ADM Chapter K1: Sanctions - general principles

Subpages

Introduction K1001 - K1009

Introduction

K1001 This Chapter

1. gives definitions of terms that are used throughout the ADM Chapters on sanctions (see K1010)

2. gives a general introduction on the process to follow when making decisions on sanctionable failures

3. explains where detailed guidance can be found in other ADM Chapters on sanctions (see K1002)

4. gives guidance on delegation and contracting out of certain functions to authorised persons (K1121)

5. gives guidance on issues that affect more than one type of sanction, for example; the

5.1 meaning of fails to comply (see K1013)

5.2 compliance condition for low and lowest level sanctions (see K1040)

5.3 the public law principles of fairness

5.3a 'prior information requirement' (see K1151)
5.3b meaning of substance (K1158)

5.3c burden of proof (K1161)

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5.3e meaning of 'specify' (K1166)

5.3f notifications (K1171).

K1002 Detailed guidance on sanctions can be found as follows:

1. Chapter K2 - Good Reason

2. Chapter K3 - Higher–level sanctions

3. Chapter K4 - Medium–level sanctions

4. Chapter K5 - Low–level sanctions

5. Chapter K6 - Lowest–level sanctions

6. Chapter K7 - Effect of ESA and JSA sanctions on UC

7. Chapter K8 - When reduction is to have effect

8. Chapter K9 - Amount of reduction.

K1003

K1004 Once a DM determines that a reduction should apply for a sanctionable failure, the period is added to the total outstanding reduction period (TORP) (see K1061) for that claimant. Reductions are then made to the award of UC based on the number of days in the TORP. The reduction is calculated by either

1. the number of days in the assessment period (where the TORP is greater than this number) multiplied by the daily sanction amount **or**

2. the number of days in the TORP (where the number of days in the TORP is lower than the number of days in the assessment period) multiplied by the daily sanction amount.

Note: See ADM Chapter K9 (Amount of reduction) for guidance on the daily sanction amount.

K1005 The reduction will then be taken from the award from

1. the first day of the assessment period in which the DM determines that a reduction should be imposed, or if a reduction is not taken on that date, then the first day of the new assessment period **or**

2. if the award is already subject to a reduction, the first day that the award is not subject to a reduction.

Note: See K1057 and ADM Chapter K8 (When a reduction is to have effect) for further guidance.

Imposing work-related requirements and sanctions

K1006 One of the conditions of entitlement for UC is that the claimant has accepted a claimant commitment[1]. This is a record of claimant responsibilities in relation to the award of UC. Once the claimant has a Claimant Commitment in place then work–related and connected requirements can be set and claimants have an obligation to meet the accepted responsibilities as set out. A failure to comply with the Claimant Commitment does not breach the conditions of entitlement nor is that in itself a sanctionable failure, but sanctions can be imposed for failures to comply for no good reason with work-related and connected requirements recorded in the Claimant Commitment.

Note 1: For further guidance on the Claimant Commitment see ADM Chapter J1.

Note 2: See guidance at K1151 et seq regarding validly imposing work-related and connected requirements, K1170 regarding setting rational requirements and K1176 for specific guidance regarding the Claimant Commitment.

Note 3: Requirements to complete set work-related requirements will not take place until the claimant has accepted a claimant commitment.

1 W R Act 12, sec 4(1)(e)

K1007 With the exception of provisions to impose sanctions for 'pre-claim failures' (see detailed guidance on 'pre-claim failures' in ADM Chapter K3), claimants should not be referred for a sanction decision for failures that occur when the claimant was not entitled to UC. This is because legislation[1] is limited to imposing work-related requirements upon claimants[2] (also see K1009).

1 WR Act 12, s 13 - 25; UC Regs, reg 95; 2 WR Act 12, s 40

K1008 A work-related or connected requirement cannot be imposed upon an individual where there is no award (entitlement) of UC. There is also no legal provision to impose a requirement within an earlier notification that seeks to impose a binding obligation contingent upon the fact a claimant may be re-awarded benefit in the future (for detailed guidance on Work-related requirements in UC see ADM Chapter J3).

Note 1: A sanction is a reduction in the amount of UC which would otherwise be payable. It therefore follows that a DM can only impose a sanction on a claimant if the relevant failure occurred when the claimant is entitled to UC.

Note 2: When an award is reduced to nil due to a sanction the claimant remains entitled to UC but payment is nil for the sanction period and so conditionality and sanctions still apply throughout that period.

Note 3: If an award is already sanctioned the payment of UC is taken away, not entitlement, and the claimant is still entitled to benefit.

Note 4: Providing that a claimant is entitled to an award of UC, then despite that the award might not yet have been paid, a decision can still be made to reduce the 'award' of UC from the first day of that AP if a sanction is applicable. There is still an award of benefit and another sanction can be imposed even though benefit is not yet in payment and the balance of any reduction period is added to the TORP. However, the claimant should not be notified of the sanction decision until they have been notified of the award of benefit.

Connection between conditionality and sanctions

K1009 Sanctions can **only** apply where a claimant fails to meet a specified work-related or connected requirement[1] that has been validly imposed as follows

1. higher-level sanctionable failures are restricted to claimants who fall in the AWRR group at the date of the failure[2] (however also see K1020 and further guidance in ADM Chapter K3)

2. all other sanctionable failures limit imposing a sanction on claimants that fail to comply with work-related or connected requirements[3] (also see K1030).

Note 1: It is important that the claimant is in the appropriate work-related group in respect of the relevant claim to UC for the DM to be able to consider a sanction for any failure. For full guidance on work-related groups see ADM Chapter J2 and for guidance on work-related requirements see ADM Chapter J3.

Note 2: For further guidance on validly imposing requirements in line with the public law principles of fairness see K1151 et seq.

Note 3: For guidance on the meaning of fails to comply see ADM Chapter K5.

1 WR Act s 13; 2 s 26(2); 3 s 27(2)

Definitions K1010 - K1069

Meaning of sanctionable failure

K1010 A ‘sanctionable failure’ means a failure which is sanctionable under relevant legislation[1]. Sanctionable failures can result in a higher, medium, low or lowest–level sanction[2]. In some cases no reduction is applied[3] – see ADM Chapter K3 (Higher–level sanctions) for further details.

Note: There is no discretion not to impose a sanction where the conditions to sanction apply. For each failure there must be a sanction decision made and an outcome notified to the claimant. This means there could be more than one reduction applied for the same period and in the case of a low-level sanction more than one open-ended period running at the same time for different failures if appropriate, however see further guidance on the compliance condition at K1040 et seq and K1051 where there are multiple failures to take part (including attend) an interview requirement.

1 WR Act 12, s 26 & 27; 2 UC Regs, reg 101 – 105; 3 reg 113

K1011 Where a failure is a sanctionable failure, the claimant’s award of UC is normally reduced. The period and amount of reduction depends on[1]

1. which work–related requirement the claimant failed to comply with **and**

2. the number of previous sanctionable failures **and**

3. the period between failures.

1 WR Act 12, s 26(6) & (7), 27(4) - (5) & (8)

Meaning of 'current sanctionable failure'

K1012 'Current sanctionable failure' means a sanctionable failure where the Secretary of State has not yet determined whether the amount of an award of UC is to be reduced under relevant legislation[1].

1 UC Regs, reg 100 (1A); WR Act 12 s 26 & 27

Meaning of fails to comply

K1013 Fails to comply is not defined in legislation and therefore takes its everyday meaning of failing 'to act in accordance with a specific requirement'. It will be a failure to comply where a claimant fails to meet any specified work-related or connected requirement, i.e.

1. a WfI requirement[1]

2. a work preparation requirement[2]

3. a work search requirement[3]

4. a work availability requirement[4]

5. a connected requirement[5].

Note 1: The Secretary of State has an obligation to 'specify' any work-related or connected requirement clearly to the claimant to ensure a work-related or connected requirement has been validly imposed (see guidance in K1166 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 individual 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 a requirement was validly imposed and 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 K1161 and for guidance on good reason see ADM Chapter K2 (Sanctions - Good reason).

Note 3: For full guidance on work-related requirements and claimant responsibilities see ADM Chapter J3.

1 WR Act s 15, 2 s 16, 3 s 17, 4 s 18, 5 s 23

Conduct

K1014 A claimant's conduct can be relevant to whether a person has failed to comply with any work-related or connected requirement and their acts and omissions will be considered by the DM under good reason with reference to that claimant's personal circumstances when considering whether any failure is a sanctionable failure. See ADM Chapter K2 (Good reason) for full guidance on good reason.

K1015 Work-related requirements are designed to help certain claimants enhance their employment prospects and gain opportunities to develop skills and disciplines associated with a normal working environment and which the Secretary of State is of the opinion it will improve their chances of obtaining paid work, more or better-paid work. These include skills 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 can also include 'behaviours' expected of someone in a work setting.

Inappropriate behaviour

K1016 Inappropriate behaviour can be

1. any unreasonable act or omission shown towards any other person, for example a work coach, an employer, other employees or customers

2. a refusal to complete a specific task

3. where a claimant is particularly obstructive, antagonistic, uncooperative, disinterested, offensive or unwilling

4. showing disinterest and not doing anything and/or not following instructions

5. intimidating or bullying other staff or behaving in an unreasonable manner

6. the use of offensive language, whether swearing or not, that is not appropriate in a work setting

7. turning up for the interview or activity under the influence of drugs and/or alcohol or

8. any behaviour considered unacceptable or unreasonable by someone in a work setting.

Note 1: The DM, however, 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 claimant's individual circumstances. Care should be taken to ensure all the facts and circumstances of the case are taken into account before deciding to impose a sanction (see full guidance on good reason in ADM Chapter K2).

Note 2: The DM should be careful to make sure all departmental records have been checked (for example journal notes and claimant history) to ensure the full picture is known, particularly where there are indications the claimant may have complex needs, is suffering some personal crisis, is vulnerable or has mental health issues.

Example 1

Darren attends a work search review interview with his work coach as required at the right time and place. He refuses to take part in the interview and discuss what work search he has completed in the relevant week. He is uncooperative and intimidating to other people in the office. It is obvious to the work coach Darren has been drinking.
Darren's behaviour is not acceptable and can be considered a failure to comply in the interview even though he has turned up for the interview on time at the right place.

Example 2

Em starts a work placement as required in a charity shop, but is asked to leave the placement on her first day because of her attitude and rude behaviour towards the other staff and customers. She continually uses obscene language. She refuses to sort clothes onto hangers when asked to do so complaining that it is menial work. The other volunteer employees in the charity shop complain to the manager they are intimidated and upset by her attitude**.**

The DM can consider a sanction as Em's loss of the placement is due to her conduct and behaviour.

