

# Withdrawn

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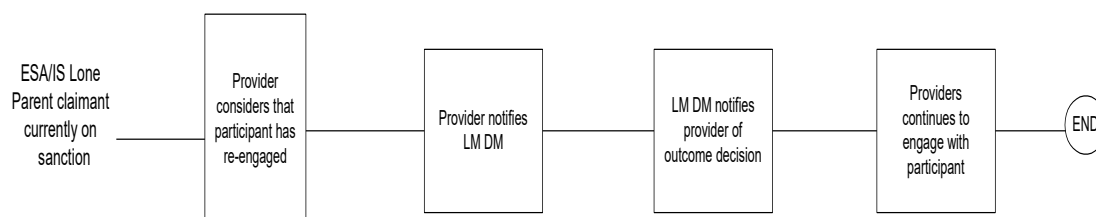
This publication is no longer current.

## Chapter 7 – Re-compliance and Reviewing a Sanction

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### High Level Must Dos



### **Jobseeker's Allowance (JSA) participants**

1. JSA participants who have had a sanction imposed for failing to take part in the Work Programme cannot have their sanction reviewed.

#### **Actions**

- Note the outcome on your systems.
- You must continue to engage with the JSA participant irrespective of the outcome.

#### **Background**

2. Further detail is provided in the [Detailed background and further information section](#).

### **Employment and Support Allowance (ESA)/Income Support (IS) Lone Parent participant is notified of re-compliance action**

3. ESA and IS Lone Parent participants can have a sanction lifted when they successfully re-comply with a mandated activity notified to them. Further information regarding mandation and ESA/ IS Lone Parent sanctions can be found in [Work Programme Provider Guidance Chapter 3a – Mandation](#).

#### **Actions**

- Prior to raising a compliance doubt, decide what activity the ESA/IS Lone Parent participant needs to undertake to re-comply if a sanction is imposed.
- Notify the ESA/IS Lone Parent participant of the re-compliance mandated activity using the letter in [Annex 1](#).
- Further information regarding dealing with vulnerable ESA participants can be found in [Work Programme Provider Guidance Chapter 4b – Safeguarding and Vulnerability](#).

#### **Consequence**

If you fail to tell the participant what they need to do to get their sanction lifted, you may unnecessarily prolong their loss of benefit payments.

#### **Background**

4. Further detail is provided in the [Detailed background and further information section](#).

### **Provider considers that the ESA participant has re-complied**

5. It is for you to consider if the ESA participant has re-complied with the mandated activity. They can successfully re-comply by undertaking or agreeing to undertake the action you notified to them.
6. Re-compliance will mean that their open-ended period will stop and a fixed term period will be imposed. Further information regarding ESA sanctions can be found in [Work Programme Provider Guidance Chapter 3a – Mandation](#).

#### **Actions**

- Decide whether the participant has either:
  - agreed to undertake the mandated activity
  - undertaken the re-compliance mandated activity
  - no longer required to undertake the mandated activity at that time
- Take action to notify the Labour Market Decision Maker (LMDM) in your linked Benefit Delivery Centre (BDC) that the ESA participant has re-complied on form [Request to Review Sanction' WP09](#) or WP09 (Email) as appropriate.

#### **Background**

7. Further detail is provided in the [Detailed background and further information section](#).

### **Provider considers that the IS Lone Parent participant has re-complied**

8. It is for you to consider if the participant has re-complied with the mandated activity. They can successfully re-comply by undertaking the action you notified to them or an alternative one that you mandate them to undertake.
9. Re-compliance will mean that their IS will be increased to the full amount. Further information regarding IS sanctions can be found in [Work Programme Provider Guidance Chapter 3a – Mandation](#).

#### **Actions**

- Decide whether the participant has either:
  - undertaken the re-compliance mandated activity
  - is no longer required to undertake the mandated activity at that time
- Take action to notify the LMDM in your linked BDC that the IS Lone Parent participant has re-complied on WP09 form or WP09 (Email) as appropriate.

## Background

10. Further detail is provided in the [Detailed background and further information section](#).

## Provider notifies LMDM

11. When you have decided that the participant has re-engaged you must complete form WP09 or WP09 (Email) as appropriate.

## Decision Making and Appeals (DMA) referrals Quality Assurance Framework (QAF)

12. To support the WP09, there is also a [DMA referrals QAF tool](#) to help sample check referrals before they are sent to ensure they are at a consistently high standard enabling the LMDMs to make decisions. The QAF is in the form of an interactive checklist, to support overarching standards for all DMA referrals.

