). Justine was last paid JSA up to 30.10.14.

The amount of the reduction for the benefit week starting on 31.10.14 and the next 5 weeks is calculated as the number of days in the benefit week of 7 days x £10.20 (the daily reduction rate) = £71.40.

For the benefit week starting on 12.12.14 the amount of the reduction is calculated as the total outstanding reduction period of 1 day (i.e. the balance of days that remain to be served) x £10.20 = £10.20.

S4063 – S4065

# Sanctions where UC ends and the person is entitled to JSA S4066 - S4999

[Period of the reduction](#) S4067

[Daily reduction rate](#) S4068

[Amount of reduction](#) S4069

S4066 Where

1. the claimant's award of UC is terminated **and**
2. a higher, medium or low-level sanction is imposed<sup>1</sup>**and**
3. the claimant is entitled to JSA

any reduction of the UC award is applied to the JSA award<sup>2</sup>.

1 JS Act 95, s 26 & 27; 2 JSA Regs 13, reg 30(1) & (2)

## Period of the reduction

S4067 Where S4066 applies, the period for which JSA is reduced is the number of days for which the UC sanction applied after deducting any days which

1. have already resulted in a reduction of the amount of UC<sup>1</sup>**or**
2. fall after the last day of UC entitlement and the first day of JSA entitlement<sup>2</sup>.

1 UC Regs, regs 102 – 104; 2 JSA Regs 13, reg 30(3)

## Daily reduction rate

S4068 Where S4066 applies, the daily reduction rate for JSA is calculated in the same way as for a JSA sanction<sup>1</sup>. See S4062 for further guidance.

1 JSA Regs 13, reg 30(4)

## **Amount of reduction**

S4069 Where S4066 applies, the amount of the reduction of JSA is the number of days in S4067 x the daily reduction rate in S4068<sup>1</sup>.

1 JSA Regs 13, reg 30(5)

S4070 - S4080

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

# The public law principles of fairness S4081 - S4999

## The public law principles of fairness

S4081 When deciding sanctions cases the DM **must** consider

1. whether the work-related requirement was validly imposed in the first place in line with the public law principles of fairness<sup>1</sup>**and**
2. secondly, the issue of good reason for failing to comply.

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

*Civ 413*

S4082 The judgement provided that 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.

**Note 1:** The amount and quality of information provided to the claimant will be crucial to whether a sanction can be imposed. Failure to meet the obligation to adequately notify may result in the Secretary of State having failed to validly impose a work-related requirement and no sanction for failing to comply could apply regardless of the reason for failure.

**Note 2:** Full guidance on the public law principles of fairness can be found in ADM Chapter K1 (UC Sanctions – general principles). All the guidance is equally applicable to JSA notifications, work-related requirements and sanctions. For guidance on good reason see ADM Chapter K2.

S4083 – S4999.