Even though she turned up at the right time and place to start the placement, being asked to leave the placement due to her conduct on the first day means these actions can be considered a failure to comply with a work preparation requirement as specified by the Secretary of State. Her behaviour is not considered acceptable or reasonable by someone in a work setting.

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 when considering whether to impose a sanction. See ADM Chapter K2 for further guidance on good reason.

Prior conduct

K1017 Prior conduct can also be taken into account if it is legitimately linked to the decision to sanction.

Example

Stephen is required to take part in a fork lift training course.

The week prior to the start date of the course he visits the training provider with a view to identifying what participation in the course will require.

As he made this purpose known to the training provider at the time, it was not an accidental casual visit unconnected with the place on the training course Stephen was expected to take up.

During this visit he was rude to the receptionist. He said he wanted to know if the course would involve lots of walking around or repeated standing as he has a health problem and suffers 'bad legs'. He repeatedly complained about having to take part in the training course, was aggressive and rude. He was unkempt in appearance and behaved irrationally by laying down in the waiting room and going to sleep when asked to wait until the training manager could come and talk to him.

This was unreasonable behaviour in any work setting and gave relevant context to whether Stephen would behave appropriately once he started the training course.

When Stephen did turn up to start the course on the relevant date he maintained his attitude of not wanting to be there. He was unkempt and unsuitably dressed and openly displayed antagonism to being on the course. The manager asked him to leave.

The combination of Stephen's behaviour on his previous visit and his lack of contrition on the start date can be treated as a failure to comply with the work-preparation requirement to take part in a training course.

K1018 – K1019

Higher–level sanctions

K1020 A higher–level sanction is a reduction of the amount of an award of UC for sanctionable failures where a claimant in the AWRR group[1]

1. fails for no good reason to comply with a work preparation requirement to undertake a specified work placement (MWA)[2] **or**

2. fails for no good reason to comply with a work search requirement to apply for a particular vacancy for paid work[3] **or**

3. fails for no good reason to comply with a work availability requirement by not taking up an offer of paid work[4] **or**

4. by reason of misconduct, or voluntarily and for no good reason, ceases paid work or loses pay[5].

Note: See ADM Chapter J2 for guidance on work–related requirements groups, Chapter J3 for guidance on work–related requirements, Chapter K2 for guidance on good reason, and Chapter K3 (Higher–level sanctions) for guidance on MWA placements, refusing employment and voluntarily or through misconduct ceasing paid work.

1 WR Act 12, s 26; UC Regs, reg 100(1); 2 WR Act 12, s 26(2)(a); UC Regs, reg 114
3 WR Act 12, s 26(2)(b); 4 s 26(2)(c); 5 s 26(2)(d)

Claimant subject to NWRR due to earnings

K1021 Those claimants who

1. are in the NWRR group[1] **and**

2. are in work with earnings equal to or more than their individual threshold **and**

3. leave paid work or lose pay through

> **3.1** misconduct **or**
>
> **3.2** voluntarily and for no good reason

cease to be in the NWRR group and become subject to AWRR from the first day of the Assessment Period in which the change occurred[2].

Note 1: This provision covers those claimants who have an existing UC award and are in NWRR because they (or their partner) are 'working enough', i.e. UC is reduced due to earnings but they still receive some UC. If they stop working or reduce their hours or pay so that their earnings fall below their CET they are put into the AWRR group and can face a higher-level sanction for leaving work or losing pay voluntarily or through misconduct.

Note 2: This provision however does not cover a claimant who loses UC entitlement through earnings and then either stops working or reduces hours or pay so they are entitled to UC again. Where there is nil entitlement to UC no conditionality applies and therefore no sanction can be imposed.

Note 3: See ADM Chapter J3 for guidance on work–related requirements, Chapter K2 for guidance on good reason, and Chapter K3 (Higher–level sanctions) for guidance on leaving voluntarily or through misconduct.

1 WR Act 12, s 19(2)(d) & (3); UC Regs, reg 90; 2 WR Act 12, s 22; WR Act s 26(3)

‘Pre-claim’ failures

K1022 Where the claimant is in the AWRR group when they are awarded UC[1], and a sanctionable failure occurs before making that claim, this is known as a ‘pre-claim failure’[2].

Note: If the failure does not occur ‘pre-claim’ (i.e. it occurs during a claim) a sanction can still apply it is just not subject to the further refinements afforded to failures which occur ‘pre-claim’. See ADM Chapter K3 for further guidance on ‘pre-claim’ failures.

1 WR Act 12, s 22; 2 UC Regs, reg 102(5)

K1023 Where K1022 applies, a sanctionable failure is where, at any time before the claim resulting in the award of UC is made, the claimant

1. for no good reason failed to take up an offer of paid work[1] **or**

2. by reason of misconduct, or voluntarily and for no good reason, ceased paid work or lost pay[2].

Note: See ADM Chapter K2 for guidance on good reason, and Chapter K3 (Higher–level sanctions) for further guidance on refusing employment, voluntarily or through misconduct ceasing paid work, and ‘pre–claim’ failures.

1 WR Act 12, s 26(4)(a); 2 s 26(4)(b)

Claimant has final earnings

K1024 Where final earnings equal or exceed the CET but the claimant retains some entitlement to UC then

1. those earnings can be disregarded for conditionality purposes **and**

2. the claimant can be placed in the AWRR group[1].

Note: For full guidance on conditionality groups and where the claimant receives final earnings see ADM Chapter J2.

1 WR Act 12, s 22

K1025 – K1029

Other sanctions

K1030 For all other sanctions, i.e. medium, low and lowest–level sanctions, the amount of an award of UC is reduced where the claimant fails to comply for no good reason with[1]

1. a work–focused interview requirement[2]

2. a work preparation requirement[3]

3. a work search requirement[4]

4. a work availability requirement[5] **or**

5. other requirements connected to work–related requirements, such as participating (including attending) in an interview to impose or verify compliance with a work–related requirement, or reporting specified changes in circumstances[6].

Note: See ADM Chapter J3 for detailed guidance on work–related requirements, Chapter K4 for guidance on medium–level sanctions, Chapter K5 for guidance on low–level sanctions, and Chapter K6 for guidance on lowest–level sanctions.

1 WR Act 12, s 27; UC Regs, reg 100(1); 2 WR Act 12, s 15; 3 s 16; 4 s 17; 5 s 18; 6 s 23

K1031 Legislation[1] provides for the reduction period of low and lowest-level sanctionable failures to continue until the claimant meets a compliance condition (see further guidance at K1032 et seq).

1 WR Act, s 27(5)(a); UC Regs, reg 104(2)(a)(i)

Compliance condition (low and lowest-level sanctions)

K1032 The compliance condition[1] is the requirement specified by the Secretary of State that the claimant needs to meet in order to

1. end the period of the open-ended reduction **and**

2. for low–level sanctions, start the fixed period.

This will usually be the original requirement the claimant failed to meet that led to the sanction, but where this is not appropriate or no longer reasonable then it will be a suitable alternative requirement as specified or see guidance at K1037 where the compliance condition can be revoked.

Note 1 : The compliance condition can only be the compliance condition as specified to the claimant and cannot be something that is not a work-related or connected requirement (see K1033).

Note 2: For the meaning of specified see K1036.

1 WR Act 12, s 27(6)

K1033 A compliance condition can be

1. any work-related requirement or connected requirement[1] **or**

2. a subsequent or different requirement where the original requirement is no longer appropriate or reasonable[2].

Note 1: The claimant must always be in a position to be able to achieve the required action by the deadline date set. The requirement should be reasonable, appropriate and achievable in the claimant's individual circumstances.

Note 2: For guidance on revoking or varying the compliance condition see K1037.

1 WR Act, s 27(5)(a); 2 s 27(7)

K1034 Each work-related requirement will have its own compliance condition set. Therefore, there could be more than one open-ended reduction period running at the same time for an overlapping period where the claimant has multiple sanctionable failures. However, new requirements for the same work-related requirement should not be set during the period of an open-ended sanction already running. The claimant has to meet the relevant compliance condition for each failure in order to end each open-ended sanction before a new work-related requirement can be set. For example if the claimant fails to take part in a work-search review the work coach should not set a requirement to take part in a new work-search review whilst an open-ended sanction is running for that failure until such time as the compliance condition is met and the open-ended sanction ends.

Note 1: Each reduction period for each sanctionable failure will be calculated and added to the TORP (see

K1067).

Note 2: In all low-level sanction cases when the open-ended reduction period ends the claimant still has to serve the appropriate fixed period sanction of 7,14 or 28 days[1].

1 UC Regs, reg 104(2)(b)

K1035 Examples of compliance conditions include

1. meeting the actual requirement specified, for example updating a CV or registering with an employment agency

2. booking and taking part (including attending) in an appointment for a WFI or any interview requirement such as a
commitments review or a work search review

3. agreeing to and participating in the next available activity as specified such as a skills training course or a Jobs Fair

4. any reasonable, appropriate and achievable work-related activity as specified.

Note: This list provides examples only and is not exhaustive. A compliance condition is any work-related requirement as specified by the Secretary of State (K1033). For the meaning of specified see K1036.

Specification

K1036 It is important that the compliance condition is clearly specified at the time the requirement is set so that if the claimant fails to comply and a sanction is imposed they know immediately what to do to end the open-ended part of the sanction as quickly as possible. There should be no ambiguity. Therefore, it will be crucial that the compliance condition is clearly specified to the claimant and that it is recorded in system records as evidence in the event of any appeal.

Note 1: If the compliance condition is revoked, varied or reviewed (see K1037) any changes must also be specified to the claimant.

Note 2: It is the Secretary of States obligation to notify the claimant to ensure they fully understand what is expected of them and by when and the consequences of not complying. See further guidance on the public law principles of fairness at K1151.

Example

Idina fails to attend an appointment with her work coach on 4.11.15.
On 9.11.15 she makes contact and re-books a compliance interview for 10.11.15.
Idina fails to attend the re-booked appointment on 10.11.15.
The compliance condition set was to re-book an appointment with her work coach.

The date of compliance is 9.11.15 when Idina contacted the Jobcentre to make a new appointment. As the compliance condition did not make it clear she also had to attend the appointment on 10.11.15, she had met her compliance condition when she made contact to arrange a new appointment on 9.11.15.

Compliance condition revoked, revised or varied

K1037 When a requirement is set the claimant must always be in a position to achieve that action by the deadline in order to be able to comply with the requirement and end the open-ended part of the sanction as soon as possible. This will usually be the original requirement the claimant failed to meet that resulted in the original sanction but where this is no longer appropriate or reasonable then it will be

1. a suitable alternative requirement as specified **or**

2. the Secretary of State can revoke the requirement as they see fit[1.]

Note: The DM should always be looking to end the open-ended sanction at the soonest date possible (see K1041).