## Actions

- To complete form WP09 to send clerically, print it out and send securely to the LMDM Administration Team in your linked BDC. This process will remain until a secure IT solution is developed. For Further information regarding sending documents securely can be found in [Generic Provider Guidance Chapter 8 - Information Security](#).
- To complete form WP09 (Email) and send by unencrypted email to your linked BDC refer to [Background and further information - Sending the WP09 \(Email\) - by unencrypted email](#).

## Consequence

If you fail to notify Jobcentre Plus promptly when a participant has re-engaged with you there will be a delay in the sanction being lifted. This will unnecessarily prolong the participant's loss of benefit.

## Background

13. Further detail is provided in the [Detailed background and further information section](#).

## LMDM notifies provider of outcome decision

14. You will receive notification of the decision once it has been reviewed by Jobcentre Plus, either by unencrypted email or by post (depending on the method you are using – refer to [Detailed background and further information section](#)).

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### Actions

- Note the outcome on your systems.
- You must continue to engage with the participant irrespective of the outcome.

### Background

15. Further detail is provided in the [Detailed background and further information section](#).

### Detailed background and further information

#### Sanction periods

16. Only ESA and IS Lone Parent participants whose benefit has been sanctioned may have this decision reviewed by DWP if they successfully re-comply. JSA sanctions cannot be reviewed.
17. Your internal systems need to be robust enough to enable you to identify participants who are currently sanctioned. You will need to distinguish between ESA, IS Lone Parent and JSA sanctions to identify a sanction that can be reviewed.

**Please Note:** A participant may already be on a period of sanction invoked by Jobcentre Plus, for example leaving a job voluntarily, which cannot be reviewed by the Work Programme Provider. You can only request a review of a participant's Work Programme-specific sanction if you have raised the compliance doubt.

#### Claimant group changes and changes to sanction periods

18. If a change to a participant's circumstances results in a change in their claimant group then their participation requirements may also change. If they have a sanction in place, this may also be affected. It is therefore important that you are aware of changes in the participant's circumstances. For example:
- if a JSA participant changes benefit but subsequently goes back to JSA, any sanction they were previously subject to would be re-instated for the unserved period (if the sanction end date has not expired)
  - if an ESA Work Related Activity Group (WRAG) participant is sanctioned and their ESA claim ends, the sanction period also ends and no fixed period applies
  - if an ESA participant claims a different benefit then the sanction will not be transferred. However, you could ask them to undertake the

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same activity that they failed to do whilst on ESA and they could be sanctioned again if they still did not comply

- if an ESA participant enters the Support Group, their sanction will end.
- Further information regarding dealing with vulnerable ESA participants can be found in [Work Programme Provider Guidance Chapter 4b – Safeguarding and vulnerability](#).

### **ESA participant currently on a sanction**

19. When an ESA participant has re-complied their open ended period will stop and the appropriate fixed period will start. Further information regarding ESA sanctions can be found in [Work Programme Provider Guidance Chapter 3a – Mandation](#).
20. Due consideration should be given to vulnerable ESA participants and any potential re-engagement should take into account their particular circumstances. Further information can be found in [Work Programme Provider Guidance Chapter 6 – Raising a compliance doubt](#).

### **Provider considers that the ESA participant has re-complied**

21. Once a sanction has been applied for non-compliance, it may be reviewed by the LMDM in the following circumstances:
  - ESA participant has agreed to undertake re-compliance mandated activity
  - ESA participant has undertaken the agreed re-compliance mandated activity
  - ESA participant no longer required to undertake the mandated activity at that time.
22. If any of the criteria above are met, please [complete form WP09](#) and send to the LMDM in your linked BDC straightaway.

### **ESA participant has agreed to undertake re-compliance mandated activity**

23. Once the ESA participant has received the letter detailing their re-compliance mandated activity and they confirm (face to face or by telephone) that they will undertake the activity and by the agreed timeframe. You must accept this as the ESA participant re-compliance. The date of the contact is the date you use for the re-compliance on the WP09.
24. If the participant does not agree to the re-compliance activity within the specific timeframe, you do not have to accept they have re-complied. You

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must inform the ESA participant that they must undertake the mandated activity.

25. Alternatively if the participant contacts you as they are unable to undertake that activity, you can decide to agree a different re-compliance activity. If you do accept this as re-compliance, the date of the contact is the date you use for the re-compliance on the WP09. If you decide not to accept this as re-compliance, you must inform the ESA participant that they must undertake the mandated activity before you take action (WP09) to remove their open ended sanction.

### **ESA participant has undertaken the agreed re-compliance mandated activity**

26. It is your responsibility to decide whether the level of re-compliance by the ESA participant satisfactorily undertakes the mandated activity, for example have they met your intention behind mandating to the activity. You will also need to decide from which date you consider that the participant has fully complied.
27. If the participant only partially completes the activity, you will need to work with them and clearly explain what else they need to do in order to be fully compliant. Alternatively, due to the particular circumstances of the activity or the ESA participant themselves, you may decide that partial completion is sufficient and request that the open ended period be lifted.

### **ESA participant is no longer required to undertake the mandated activity at that time**

28. You may decide that you no longer require the ESA participant to carry out the mandated activity (original or re-compliance activity). This situation may arise due to a change in the participant's circumstances, work goals or that it was a time bound activity (such as attending a specific job fair) and there are no alternative similar activities to undertake has passed.
29. In this case the requirement to undertake the activity is removed. The WP09 has to be completed to reflect this.

### **IS Lone Parent participant currently on a sanction**

30. When an IS Lone Parent participant has re-complied their IS will be increased to the full amount. Further information regarding IS Lone Parent can be found in [Work Programme Provider Guidance Chapter 3a – Mandation](#).



### **Provider considers that the IS Lone Parent participant has re-complied**

31. Once a sanction has been applied for non-compliance, it may be reviewed by the LMDM in the following circumstances:
- IS Lone Parent participant has undertaken the agreed re-compliance mandated activity
  - IS Lone Parent participant no longer required to undertake the mandated activity at that time.
32. If any of the criteria above are met, please [complete form WP09](#) and send to the LMDM in your linked BDC straightaway.

### **IS Lone Parent participant has undertaken the agreed re-compliance mandated activity**

33. It is your responsibility to decide whether the level of re-compliance by the IS Lone Parent participant satisfactorily undertakes the mandated activity, for example have they met your intention behind mandating to the activity. You will also need to decide from which date you consider that the participant has fully complied.
34. If the participant only partially completes the activity, you will need to work with them and clearly explain what else they need to do in order to be fully compliant. Alternatively, due to the particular circumstances of the activity or of the IS Lone Parent participant themselves, you may decide that partial completion is sufficient and request that the open ended period be lifted.

### **IS Lone Parent participant no longer required to undertake the mandated activity at that time**

35. You may decide that you no longer require the IS Lone Parent participant to carry out the mandated activity (original or re-compliance activity). This situation may arise due to a change in the participant's circumstances, work goals or that it was a time bound activity (such as attending a specific course) and there are no alternative similar activities to undertake.
36. In this case the requirement to undertake the activity is removed. The WP09 has to be completed to reflect this.

### **Disputed re-compliance**

37. There may be instances when the ESA/IS Lone Parent participant considers that they have now fully completed the activity which you have set for them but you do not consider that they have.

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38. In cases where re-compliance is disputed and you cannot reach agreement with the participant, you must immediately refer the matter to the LMDM on form WP09 or WP09 (Email) as appropriate to review the case and determine whether the participant has now fully complied.

### **Rearranging a re-compliance mandated activity prior to activity date**

39. You do not need to complete a WP08, if prior to the participant undertaking a mandated activity, they contact you because they are not able to undertake the activity. You can decide to rearrange the activity. Further information can be found in [Work Programme Provider Guidance Chapter 3a – Mandation](#).

### **Provider notifies LMDM**

40. When you have made the decision that the participant has re-engaged, you must complete form WP09 V3 or WP09 (Email) as appropriate. Along with WP09 you must provide the relevant written confirmation of the mandatory activity and where applicable supporting information.

**Please Note:** If you are using unencrypted email any additional information **must not** be communicated by unencrypted email. Any additional information must be communicated by letter or fax as agreed locally.

41. This information needs to be sent daily (if possible) to the LMDM Administration Team in your linked BDC.
42. Delays in this process will mean delays to the decision making process.
43. If the participant re-complies prior to the LMDM decision being received, [complete form WP09](#) or WP09 (Email) as appropriate and send to the LMDM in your linked BDC straightaway.