1 WR Act 12, s 27(7)(a)

K1038 Examples of where the compliance condition may be revised, varied or revoked

1. a one off event may have passed and cannot be repeated such as the claimant is required to attend a Jobs Fair (see K1040 **Example 1**) **or**

2. the same requirement is not available within a reasonable amount of time, for example, a claimant failed to attend a training course which is no longer running or the next available course is available at a date too far in the future (see K1040 **Example 2**) **or**

3. the claimant's circumstances have changed since the sanction was imposed and the compliance condition is no longer appropriate or reasonable, for example the claimant has had an accident and is in hospital or they have started work (see K1040 **Example 3** and K1049 **Examples 3** and **4**).

Note: It will be for the DM in each individual case to consider all the facts and circumstances of the individual case and decide an appropriate course of action whether to revoke or vary the compliance condition where relevant and appropriate (also see K1040) and end the open-ended sanction as soon as possible to avoid any undue hardship for the claimant (K1041).

K1039

K1040 The compliance condition should only be revised if the claimant cannot achieve the original requirement within a reasonable time. For example, if the requirement is to present a CV the claimant can most likely still achieve that activity quickly or if it is to attend a WfI or a WSR they can make contact and arrange a new appointment and take part in that new appointment. However, if it is a one-off event that has passed then a revised compliance condition will most likely be appropriate. If there is a change of circumstances that means the work group has changed or that the compliance condition is no longer appropriate in the individual circumstances, then the DM can revoke the compliance condition and end the open-ended sanction (K1037).

Note 1: The examples used are not an exhaustive list of circumstances where the compliance condition can be varied, changed or revoked. It is for the DM to consider each case on its own individual facts and circumstances and what is reasonable, appropriate and achievable for the claimant. The DM should take care to make sure any indication of complex needs or vulnerabilities are fully considered and any changes of circumstances which mean the conditionality requirements change.

Note 2: In low-level sanctions cases the claimant still has to serve the appropriate fixed period sanction of 7,14 or 28 days when the open-ended sanction has ended.

Example 1

Brian fails to attend a Jobs Fair on 29.7.24. He has no good reason for the failure. On 3.8.24 he contacts his work coach and is set a revised compliance condition as the Jobs Fair was a one-off event.

Brian is set a new compliance condition to contact the relevant employers represented at the fair and find out what may have been on offer and if there are any opportunities still on offer. He is set a deadline to do this and provide evidence at his next work search review on 10.8.24.

When Brian attends his normal work search review on 10.8.24 he provides evidence that he complied with the revised compliance requirement. The compliance condition is treated as being met on 3.8.24 the date he made contact.

Example 2

Irina fails to attend an Interviewing Skills workshop on 21.10.24. She has no good reason for the failure and an open-ended sanction is imposed. She is set a revised compliance condition to contact the workshop provider to enquire about future courses and attend an interview with her work coach to discuss next steps on 29.10.24.

On 29.10.24 Irina attends her interview and says she phoned the provider on 27.10.24 and was informed the course will not be running again until January 2025. The course provider confirms the claimant contacted them on 27.10.24 and the course is not available till January 2025.

Irina is treated as having complied on 27.10.24 when she contacted the provider regarding other courses.

Example 3

Uroosa failed to attend a WSR on 15.7.24 and provided no good reason for the failure and as a result a low-level open-ended sanction was imposed. The compliance condition set was to re-book and then attend/participate in a WSR interview with her work coach.

On 7.10.24 Uroosa contacts the work coach to say she has got a job and will be starting 3 weeks work training on 14.10.24.
The DM revokes the compliance condition as it is no longer appropriate. The claimant is starting work on 14.10.24 which means she will no longer be in a conditionality group that requires participation in WSR interviews.

The open-ended sanction is ended on 6.10.24 the day before the date Uroosa makes contact to report her change of circumstances.

Example 4

Atif fails to attend an interview with his work coach on 20.11.24 and makes no contact to provide reasons for the failure. The compliance condition is to make contact to re-book and then attend and take part in a new appointment.

An open- ended sanction is imposed from 20.11.24.

On 28.11.24 Atif’s mother makes contact to say that her son was involved in a serious stabbing incident on 25.11.24 and he will be hospitalized for the foreseeable future and so cannot attend any appointments. She will be submitting a hospital fit note in due course on his behalf.

The compliance condition is no longer appropriate and is revoked. The open-ended sanction is ended on 24.11.24 the day before the date of the accident (25.11.24) which is treated as the date of compliance when Atif can be placed in the NWRR group.

The date the open-ended reduction period ends

K1041 Low and lowest–level sanctions have effect for a period which begins on the date of the sanctionable failure and continues until the day

1. before the claimant meets the compliance condition as specified by the Secretary of State[1] (see K1042) **or**

2. before the claimant moves into the no work-related requirements group[2] **or**

3. before the claimant is no longer required to take the action[3] **or**

4. the award of UC ends[4]

whichever is soonest. This is known as the ‘open-ended’ sanction.

Note 1: Low–level sanctions are also subject to a fixed period sanction[5] (for further guidance on low–level sanctions see ADM Chapter K5). For further guidance on lowest-level sanctions see ADM Chapter K6.

Note 2: Wherever a claimant fails to comply with a set work-related requirement for no good reason then a sanctionable failure has occurred and a low-level or lowest-level sanction decision is made and a sanction applied if appropriate. This means there can be one or more open-ended sanctions running at the same time if there are multiple sanctionable failures (see K1034).

Note 3: Each reduction period for each sanctionable failure will be calculated and added to the TORP. In low-level cases a fixed period sanction of 7, 14 or 28 days is applied when the open-ended sanction ends.

1 UC Regs, reg 104(2)(a)(i) & 105(2)(a); 2 reg 104(2)(a)(ii) &105(2)(b); 3 reg 104(2)(a)(iii);

4 reg 104 (2)(a)(iv) & 105(2)(c); 5 reg 104(2)(b)

Compliance condition met

K1042 The open-ended part of a sanction is ended when the claimant meets the specified compliance condition, i.e. actually undertakes the activity[1]. The open-ended sanction would run from the date of the failure and end on the day before the date of compliance (i.e. the date the claimant completes the activity).

Note 1: The specified compliance condition is the required activity specified by the Secretary of State (see K1033).

Note 2: The claimant can only be expected to meet the compliance condition as specified. Therefore, the obligation is on the Secretary of State to ensure the compliance condition is identified clearly to the claimant for each activity (see K1036).

Note 3: The claimant has control over ending the open-ended part of the sanction by complying with the activity as
required, as long as the activity remains appropriate and reasonable for the individual claimant (see K1043).

Note 4: When the open-ended part of the sanction ends, in low-level cases, the claimant still has to serve the appropriate fixed period sanction of 7, 14 or 28 days[2].

1 UC Regs, reg 104(2)(a) (i) & reg 105(2); 2 reg 104 (2)(b)

K1043 In some cases the claimant may be willing but unable to undertake the activity because of circumstances outside their control (also see K1049, for example a work coach cannot fit in a re-scheduled interview for a few days after the claimant makes contact to rebook an appointment). The intention of the open-ended sanction is to

1. encourage claimants to take part in activities designed to help them find work

2. be an incentive to comply as the open-ended part of the sanction will end as soon as they do comply **and**

3. encourage future compliance to avoid further sanctions.

This gives the claimant control to end the sanction and therefore when they make contact the DM should be looking to end the open-ended part of the sanction as soon as is possible and reasonable in the individual circumstances.

Note: See K1045 where the claimant makes contact to book a compliance interview but fails to take part (attend) in the re-booked compliance appointment.

K1044 In some cases when the claimant makes contact they may be unable to meet the compliance condition immediately due to circumstances outside of their control. For example the claimant calls the Jobcentre on Wednesday to make a new appointment for a missed interview but the earliest available appointment is the following Monday. In such a situation it would be unfair for the open-ended sanction to accrue when the claimant has done as much as they possibly can to meet the compliance condition but they have to wait for an appointment to be available. In this situation they are treated as having complied on the day they agree to undertake the activity, provided they do actually go on to complete the activity as required. In the example that would mean if they participated in the rescheduled interview on the Monday their compliance date would be the previous Wednesday when they contacted the Jobcentre. The open-ended sanction would end on the previous Tuesday, the day before the claimant contacted the Jobcentre. However, if the claimant refuses or fails to actually complete the requirement, for example, fails to attend and take part in the re-arranged appointment, the open-ended sanction will continue until they do so as long as the compliance condition remains appropriate and reasonable in the individual circumstances (also see further guidance on subsequent compliance interviews at K1045).

Note 1: If the compliance condition is to contact the provider and agree a date for future attendance and attend a re-arranged appointment and the claimant contacts JCP then they should be advised to make contact with the provider as quickly as possible in order to end the open-ended sanction. JCP and UC contact centres do not have access to provider's diaries to arrange provider appointments (see **Example 3**).

Note 2: 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. If there is any indication that the compliance condition is no longer reasonable or appropriate the DM should consider whether the compliance condition should be revoked, revised or varied (see K1037).

Note 3: The DM should be looking for the earliest possible date to end the open-ended period of the sanction to ensure the claimant does not have to suffer undue hardship, bearing in mind that in low-level sanction cases the claimant still has to serve the appropriate fixed period sanction (7, 14 or 28 days) when the open-ended part has ended.

Example 1

On 24.12.13 Amie calls her Wp provider to make an appointment to attend an interview to re-comply with the scheme as she has received a letter from JCP telling her she is to be sanctioned as she failed to attend an interview with her Wp provider on 12.12.13.

Amie does not have a good reason for failing to participate in the appointment on 12.12.13.

Her compliance condition is to contact the provider and agree a date for future attendance and attend a re-arranged appointment.

The provider informs Amie that the first available appointment is on Monday 6.1.14 due to the Christmas holiday period.

In this case, providing that Amie does attend and participate in the interview on 6.1.14, she has done everything she can to re-comply when she makes contact on 24.12.13 and can therefore be treated as having complied on 24.12.13.

The open-ended sanction will run from 12.12.13 (the date of the failure) until 23.12.13 (the day before the date of compliance).

Example 2

On 6.1.14 Giles should have attended an appointment with his Wp provider. He has no good reason for the failure.

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

On 10.1.14 he contacts the provider and is offered an appointment on Monday 13.1.14 at 9.30am which he rejects as it is too early in the morning. He says the afternoon or the next day would be better for him but he provides no good reason why he cannot take the 9.30am appointment on Monday 13.1.14. The next available appointment is 15.1.14 at 12 noon which he accepts.

Giles attends the interview on 15.1.14.

In this case Giles will be treated as complying on 15.1.14 when he actually attends the compliance interview as although he contacted the provider on 10.1.14, he did not accept the first available appointment and had no good reason for not doing so.