### **Completing Form Request to Review Sanction WP09 or WP09 (Email)**

44. On the form, you should indicate the reason for requesting a review by selecting the appropriate reason(s).
45. You should then confirm that the participant is an ESA/IS Lone Parent participant, as only these types of sanctions can be reviewed.
46. You must complete the date they failed to undertake the original mandatory activity.
47. You will need to determine the date of compliance and this date should be entered in the appropriate field.

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**Please Note:** If you have ticked the box ‘it is no longer appropriate for the participant to undertake that activity,’ you should not complete the date of compliance.

48. Enter the date that the sanction decision was made and the dates of the sanction period. You will find this on the original sanction notification sent to you. This will enable the LMDM in your linked BDC to identify the correct sanction to review. Further information regarding which LMDM site you are linked to can be found in [Annex 1 of Work Programme Provider Guidance Chapter 6 – Raising a compliance doubt](#).

**Please Note:** For IS Lone Parent participants you will only need to enter the start date of the sanction.

49. The LMDM will accept your decision that the participant has re-engaged and arrange for the sanction to be lifted from the next applicable date following the date of compliance. To ensure that the participant suffers no undue loss of benefit, the WP09 V3 or WP09 (Email) should be completed and sent/emailed (as appropriate) the LMDM Administration Team in your linked BDC as soon as possible after you have decided that they have re-engaged.

50. In cases where re-engagement is disputed only you should tick the box ‘I do not consider that the participant has fully complied’ as the reason for referral. Enter the original date of sanction decision, dates of sanction and complete the fields in the ‘Compliance Disputed’ section. You must then provide specific details of:

- what the participant was told to do and when
- what the participant did do or failed to do and when
- why you consider the participant has failed to complete the activity
- why the participant considers they have completed the activity

51. To complete the last field, you will need to make a note of what the participant tells you.

### **Sending the WP09 (Email) – by Unencrypted Email**

52. Email the completed WP09 form your linked relevant BDC email address.

53. Each email must never contain more than one WP09 form per email.

54. Each email must contain **only** the following standard content:

- standard wording to be displayed in email ‘Subject Box’
- WP09

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- claimant's surname
  - National Insurance Number – only last 3 characters.
55. Standard wording to be displayed in email 'Narrative Box:' sender contact details.
56. Email attachment must contain the completed WP09 (Email) form only – no other information may be transmitted to the BDC by unencrypted email.
57. The correct email address for the return of the decision notification is included in the WP09 (Email) form, usually in the provider details box.

**Please Note:** this must be the generic inbox address that the decision notification is to be emailed to.

58. The Provider Correspondence address should be the postal address to which any queries or further correspondence should be sent by LMDMs.

### **Clerical contingency**

59. There may be occasions when due to circumstances such as IT failure you are temporarily unable to transmit referrals via unencrypted email to the BDC.
60. In these circumstances you must ensure that your linked BDC SPoC is kept informed of the situation and how long you anticipate it lasting.
61. If you anticipate the situation will continue for forty eight hours or longer you must revert to making clerical Failure to take part in the Work Programme DMA referrals until the problem is resolved and you are able to use the unencrypted email referral route again.
62. Your BDC SPoC should be kept updated prior to you starting to make clerical referrals and informed prior to you beginning to use the unencrypted email process again.

### **Special Customer Records (SCR)**

63. If the participant is identified as a SCR participant, the completion of the form remains clerical (even if you use unencrypted emails). These participants must not have their details held on any electronic systems. The process for raising a compliance doubt and request for review of a sanction for SCR participants and those participants with MAPPA status will remain clerical.

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64. Your Nominated Officer should complete the form, ensure that 'SCR participant' is marked clearly and securely send to the Nominated Officer in the relevant LMDM Administration Team in the BDC.

Further information can be found in [Generic Provider Guidance Chapter 2 - Delivering DWP Provision](#).

65. All information on SCR participants whether received from Jobcentre Plus or generated by yourselves must be stored securely at all times. Further information can be found in [Generic Provider Guidance Chapter 8 – Information Security](#).

### **Further information required by LMDM**

66. There may be occasions where the LMDM will need to clarify information you have sent with the compliance doubt. If you are asked to supply further information, you should do so as soon as possible.

**Please Note:** Any additional information requested by the LMDM must not be sent to them using the unencrypted email process. The security exemption permitting the transmission of the WP09 form does not cover the transmission of any other information.