The open-ended sanction will run from 6.1.14 (the date of the failure) until 14.1.14 (the day before the date of compliance).

Example 3

Troy fails to attend a Wp appointment on 22.7.15.

He does not have a good reason for failing to attend the appointment.

His compliance condition was to contact the provider and agree a date for future attendance and attend a re-arranged appointment.

He attends Jobcentre Plus on 29.7.15 for his normal work search review and he is advised as next steps he must contact the provider as quickly as possible to make and attend a further Wp appointment in order to end the open-ended part of the sanction.

The provider confirms the claimant made contact on 30.7.15 and made a further appointment for 7.8.15. Troy attends the Wp appointment on 7.8.15 as required.

In this case Troy is treated as having complied on 30.7.15 when he contacted the provider to arrange the new appointment.

The open-ended sanction will run from 22.7.15 (the date of failure) to 29.7.15 (the day before the date of compliance).

Example 4

Rahil fails to attend a CV writing workshop on 27.7.15. He has no good reason for failing to attend the workshop. He makes contact with the Jobcentre on 29.7.15.The next available CV writing course is 17.8.15.

Rahil complies and attends the course as required on 17.8.15. He is treated as complying on 29.7.15 when he made initial contact with the Jobcentre.

A 2-day open-ended sanction is appropriate for the period 27.7.15 (the date of failure) to 28.7.15 (the day before the date of compliance).

Example 5

Sy fails to attend a WSR meeting at the Jobcentre with his work coach on 29.10.15. He has no good reason for the failure. His compliance condition is to arrange and attend/participate in a WSR meeting at the Jobcentre. He makes contact with the Jobcentre on 10.11.15 and an appointment to attend/take part in a meeting with his work coach is made for 12.11.15. Sy complies and attends the meeting as required with his advisor on 12.11.15.
He is treated as complying on 10.11.15 when he made initial contact with the Jobcentre.
A 12-day open-ended sanction is appropriate for the period 29.10.15 (the date of the failure) to 9.11.15 (the day before the date of compliance).

Example 6

Tim fails to attend a Wp appointment on 22.7.15. He does not have a good reason for failing to attend the appointment.
His compliance condition was to contact the provider and agree a date for future attendance and to attend/take part in a re-arranged appointment.

On 24.7.15 Tim attends his normal fortnightly work search review interview with his work coach. He tells the work coach he understands to end the open-ended sanction he must contact the provider to make a new appointment but despite several attempts since 23.7.15 he has not been able to get through to the provider and he has even left a voice message to ring him back but there has been no returned call. The work coach advises Tim to continue to try and call the provider to make another appointment but makes a note on his records that the claimant has had several failed attempts to make contact with the provider since 23.7.15.

On 26.7.15 Tim makes contact with the provider and arranges an appointment for 31.7.15. Tim attends and takes part in the appointment with his Wp provider on 31.7.15. The provider confirms that there was an answer machine message from Tim on 23.7.15. The date of compliance is therefore 23.7.15.

A one day open ended sanction is appropriate for 22.7.15 (the date of the failure).

Example 7

Louis fails to attend a WfI for no good reason on 10.10.17. The compliance condition is to contact his

work coach and arrange and take part in another interview.
Louis contacts his work coach on 22.10.17 and attends and takes part in a re arranged appointment with his work coach on 23.10.17. The date of compliance is 22.10.17.
An open-ended sanction is imposed for the period from 10.10.17 to 21.10.17 (12 days from the date of the failure to the day before the date of compliance) plus a 7 day fixed period as it is a first low-level failure. A total of 19 days sanction.

On 12.10.17 Louis also failed to participate in an interview with his Work Programme provider for no good reason. The compliance condition is to contact his provider and arrange and attend/take part in another interview. Louis meets the compliance condition on 22.10.17. On the same day he rang to arrange a new WfI appointment with his work coach, he also contacted his provider and made a new appointment for 26.10.17 which he duly attended and participated in.

An open-ended sanction is imposed from 12.10.17 to 21.10.17 (10 days from the date of the failure to the day before the date of compliance) plus a 7days fixed period (this failure is within 14 days of the previous sanctionable failure on 10.10.17). A total of 17 days sanction.

There are two open ended sanction periods which overlap for the 2 separate sanctionable failures for the period 12.10.17 to 21.10.17. The 2 reduction periods for each of the sanctionable failures will be calculated and added to the TORP.

Example 8

Nicky fails to attend a WfI with her work coach on 18.4.18 to discuss a training opportunity and makes no contact.. Nicky then fails to attend a work search review on 25.4.18 and makes no contact.

On 30.4.18 Nicky contacts the work coach to give her reasons for failing to attend her appointments She has no good reason for the failures to attend. Nicky accepts an appointment on 2.5.18 to attend and take part in both outstanding WFI and WSR appointments. She attends and takes part in the appointment on 2.5.18 as required.
Two low-level sanctions are imposed as follows:

1. an open-ended sanction is imposed for the first failure from 18.4.18 to 29.4.18 (12 days) plus a fixed period of 7 days = 19 days, and
2. an open-ended sanction is imposed for the second failure from 25.4.18 to 29.4.18 (5 days) plus a fixed period of 7days = 12 days (the fixed period does not escalate because it is within 14 days of the previous most recent sanctionable failure).

The reduction periods for each of the sanctionable failures, a total of 31 days, will be added to the TORP.

Subsequent failures to take part in/attend a compliance interview

K1045 Where a claimant fails to attend and take part in an appointment for no good reason and an open-ended sanction is in place, normally the compliance condition specified will be to arrange and then attend/take part in a new appointment. If the claimant makes contact to re-book an appointment which they then fail to attend, then no subsequent sanction referral or decision is necessary, the open-ended sanction continues to run for the original sanctionable failure as the claimant has not fully met the compliance condition to book and then take part/attend a new appointment regardless of the reason given by the claimant for failing to attend the re-booked compliance interview.

Note: The DM should be satisfied that the actual compliance condition was adequately notified to the claimant and there is no ambiguity regarding what is required to fully meet the compliance condition (see K1036).

K1046 The re-booked appointment is not a new work-related requirement and there is no new sanctionable failure to consider regardless of the reasons given for failure to attend the new compliance appointment. Indeed, there could be several compliance interviews booked before the individual claimant actually completes the compliance condition and the open-ended sanction can end (see **Example** at K1047). However, the DM should consider whether the compliance condition is still appropriate and reasonable in the individual circumstances (see K1049).

Note: In every case the decision maker will need to consider the intent of the interview requirement and whether it was booked as part of meeting the compliance condition for an existing sanctionable failure or whether it is an interview for a different work-related requirement.

K1047 If the claimant does attend and takes part in the newly arranged appointment then the compliance condition is met on the day they made contact to arrange the appointment they actually attended and the open-ended sanction will end on the day before that date and the appropriate fixed period applied.

Example

Steven is required to take part in a work search review on 7.8.18. He fails to attend the appointment and makes no further contact. An open-ended sanction is applied from 7.8.18.

On 30.8.18 Steven contacts his work coach and can show no good reason for the failure on 7.8.18.
The compliance condition set on the claimant commitment is “to arrange and take part in a new appointment with your work coach”. An appointment is made for 7.9.18.
Steven again fails to attend the appointment on 7.9.18 and makes no contact with the work coach. The existing open-ended sanction from 7.8.18 continues to run.

On 2.10.18 Steven phones his work coach. A further appointment is agreed and made for 8.10.18. Steven fails to attend the appointment on 8.10.18 and makes no contact. The open-ended sanction continues to run for the original sanctionable failure on 7.8.18.

Steven again makes contact with his work coach on 20.10.18. He provides an acceptable reason for failing to attend the appointment on 8.10.18. However, the work coach reminds Steven that the open-ended sanction running as a consequence of the failure on 7.8.18 will continue to run until he not only makes a new appointment but actually attends/takes part in it. A further appointment is made and agreed for the first available appointment on 30.10.18.

Steven again fails to attend the interview on 31.10.18 and no contact is made. The original open-ended sanction continues to run.

On 5.11.18 Steven makes contact. He is reminded once more that making appointments will not end the open-ended sanction. He has to actually attend and take part in an interview to end the sanction. This was the specified compliance condition on his claimant commitment. Steven provides no further evidence that indicates that the compliance condition is no longer appropriate or reasonable. He accepts and agrees to an appointment on 10.11.18.

Steven attends and takes part in the interview with his work coach on 10.11.18.

The open-ended sanction will run from the date of the original failure, 7.8.18, until 4.11.18, the day before he made contact to book the appointment he actually attended.

This results in a total reduction period of 90 days plus a 7 day fixed period penalty = 97 days.

K1048 Where a claimant fails to take part in an appointment and it is an appointment set for a different conditionality requirement (i.e. it is not an appointment where attendance/participation is required as part of meeting the compliance condition for an existing open-ended sanction) then a further sanction referral is made to the DM to consider good reason for that particular failure and whether another low-level sanction applies. For example the claimant has also been set an interview requirement to take part in a meeting with their scheme provider.

Example

Rose fails to attend a work-search review appointment with her work coach on 30.4.18. She fails to make contact despite being asked to provide her good reasons for the failure. The compliance condition has been notified to her as “to arrange and take part in an appointment with her work coach”.

On 9.5.18 Rose makes contact. She has no good reason for failing to attend on 30.4.18. She agrees to take part in an appointment to discuss her work-search the following day on 10.5.18.

Rose fails to attend the appointment on 10.5.18.

An open-ended sanction is imposed and will run from the date of the sanctionable failure, i.e. 30.4.18.

There would be no referral for the failure on 10.5.18 as participation is required as part of the compliance condition of the sanction already running for the failure on 30.4.18. Rose has not fully met her compliance condition and therefore the open-ended sanction for the failure on 30.4.18 continues to accrue. There is no evidence to suggest that the compliance condition is no longer appropriate.

A further appointment was notified to Rose via a 'To Do' in her journal to take part in an appointment with her work coach on 14.5.18. This interview requirement is a stock take interview as part of her participation in the Youth Obligation scheme.

The compliance condition has been notified to her as "to arrange and take part in an appointment with your work coach to discuss progress with your participation in the Youth Obligation scheme".

Rose fails to attend the appointment on 14.5.18.

This failure would be a new sanctionable failure and require a further sanction doubt being raised.

A notification is placed in Rose's 'To Do' to provide her reasons for the failure to attend on 14.5.18.

On 16.5.18 Rose makes contact with her work coach. She has no good reason for failing to attend the appointment on 14.5.18. She agrees to attend an appointment on 17.5.18 which she does attend and takes part in as required. The work coach deals with both issues of the outstanding work-search review and the Youth Obligation stock-take at the interview on 17.5.18 in order to end both open-ended sanctions.

There are 2 sanctions applicable:

1. an open-ended sanction would run for the first failure on 30.4.18 for 16 days from 30.4.18 to 15.5.18 (i.e. from the date of failure to the day before Rose met the compliance condition which in this case would be 16.5.18 when she made contact as she then attended and took part in the newly arranged work search appointment on 17.5.18) plus a fixed period of 7 days for a first failure

2. an open ended sanction would run for the second failure on 14.5.18 for 2 days from 14.5.18 to 15.5.18 (i.e. from the date of failure to the day before Rose, met the compliance condition which in this case would be 16.5.18 when she made contact as she then attended and took part in the newly arranged appointment on 17.5.18 to discuss her progress in the Youth Obligation scheme) plus a fixed period of 14 days for a second failure within 365 days, but not 14 days, of the sanctionable failure on 30.4.18.

K1049 If it comes to light that there has been a change of circumstances or new evidence is presented that suggests the compliance condition is no longer appropriate or reasonable for the individual claimant, the DM can revoke, vary or revise the compliance condition at any time (see K1038) and in effect end the open-ended sanction as seen fit[1].

Note: This would be considered on a case by case basis in consideration of all the individual facts and circumstances, taking particular care where there is any indication that the claimant could be particularly vulnerable or have complex needs which affects their ability to meet the compliance condition or there has been a change of circumstances that means the claimants work group changes and/or the compliance condition is no longer appropriate.

1 W R Act, s 27(7)

Example

Monique fails to attend an appointment on 11.7.24. She does not make contact to provide any reasons for the failure. The compliance condition is set as to re-book and then attend/take part in an appointment with her work coach.

Monique makes contact on 22.7.24 via her journal on an unrelated matter, however, provides no reasons as to why she failed to attend her appointment on 11.7.24. An open-ended sanction is applied from the date of the failure of 11.7.24.

On 9.9.24 Monique asks via her journal for another appointment to be booked to end the sanction and mentions that her mental health isn't good and that she has recently lost her mother.

The work coach makes a telephone appointment with Monique for 20.9.24 and it comes to light that the claimant was in a serious car accident which resulted in the death of her mother and she has been suffering with anxiety and depression since. She is suffering panic attacks and is afraid to go out. The accident occurred on 2.8.24.

The open-ended sanction can be ended on 1.8.24 the day before the date of the accident on 2.8.24 when Monique's circumstances changed. The compliance condition is revoked and treated as being met on the date of the car accident. The work coach would consider putting temporary discretionary easements in place to 'switch off' work-related requirements until Monique's work group and conditionality can be reassessed in light of her current circumstances and mental health condition.

The open-ended sanction would run from 11.7.24 to 1.8.24 plus a fixed period sanction of 7, 14 or 28 days as appropriate.

K1050 - K1055

Meaning of reduction period

K1056 The reduction period is the number of days for which an award of UC is reduced for each sanctionable failure[1]. The reduction periods that apply, depending on the circumstances in which the failure has occurred, are provided for in a table for each level of sanctions

1. higher–level[2]

2. medium–level[3]

3. low–level[4].

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 1: See full guidance and illustrative examples in Chapter K3 (Higher-level sanctions), K4 (Medium–level sanctions) and K5 (Low–level sanctions).

Note 2: It is the date of the failures that determines which reduction period applies, i.e. it is the period between the date of the current sanctionable failure and the most recent previous sanctionable failure and not the dates of the DMs decisions.

1 UC Regs, reg 101(1), 2 reg 102(2), 3 reg 103(2); 4 reg 104(2)

K1057 The reduction period takes effect from

1. the first day of the assessment period in which the DM determines that a reduction should be imposed **or**

2. if the UC award is not reduced as in **1.**, the first day of the next assessment period **or**

3. if the UC award is already subject to a reduction as in **1.** or **2.**, the first day for which the award is no longer subject to a reduction[1].

The reduction period determination is incorporated in a supersession decision which takes effect from the same date[2]. See ADM Chapter K8 (When reduction is to have effect) for detailed guidance. See also Chapter A4 (Supersession) for guidance on the supersession effective date rules.

1 UC Regs, reg 106; 2 UC, PIP, JSA & ESA (D&A) Regs, reg 27 & 35(1)(e)

K1058 Reduction periods run consecutively[1]. If it is determined that an award of UC 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 TORP, and takes effect once the previous reduction has ended. This may mean that more than one reduction could be made in the same assessment period.

1 UC Regs, reg 101(2) & 106(c)

K1059 When calculating which reduction period applies, the previous most recent sanctionable failure is disregarded for the purposes of escalation (see K1088) if

1. it occurred within 14 days of the current sanctionable failure[1] **or**

2. it occurred more than 365 days before the current sanctionable failure[2] **or**

3. it is not at the same level as the current sanctionable failure.

Note: See ADM Chapters K3 to K6 for further examples in relation to higher, medium, low and lowest–level sanctions.

1 UC Regs, reg 101(4); 2 reg 102(2), 103(2) & 104(2) & (3)

K1060 This means

1. the current sanctionable failure **must** be within 365 days of the previous most recent sanctionable failure in order to escalate to the next penalty **or**

2. where there are two 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 to the next penalty but remain at the same duration as the previous failure.

Note 1: The purpose of escalating sanctions is to deter claimants who repeatedly fail to meet the work-related requirements placed upon them within the same fortnightly signing period. Safeguards are included to ensure the sanction length does not escalate too quickly to the maximum period during a short period. The DM considers whether there has been another sanctionable failure for which a reduction was imposed within 14 or 365 days of the current sanctionable failure in question.

Note 2: Where the failure is a 'pre-claim failure' also see further guidance at K1090 and in ADM Chapter K3.

Example

Raheem has multiple sanctions as detailed in the table shown:

Dates of the sanctionable failures	Period between sanctionable failures	Duration of sanction
26.7.16 - Raheem fails without good reason to attend his work search review with his work coach.		**9 days** - Raheem complies on 28.7.16. This is his first low–level sanctionable failure and a reduction period of 9 days applies - 2 days open ended period from 26.7.16 to 27.7.16 + a 7 day fixed period sanction.
28.7.16 - Raheem fails		**91 days** - this is Raheem’s first higher–level sanctionable

without a good reason to apply for a specified vacancy notified to him by the Work Coach.		failure and a reduction period of 91 days applies.
29.7.16 - Raheem fails to attend a Jobs Fair as part of a work-related requirement on his Claimant Commitment without a good reason.	3 days – previous most recent low–level sanctionable failure occurred on 26.7.16.	**11 days** - Raheem complies on 2.8.16. This is Raheem's 2nd low–level failure and is within 365 days and also 14 days of the previous most recent low–level failure on 26.7.16, therefore an 11 day reduction period applies - a 4 days open ended sanction from 29.7.16 to 1.8.16 plus a 7 day fixed period sanction. The fixed period sanction cannot escalate to 14 days and has to be for the same duration as the previous low–level sanctionable failure (i.e. 7 days).
4.8.16 - Raheem fails without good reason to apply for a vacancy notified in the 'Saved Jobs' page of his UJ account.	13 days – previous most recent higher–level sanctionable failure occurred on 28.7.16.	**91 days** - as there is a previous higher–level sanctionable failure and the most recent previous sanctionable failure on 28.7.16 is within 365 days and also within 14 days of the date of the current higher–level failure on 4.8.16, the sanction duration also has to be for 91days and cannot escalate to the next level.
9.8.16 - Raheem has not met his work search requirements as agreed on his Claimant Commitment.		**28 days** - it is Raheem's first medium–level failure.
16.8.16 - Raheem fails to attend a work search review appointment with his Work Coach without a good reason.	18 days – previous most recent low-level failure occurred on 29.7.16.	**15 days** - Raheem complies on 17.8.16. A 15 day reduction period applies – a 1 day open ended sanction for 16.8.16 plus a 14 day fixed period sanction. There has been a previous low–level sanctionable failure on 29.7.16 which is within 365 days of the current low–level failure on 16.8.16 but not within 14 days, therefore the fixed period sanction escalates to 14 days.
16.8.16 - Raheem has not met his work search requirements.	7 days – previous most recent medium –level failure occurred on 9.8.16.	**28 days** – there has been a previous medium–level sanctionable failure on 9.8.16 which is within 365 days and also within 14 days of the current medium–level sanctionable failure on 16.8.16 therefore the reduction period cannot escalate and has to be for the same

		duration.
29.8.16 - Raheem fails to attend an interview with his Wp provider without good reason.	13 days – previous most recent low–level failure occurred on 16.8.16.	**16 days.** Raheem complies on 31.8.16. A 16 day reduction period applies – a 2 day open ended sanction from 29.8.16 to 30.8.16 plus a 14 day fixed sanction period. The previous most recent low–level sanctionable failure on 16.8.16 occurred within 365 days and also within 14 days of the current low–level failure on 29.8.16. Therefore the fixed period sanction cannot escalate to 28 days and has to be for the same duration as the previous low–level sanctionable failure (i.e. 14 days).
1.9.16 - Raheem fails to apply for a specified vacancy without a good reason.	28 days – previous most recent higher–level sanctionable failure occurred on 4.8.16.	**182 days** - as there is a previous higher–level sanctionable failure and the most recent previous higher–level sanctionable failure on 4.8.16 is within 365 days but not within 14 days of the date of the current higher–level failure on 1.9.16, the sanction duration escalates to 182 days.
18.10.16 – Raheem has not met his work search requirements.	63 days – previous most recent medium–level sanctionable failure was 16.8.16.	**91 days –** there has been a previous medium–level sanctionable failure on 16.8.16 which is within 365 days but not 14 days of the current medium– level sanctionable failure on 18.10.16 for which a 28 day sanction was imposed therefore the sanction escalates to 91 days.

K1061 See ADM Chapter K8 for guidance on when a reduction period begins and ends, including where

1. a reduction is

> **1.1** suspended when the amount of UC is restricted following one or more benefit fraud offences[1] **or**
>
> **1.2** terminated where the claimant satisfies specified weekly earnings rules[2]

2. the reduction period continues after UC entitlement terminates[3].

1 UC Regs, reg 108; SS Fraud Act 01, s 6B, 7 & 9; 2 UC Regs, reg 109; 3 reg 107

K1062 – K1065

Maximum reduction period

K1066 Where imposing a reduction period for a sanctionable failure would mean that the TORP would exceed 1095 days, the number of days in the reduction period is adjusted to ensure that this limit is not exceeded[1]. 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 K3).

1 UC Regs, reg 101(3)

Meaning of total outstanding reduction period (TORP)

K1067 When considering whether K1066 applies, the TORP is the total number of days of a reduction period for which an award of UC has not yet been reduced[1].