### **LMDM notifies provider of outcome decision**

67. You must ensure that you note the outcome against the participant records. The outcome of the sanction action could be used in the future to raise further compliance doubts or address any other barriers to participation.
68. Jobcentre Plus has the responsibility for notifying participants of any benefit related decisions. You should not attempt to advise participants of when their benefit will be reinstated.

### **JSA hardship provision**

69. Where a sanction is imposed on a participant for either failure to take part in the Work Programme or due to a JSA entitlement doubt raised by Jobcentre Plus, their benefit will be affected for the period of the sanction.

**Please Note:** The sanction is only applicable to the participants' individual benefit, so in the case of a joint claim, the partners' proportion of JSA would be unaffected (unless the partner already had a sanction of their own).

70. However, if eligible the participant may be able to make a claim to hardship provision which if the claim was successful would make a hardship payment. Unless the participant is deemed as being in a vulnerable group they will have to wait for 14 days before being eligible of

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hardship. The hardship payment will provide a reduced rate of benefit to provide a minimum level of financial support.

71. If an ESA participant asks about or requests information on JSA hardship provision you should direct them to their Jobcentre Plus office.

### **ESA hardship provision**

72. Where a sanction is imposed on an ESA participant for failure to take part in the Work Programme their benefit will be affected for the period of the sanction.

**Please Note:** The sanction will only be applicable to the participants' personal allowance, their Work Related Activity Component will remain in payment.

73. If an ESA participant receives a sanction they will be eligible to apply for hardship provision from day one of the sanction. The participant will continue to receive the Work Related Activity Component. The hardship that a participant could be entitled to is 60% of the single persons prescribed amount. The claimant will only receive hardship payments if they are eligible and these will only be paid from the day they make the claim for a hardship payment.
74. If a participant asks about or requests information on ESA Hardship provision you should direct them to their Jobcentre Plus office.

**Please Note:** There is no hardship provision for IS Lone Parent participants

### **Decisions, Reconsiderations and Appeals**

75. Reconsiderations are a crucial part of the decision making and appeals process and are designed to put right an incorrect decision at the earliest opportunity. If a participant tells you they are not happy with the decision that they will be sanctioned, you should first encourage them to request a reconsideration with Jobcentre Plus.
76. In order to request a reconsideration, the participant can contact the office who sent the letter within one month of the date on the letter to request a written explanation of the decision. They should include within this request any additional evidence in support of the change of decision.
77. If the participant still believes the decision is wrong, they may have the right to appeal to an independent tribunal, the letter confirming the decision will advise if this is possible. The appeal must be in writing and within one month. The appeals form can be obtained from a Jobcentre Plus office.

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78. All requests for written statements, reconsiderations or appeal must be within one month, except if there are special circumstances which meant the participant was unable to contact the office within this period. You should advise the participant of the process and the timescales and direct them to the appropriate Jobcentre Plus office.

## **Annex 1 – Work Programme Re-compliance Notification (ESA/IS only)**

**[Office Name]**

**[Contact Tel.  
No.]**

**[Office Address]**

**[Date issued]**

**[Participant Name]**

**[Participant Address]**

Dear **[Participant Name]**

As you did not **[insert non participation reason**, for example turn up to the, take part in the] **[Activity name, date and time]**, we have informed Jobcentre Plus who will decide if a benefit sanction is appropriate.

I am writing to inform you of a new **[appointment/activity]** which you are mandated to attend. You must contact us as soon as possible to confirm this appointment or any benefit sanction that is imposed may run for longer. What you have to do is explained below:

**Your appointment is (insert appointment name)**

**On: (date including day of the week)**

**At: (Start and Finish time)**

**Location: (and can include 'see enclosed map')**

**Your contact at [insert name of appointment provider] is [insert contact name].**

**[If appropriate] To achieve your goal we expect you to have [insert evidence needed for completion]**

**[If appropriate] At this appointment, the following support can be offered [insert detail].**

Please inform us immediately if you need a registered child carer, an interpreter or any other service in order to attend, this may be able to be arranged and your costs covered.



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If you are unable to undertake this activity and wish to re-arrange for a future date, please contact me immediately. My contact number is at the top of this letter.

**Please note that if you do not undertake the activities required in this notification your benefit could be affected.**

This activity forms part of your work-related activity action plan.