1 UC Regs, reg 101(5)

Example

Sally has had several different sanctions imposed for failure to comply with work–related requirements since her entitlement to UC 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. Sally 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 Sally 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 TORP is 25 days, that is the number of days for which Sally's award of UC has not yet been reduced. The DM therefore imposes a reduction period of 1070 days, effective from 15.6.14.

K1068 – K1069

Sanctionable failure decision making K1070 - K1120

Introduction

K1070 This section gives guidance on general principles the DM should consider when making decisions on sanctionable failures.

K1071 – K1074

Has the claimant failed to comply with a validly imposed work–related or connected requirement

K1075 When considering whether to impose a higher, medium, low or lowest–level sanction, the DM should first determine whether the claimant has failed to comply with a work–related requirement and if so, what that failure is. See ADM Chapter J3 for detailed guidance on work–related requirements.

Note 1: Also see guidance at K1007 with regard to the imposition of work-related requirements and sanctions. If the claimant is not entitled to UC on the date of the failure no conditionality and no sanctions can be imposed but see ADM Chapter 8 for guidance on reserving sanction decisions where the claimant was entitled to UC on the date of the failure but the decision to sanction has not been made before the claimant's award of UC has terminated.

Note 2: The DM should be satisfied that the Secretary of State has met the obligation to validly impose and correctly notify any mandatory requirement. The amount and quality of information provided to the claimant about their responsibilities will be relevant when considering whether a sanctionable failure has occurred (see further guidance on the public law principles of fairness at K1151 et seq).

Does a reduction apply

K1076 Where the DM determines that the claimant has failed to comply with a work–related requirement, the next step is to consider whether it is a failure for which

1. no reduction would apply[1] **or**

2. a reduction would apply.

1 UC Regs, reg 113

K1077 See ADM Chapter K3 (Higher–level sanctions) for guidance on where no reduction is made for specified higher–level sanctionable failures.

K1078 – K1079

Good reason

K1080 If the failure is one for which no reduction is applied, for example failing to apply for a vacancy which exists due to a strike during a trade dispute, the DM does not need to consider good reason.

K1081 If the DM determines that the failure is one for which a reduction would apply, they should consider whether the claimant had a good reason for the failure to comply. See ADM Chapter K2 for detailed guidance on good reason.

K1082 – K1084

Which sanction level and reduction period applies

K1085 Where

1. the claimant has no good reason for a failure to comply with a work–related requirement **and**

2. the sanctionable failure is one for which a reduction applies

the DM should consider which sanction level and reduction period applies.

K1086 The reduction period depends on whether the sanctionable failure results in a

1. higher–level sanction[1] (see ADM Chapter K3) **or**

2. medium–level sanction[2] (see ADM Chapter K4) **or**

3. low–level sanction[3] (see ADM Chapter K5) **or**

4. lowest–level sanction[4] (see ADM Chapter K6).

1 UC Regs, reg 102; 2 reg 103; 3 reg 104; 4 reg 105

K1087 Reduction periods can be for

1. an open period **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 , followed by a fixed period, while lowest–level sanctions are for an open period only.

Note: For full guidance on ending the open-ended sanction and the compliance condition see K1140 et seq.

K1088 Reduction periods are for different lengths depending on

1. the claimant's age at the date of the sanctionable failure **and**

2. whether there have been other sanctionable failures at the same level before the current sanctionable failure.

Where **2.** applies, this is known as escalation. For example, higher–level sanctions for a claimant aged 18 or over are for 91 days or 182 days, depending on whether the current sanctionable failure is a first, second or subsequent sanctionable failure within a 365day period, but not within 14 days (see ADM K1059). Higher–level sanctions for a claimant aged 16 or 17 are for 14 days or 28 days.

K1089 As part of the process of considering whether escalation applies, the DM should consider whether there have been previous sanctionable failures

1. at the same level **and**

2. for which a decision to impose a reduction has been made, even if the reduction has not yet begun.

Note 1: The DM considers whether there has been another sanctionable failure at the same level (i.e.

higher, medium or low) within 14 or 365 days of the date of the current sanctionable failure in question.

Note 2: See ADM Chapter K7 for guidance on the effect of a JSA or ESA sanction on UC reduction periods, where the JSA or ESA sanction is moved to UC.

K1090 A failure

1. for which no reduction is applied[1] **or**

2. which is a pre–claim failure[2]

is excluded when calculating which reduction period applies. See ADM Chapter K3 (Higher–level sanctions) for further guidance.

1 WR Act 12, s 26(8)(a); UC Regs, reg 113; 2 WR Act 12, s 26(4); UC Regs, reg 102

K1091 When considering the period of the reduction (see K1050) for higher, medium and low–level sanctions, the DM should consider whether there was another sanctionable failure in the period preceding the current sanctionable failure. This includes failures which were subsequent to the failure in question but were decided earlier.

Example

Siân is entitled to UC. She had been required by the adviser to register with a specified employment agency by 20.5.14, as part of her search for catering work, but fails to do so. She notifies the adviser on 23.5.14 that she registered with the agency on the same day. The failure is referred for determination by the DM, who writes to Siân asking for an explanation for the failure to comply.

Siân has not yet replied when she fails to attend her fortnightly interview at the Jobcentre on 5.6.14 and attends on 19.6.14 saying she forgot about the previous appointment. The interview on 19.6.14 meets the compliance condition.

On 23.6.14 the DM imposes a reduction of 21 days (14 days before compliance + 7 days as there are no previous sanctionable failures) for the failure to attend the fortnightly interview. The failure of 20.5.14 is not taken into account as no sanction has been imposed.

On 26.6.14 the DM considers the failure to comply with a specific work search requirement of 20.5.14. Siân has not given any good reason for the failure. The DM imposes a reduction of 17 days (3 days before compliance + 14 days as there was another sanctionable failure before the current failure). The 17day reduction period is added to the existing 21 days reduction period.

K1092 – K1099

Start of reduction period

K1100 Once the DM has determined which sanction level and reduction period applies, including where the period is reduced as in K1060, the reduction period is added to the TORP (see K1067). The next step is to determine when the reduction period begins. This is normally the first day of the assessment period in which the determination is made, or if it is not possible to implement the reduction then, the following assessment period[1]. The DM also needs to consider whether the period should follow a previous reduction as in K1058. See ADM Chapter K8 (When a reduction is to have effect) for detailed guidance.

Note: The DM's decision is the starting point from which to consider when to apply the reduction period. Once the decision is made the reduction must be made from the first day of the current assessment period or the first day of the following assessment period. If a sanction reduction has not taken effect in either the assessment period in which the decision is made, or the assessment period following it, there will be an overpayment of UC.

1 UC Regs, reg 106

Amount of reduction

K1101 The final step in the process of making a decision on a sanctionable failure is to determine the amount of the reduction[1], including the daily reduction rate[2]. This varies depending on the claimant's circumstances at the end of the assessment period, and whether they are a joint claimant. The daily reduction rate is

1. an amount equivalent to the standard allowance multiplied by 12 and divided by 365 **or**

2. where the claimant satisfies certain conditions at the end of the assessment period (including a change to work–related requirements during the assessment period)

> **2.1** 40% of the daily reduction rate in **1.** (for example where they are aged 16 or 17, or are responsible for a child aged between one and four) **or**
>
> **2.2** nil (where they have LCWRA).

Reduction rates for joint claimants are considered separately, and half the daily reduction rate in **1.** or **2.** applies. See ADM Chapter K9 (Amount of reduction) for detailed guidance.

1 UC Regs, reg 110; 2 reg 111

K1102 – K1104

Recoverable hardship payments

K1105 Where the DM decides to impose a sanction, and the claimant's benefit is reduced, the claimant may be eligible for recoverable hardship payments. See ADM Chapter L1 (Hardship) for detailed guidance.

K1106 – K1110

Revising sanctions

K1111 A decision to impose a sanction can be reviewed at any time[1]. For full guidance on revision see ADM Chapter A3.

1 UC (D& A) Regs 2013, reg 14

K1112 - K1120

Delegation and contracting out of Secretary of State functions K1121 - K1150

K1121 The functions of the Secretary of State under certain legislation[1] can be carried out by employees of such persons that are authorised by the Secretary of State for that purpose (i.e. the ‘authorised person’)[2].

1 WR Act 12, s 13 – 25; 2 s 29

K1122 The authorised person (or an employee of that person) can act on behalf of the Secretary of State with regard to functions relating to the following

1. Work-related requirements[1]

2. Claimant commitment[2]

3. Work focused interview requirement[3]

4. Work preparation requirement[4]

5. Work search requirement[5]

6. Work availability requirement[6]

7. Claimant’s subject to no work-related requirements[7]

8. Claimant’s subject to work-focused interview requirement only[8]

9. Claimant’s subject to work preparation requirements[9]

10. Claimant’s subject to all work-related requirements[10]

11. Connected requirements[11]

12. Imposition of requirements[12]

13. Compliance with requirements[13].

Note: For detailed guidance on claimant responsibilities see ADM Chapters J1, J2 and J3.

1 WR Act 12, s 13; 2 s 14, 3 s 15, 4 s 16; 5 s 17; 6 s 18;

7 s 19; 8 s 20; 9 s 21; 10 s 22; 11 s 23; 12 s 24; 13 s 25

K1123 This means an authorised person can carry out any of the functions listed at K1122 wholly or partly and is to be treated as acting on behalf of and as an officer of the Secretary of State[1].

Note: An authorised person does not have the power to decide good reason or whether a sanction is applicable. That function remains the sole responsibility of the DM to consider the facts and evidence and all the individual circumstances of the case to make an impartial, independent and reasoned decision. (See ADM Chapter K2 (Good reason) for full guidance on good reason.)

1 WR Act 12, s 29

Example 1

When a Wp provider mandates a claimant to apply for a particular job vacancy they are acting as an authorised person on behalf of the Secretary of State asking a claimant to comply with a work search requirement.

This means the provider can require the claimant to take all reasonable action for the purpose of obtaining paid work and can mandate the claimant to apply for a particular job vacancy just as the Secretary of State would.

If the claimant fails to comply without a good reason the DM considers a higher-level sanction as the claimant will have failed to comply with a work search requirement to apply for a job vacancy for paid work (see ADM Chapter K3 for guidance on refusal of employment and higher-level sanctions).

Example 2

When a Wp provider mandates a claimant to participate in the Wp scheme by attending an interview with the provider they are acting on behalf of the Secretary of State asking a claimant to comply with a work-related requirement.

This means the provider can impose a work-related requirement on the claimant and mandate them to take part in the scheme and participate in reasonable activities in relation to obtaining work.

If the claimant fails to comply without a good reason the DM considers a low–level sanction as the claimant will have failed to comply with a work-related requirement (see ADM Chapter K5 for guidance on low-level sanctions).

K1124 When the DM is considering a sanction they must first consider what the authorised person is requiring the claimant to do and under which section of the legislation[1] and whether this will mean it is a higher- level failure[2] or another level failure[3] that applies.

1 WR Act, s 13 – 25; 2 s 26; 3 s 27

Public Law Principles of Fairness K1151 - K1999

Prior information requirement

K1151 The 'prior information requirement' principle is from a judgment of the Court of Appeal[1]. The judgement provided, in the general interest of fairness,

1. each claimant's responsibilities **and**

2. the consequences of not meeting them

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

Note 1: The fact that participation in an activity or requirement is mandatory is beside the point. The whole purpose of the claimant having relevant information to be able to make representations is so the Secretary of State, or such authorised person, may be persuaded that the requirement to do any specific action or activity should not be made and either withdrawn or modified. This will be judged on the facts of the individual case.

Note 2: The 'prior information requirement' may be relevant both to whether a specific work-related requirement has been validly imposed **and** to whether there was good reason for not complying with it. It applies to any work-related or connected requirement notified to the claimant where there is a consequence of sanction for non compliance. Failure to meet the 'prior information requirement' 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.

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

K1152 The amount and quality of information provided to the claimant in

1. the claimant commitment **or**

2. such manner as the Secretary of State may determine, if not included in the claimant commitment, about their responsibilities and the consequences of any failure to comply will therefore be relevant when considering whether a sanctionable failure has occurred in each individual case (also see further guidance regarding 'substance' at K1158 and Notifications at K1166).

K1153 Claimants need to

1. have the link between conditionality and the application of sanctions fully explained at the start of any claim

2. have clear and unambiguous communications

3. know when they are in danger of being sanctioned

4. know what actions they have to take to end a sanction (i.e. the compliance condition in the case of low and lowest-level sanctions) **and**

5. be told when a sanction has been imposed, the amount and the duration.

K1154 The 'prior information requirement' should be approached on an individual case by case basis as the ability of claimants to access information and express themselves will vary considerably in their levels of education and ability to understand the complexities of the conditionality and sanctions regime at a time when they may be under considerable stress and the outcome of which (i.e. a sanction) of any failure to comply may have serious consequences on a claimant's ability to meet their living needs.

K1155 In the interests of fairness[1], therefore, claimants should be in no doubt of what is expected of them and the consequences of failing to comply with any requirement and be able to make meaningful representations to a decision maker before a decision is made. See further guidance on Notifications at K1166.

1 R (Reilly) v SSWP [2014] AC 453 ; R (Reilly 2) v SSWP [2016] ECWA Civ 413

K1156   When deciding sanctions cases the DM must consider

1. whether the work-related requirement was validly imposed in the first place **and**

2. the issue of good reason for failing to comply.

K1157 Requirements will only be validly imposed if the claimant has been notified of the

1. ‘substance’ of the particular requirement **and**

2. consequences of failing to comply with it[1].

Whilst it is not necessary for communications to have any prescribed form of legal wording, they cannot however be left to implication. It is the ‘substance’ of communications that will be the key and should be in a format that the claimant can readily understand (see K1158).

1 JB v SSWP[2018] UKUT 360(ACC)

The meaning of ‘substance’

K1158 ‘Substance’ is not defined in legislation and therefore has to be given its ordinary meaning which is to ‘specify the intended purpose or subject matter’. The Secretary of State has an obligation to ensure any notification identifies to the claimant the subject matter of the requirement clearly and definitely[1]. For example; the claimant needs to be told the purpose of a particular interview and not simply that they are required to take part in a ‘meeting’ or an ‘appointment’. The claimant needs to have sufficient information to be able to prepare for the specific interview and have the opportunity to get any relevant information or evidence they need (see further guidance at K1181).

Note: Not to do so 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.

1 JB v SSWP[2018] UKUT 360(ACC)

K1159 - K1160

Burden of proof

K1161 The onus is on the Secretary of State to show there is a sanctionable failure and only then must the claimant show good reason for the failure. There will therefore need to be cogent documentary evidence that shows that the claimant was required to undertake a work-related or connected requirement on a given day which they failed to do. Record keeping and the availability of evidence about the imposition of a work-related requirement will therefore be crucial to show a work-related requirement was validly imposed.

Note 1: Notifications form part of any appeal submission to demonstrate that the department was legally compliant and have to be available in all appeal cases (also see the guidance at K1164). Therefore whatever is required of a claimant in their responsibilities, the Secretary of State has to be able to produce evidence to support that the requirement was validly imposed if a sanction is to be legally applied. This can be a copy of a formal written notification or a screen print of electronic records, such as record of a telephone conversation, face to face interview, text or email message. It could be a copy of the 'to-do', the relevant ALP, a copy of journal notes or claimant history from the claimant's on line profile.

Note 2: If the Secretary of State produces records only showing a date of requirement to take part in a work-related requirement and no documents showing the actual wording used, this may be insufficient to show the claimant was required (i.e. mandated under threat of sanction) to take part in the requirement rather than being merely requested to do so.

Note 3: A tribunal has the right to consider whether adequate notification was given and whether a particular means of communication satisfied the requirement of notification[1].

1 R (Reilly) v SSWP [2014] AC 453; R(Reilly 2) v SSWP [2016] ECWA Civ 413

'Regularity'

K1162 'Regularity' is discussed in case law[1]. The justification for presuming regularity is that things are usually done regularly and thus, in the absence of any contrary evidence, it may be regarded as probable that they will have been done regularly in any particular case. However, the presumption is no more than that, it is rebuttable. Moreover, since it may be contrary to experience that certain things are always done regularly, a party wishing to rely on the presumption may properly be required to prove that things were in fact done regularly in the particular case in hand.

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

K1163 The DM has to be able to show the contents of what was sent to the claimant, if and when requested not just rely on 'regularity' and showing that a particular notification or letter was sent. In essence the Secretary of State ought generally to provide and ensure a copy of the contents of any relevant notification is provided in every case.

Note: The Secretary of State, however, is entitled to rely on the presumption of regularity that where an interview is recorded as having been fixed, it would have been intimated to the claimant. As the requirement to participate in interviews has already been imposed by means of the claimant commitment, the intimation of the time and place for interview is merely a specification of a requirement already made1. Also see the guidance at K1176 and K1181.

1 TJ v SSWP [2015] UKUT 0056 (AAC) CJSA 1266 2013

K1164 Consideration of regularity will turn on the facts of the individual case and whether the absence of the notification is relevant. There should be no ambiguity that a claimant

1. did not in fact receive the relevant notification **or**

2. had been, or could have been, confused by it.

K1165

Meaning of 'specify'

K1166 Although UC legislation does not prescribe that a notification has to be in writing or what is required in notifications it does use the word 'specify' throughout legislation in relation to claimant responsibilities and therefore has some obligation attached to it. For example

1. the Secretary of State may **specify** how, when and where a WfI is to take place[1]

2. a work search requirement is a requirement that a claimant take any particular action **specified** by the Secretary of State[2].

Note: These are examples and not an exhaustive list. Wherever the term 'specified' appears in UC legislation[3] with regard to claimant responsibilities it has the same obligation attached to it (see K1167)

1 *WR Act s 15(4)*; 2 *s 17(1)(b)*; 3 *s 14 to 25*

K1167 'Specify' is not defined in legislation and therefore has to be given its ordinary meaning which is to 'identify clearly and definitely'. The Secretary of State therefore has an obligation to ensure any requirement is identified clearly and definitely to the claimant in order to meet the legal obligation of the 'prior information requirement' (see K1151) and that the substance of any requirement has been communicated adequately (see K1158).

K1168 Claimants should be in no doubt as to what is expected of them in order to retain full entitlement to UC. Claimants **must**

1. be clearly notified of the specific requirement **and**

2. be informed of the consequences (i.e. sanctions) of failing to meet such requirements (however the Secretary of State may choose to notify the claimant of any requirement) **and**

3. have notifications in a format that the individual claimant can readily understand (see further guidance on notifications at K1171 et seq).

Note: Although within UC legislation there is a degree of flexibility to permit multiple methods of communication to claimants, the key matter is whether fair notice has been given, having regard to all of the communications between the Secretary of State and the claimant (see further guidance at K1161 et seq regarding the burden of proof).

Complex needs

K1169 Care should be taken with claimants who may indicate they have complex needs or are particularly vulnerable. For example; they indicate they are suffering from

1. mental health issues

2. homelessness

3. are a drug or alcohol user

4. a victim of domestic violence

5. sexual or physical abuse **or**

6. are under 18.

Note : This list is not exhaustive. The decision maker **must** always consider the individual claimant's circumstances and whether any easements of their work-related requirements should apply. This will depend on scrutiny of the individual circumstances of the case in consideration of what is reasonable for the particular claimant (also see guidance on complex needs in ADM Chapter J3 and ADM Chapter K2).

Setting rational requirements

K1170 Only rational requirements can be imposed. For example

1. the specification of two interviews in different places at the same time that cannot practicably be coordinated can be disregarded,

2. what is specified must be compatible with other requirements, for example; a claimant cannot be required to attend so many interviews that it is made impossible for the claimant to meet their work search requirements,

3. specification must imply that communication to the claimant is made in time for the claimant to be able to complete the requirement.

Notifications

K1171 UC legislation does not prescribe what must be in notifications or that they have to be in written form but in the duty of fairness as discussed in caselaw (see K1151 et seq) the Secretary of State should be able to provide details that a requirement was validly imposed and adequately notified to the claimant. All parts of the notification process, including the how and when, should be recorded in departmental systems and copies made available in the event of an appeal. This can be

1. a copy of a formal written notification **or**

2. a screen print of departmental system records showing a specific work-related requirement was set by

2.1 telephone conversation

2.2 face to face interview

2.3 text

2.4 journal message

2.5 e mail message **or**

2.6 the issue of a specific letter (for example: a letter designed for the purpose of requiring participation in a particular employment scheme such as the WHP or sbwa).

Note 1 : Work -related requirements would normally be notified to the claimant in their on line journal via a 'to-do'. A copy of the relevant ALP for the specific activity from the claimant's on line journal or a screen shot of journal notes or claimant history could also provide evidence of notification.

Note 2: Also see the guidance at K1172**.** A requirement can be constituted over the course of more than one communication.

More than one notification

K1172 A requirement can be notified over the course of more than one communication[1]. It will be for the decision maker to look at the totality of all the evidence available. Notifications can be considered together, and that course of communication can serve both as imposition of

1. the requirement **and**

2. its specification.

For example, in consideration of whether a claimant was adequately notified of a requirement to participate in an interview, intimation of the date, time, place and reason for the interview and the terms of the Claimant Commitment can be considered together. It is therefore important that a copy of the relevant claimant commitment **and** the record of the specific interview being set are both available as evidence and any accompanying journal notes or system records that are relevant.

Note 1: The time, date and place of each interview that the claimant is required to participate in may be specified at the previous interview orally (either face to face or by telephone). A record should be made of the interview being fixed and a copy of that record would be sufficient evidence of the specific appointment having been set. The claimant commitment provides evidence that the requirement to attend and take part in all interviews has been imposed and the consequences of failing to comply have been given to the claimant at the beginning of the claim when accepting the claimant commitment.

Note 2: Evidence other than the claimant commitment about the imposition of a work-related requirement therefore will be crucial. A copy of **all** the relevant communications will need to be available to be included in any appeal papers to the tribunal in the event of an appeal.

1 SSWP v TJ [2015] UKUT 56 (AAC) CJSA 1266 2013.doc

K1173 For guidance on specific notification requirements in certain circumstances see further guidance at

1. ADM Chapter K3 (Higher-level sanctions) regarding informing the claimant of a job vacancy

2. K1181 regarding requiring a claimant to attend and participate in an interview

3. K1186 regarding mandating a claimant to an employment scheme.

Note: The DM should be mindful of the 'prior information requirement' whenever the Secretary of State requires the claimant to take part in any work-related or connected requirement which could result in a reduction of benefit. The claimant can be in no doubt as to what is required of them, by when, and the consequences of failing to comply (also see the guidance at K1151 for guidance on the 'prior information requirement', K1156 regarding 'substance', K1161 for guidance on the Burden of proof and for guidance on regularity see K1162).

K1174 The DM should scrutinise system records to be satisfied that a work-related or connected requirement was validly imposed and that relevant and adequate notification was made in order to go on to consider good reason and whether a sanction is appropriate. As long as the DM is satisfied

1. a work-related requirement was validly imposed **and**

2. the claimant was adequately notified **and**

3. there has been a sanctionable failure (i.e. the claimant failed to comply with the requirement)

the DM can go on to consider whether the claimant can show good reason for the failure.

Note 1 : See ADM Chapter K2 for full guidance on good reason.

Note 2: The DM should ensure they have checked all the claimant history and journal entries for any evidence that may be relevant to the consideration of whether a sanction is appropriate and not just rely on the information recorded in the referral from the work coach. This can be especially important if the claimant has indicated they could have complex needs or are particularly vulnerable or experiencing a personal crisis (also see K1169 and ADM Chapter K2 for further guidance on complex needs).

K1175 The DM can also consider the evidence provided by the claimant given as reason(s) for failing to comply with the set requirement. In cases where the claimant has actually given a reason for failure and does not raise the issue of notification in their good reasons the evidential burden can also be discharged by the claimant's admission inherent in his reasons given for non-compliance.

Claimant commitment

K1176 Once accepted, the claimant commitment is a record for both parties of

1. what was discussed at the initial interview

2. what work-related requirements were accepted in order for the claimant to receive UC **and**

3. the claimant being made aware and understanding the consequences of any failure to comply with their work-related requirements (i.e. sanctions) see **Note 3**.

Note 1: The claimant **must** have accepted a claimant commitment in order to be entitled to UC. For full guidance on the Claimant Commitment and claimant responsibilities see ADM Chapter J1.

Note 2: The relevant claimant commitment is the one current at the time of the sanctionable failure regardless of the time that has elapsed since the claimant accepted it and a copy should always be available as evidence to show what was accepted and what requirements were imposed.

Note 3: The work coach will have discussed the requirements and consequences recorded in the claimant commitment in detail at the interview when the claimant accepted it.

K1177 The claimant commitment is regularly reviewed and used to document requirements as they change. For example; specific work search, one-off work search and work preparation activities (mandatory and voluntary) in addition to the generic requirements, such as attending and participating in interviews when required to do so or agreeing to regularly access the on line journal and complete all the 'to-do's' listed.

Note: The claimant commitment current at the time of the relevant sanctionable failure should always be available as evidence to show what general requirements were accepted.

K1178 A requirement on the claimant commitment, however, does not meet the evidence requirement as proof of notification of a specific action or activity on a given date at a specific time. For example

1. “to attend and take part in appointments with my work coach when required” (also see K1181) **or**

2. “participating in an employment programme" (also see K1186) **or**

3. “to access my journal often and complete all the activities listed in the “To Do’s”.

The claimant commitment imposes requirements but further communications are required to set the requirement of a specific activity on a given date at a specific time.

Note 1: At the point a Claimant Commitment is created the work coach would not have details of a specific appointment or activity. For example, appointments to participate in an interview with a WHP provider are notified separately by the provider and different processes cover the issue of such notifications. See further guidance at K1181.

Note 2: There is no question that acceptance of a Claimant Commitment means the claimant has agreed the requirements nor does it mean there is a personal commitment to carrying out the stated requirements. The information within it is insufficiently specific and the requirements are merely generic. There is a fundamental difference between an undertaking being accepted by a claimant and a requirement being imposed by the Secretary of State. A general requirement to comply with the claimant commitment does not in itself give grounds to impose a sanction although sanctions may be imposed for failures to comply with work-related and connected requirements that are recorded and imposed within the claimant commitment. Separate notifications are used to notify a specific requirement or activity. The validity of the requirement therefore is not dependant on it being in the claimant commitment and a requirement can be notified over the course of more than one communication (see K1174).

Note 3: See further guidance in K1181 regarding participating in an interview and K1186 regarding participating in an employment scheme.

Note 4: When considering a sanction for any failure to comply with a work-related requirement the DM will consider each case on it's own merits, facts, circumstances and evidence at the time of the failure applying the reasonable test on the balance of probabilities. For full guidance on the reasonable test and what constitutes good reason see the guidance in ADM Chapter K2.

K1179 - K1180

Participating in an interview (other than the initial interview)

K1181 Notice of the specific appointment has to be available as evidence detailing the relevant appointment, i.e. the date, time, place and reason (in basic terms) of the interview in addition to the imposition of requirements in the current claimant commitment. A record should have been made of each interview being fixed. Evidence could be a copy of

1. the appointment notification in departmental system records (if one was issued) **or**

2. system records setting the time, date and place in a telephone conversation, face to face interview, text or email message **or**

3. the appointment history showing date, time and place of the appointment and how the claimant was notified (for example; by telephone or orally face to face) **or**

4.the specific 'to-do' and/or journal/system history notes.

Note 1: This list is not exhaustive. By whatever method the claimant is notified of a requirement a copy of the notice(s) **must** be available as evidence and **must** show details of the specific appointment (i.e. the date, time, place and substance of the interview) and how the claimant was notified (for example, orally face to face, by telephone or via a 'To do', journal notes or by electronic means such as a text message or email). Normally there will also be a record within departmental systems of the claimant's appointment history.

Note 2: Evidence of the terms of a claimant commitment using imperative language, together with a record that an interview was set should be sufficient to discharge the evidential burden upon the Secretary of State to show that a requirement to participate in an interview was properly imposed (also see K1182).

Note 3: For full guidance on claimant responsibilities and the claimant commitment see ADM Chapters J1, J2 and J3.

Note 4: For further guidance on participating in an interview (other than the initial interview) see ADM Chapter K5 (low-level sanctions).

K1182 The claimant should be notified of the type of interview they are being requested to take part in (i.e. the wording must be sufficient to convey, in basic terms, the reason for the interview). For example, wording could be as follows;

1. 'you are required to take part in an interview to discuss a training opportunity' **or**

2. 'you are required to take part in an interview with your work coach to look at what you have been doing to look for work over the last two weeks' **or**

3. 'you are required to take part in an interview to see how you've got on writing up a CV and creating an online profile' **or**

4. 'you are required to take part in an interview to review your commitments'.

This list is not exhaustive. It will be for the work coach or case manager when booking an interview requirement to ensure the intent of the interview is recorded in a 'to-do', in journal notes or the claimant's history in each individual case as well as the time, date and place of the interview (see K1158).

Note 1: The requirement is not merely attendance at an interview at the specified time and place on a certain date but participation in it. Participation means to 'take part' and must at least entail turning up on the right date, at the right time and place as specified but also extends to making a meaningful contribution at the interview. Full guidance can be found in ADM Chapter K5 (Sanctions – low-level sanctions).

Note 2: There is usually no mandatory requirement to take part in a GIS. Taking part in such a session is usually voluntary and failure to take part would not result in a sanction. For full guidance on GIS see ADM Chapter K5. It should be made clear to the claimant what type of interview they are required to take part in and if it includes a Group Information Session then it should be made clear to the claimant that taking part in that part of the interview is entirely voluntary.

Example 1

John has been claiming UC since October 2024. He has expressed an interest in factory work. At his regular work search review the work coach asks John to take part in a meeting to discuss a training opportunity for fork lift truck driving with a local employer who will be at the Jobcentre on 12.1.25.

The evidence of notification in John's case would be the claimant commitment and the appointment history. The oral intimation of the date, time, place and reason for the interview (to discuss a training opportunity) is recorded in the appointment history, and the terms of the claimant commitment accepted at the beginning of his claim are considered together. These serve as both imposition of the requirement and its specification to attend and take part in the interview to discuss a training opportunity scheduled for 12.1.25.

Example 2

Charlie claims UC and accepts his claimant commitment. As part of his commitments he accepted, "to attend and take part fully in all meetings with my work coach as required". In the sanctions section of his journal the following information is displayed, 'Attend and take part fully in all appointments:

> If you don't, your payment will be reduced from the date of the appointment until the day before you contact us to arrange a new one as long as you then attend the new appointment. Once you've done this, your payment will be reduced for an additional 7, 14 or 28 days'.

Charlie is set a ‘To do’ in his journal to take part in an appointment to discuss his work-search for the last 2 weeks with his work coach at the Jobcentre on 1.10.25 at 10:45 am. He was notified of the appointment via his on-line journal in a ‘to-do’ and a note to remind him of the appointment was set in his on-line journal on As part of his claimant commitment Charlie also agreed to "sign into my on-line account often to check my journal and complete all activities in my to-do list”.

Charlie failed to attend the interview on 1.10.25.

The DM considers Charlie was adequately notified of the appointment.

The claimant commitment, the 'to-do' and journal entries together show Charlie was fully aware of what he was required to do and by when and the consequences of a sanction if he failed to comply for no good reason.

K1183 If a claimant was sanctioned for failing to do something they didn’t realise they had to do, for example, the claimant was notified they were required to take part in an interview to discuss a training opportunity but at the interview they failed to provide evidence of their work search which was the reason a sanction was imposed, then they would have a legitimate complaint that they had not been adequately told the purpose of the particular interview.

Example

See example 1 at K1181.
John attends the Jobcentre as required to discuss a training opportunity. At the interview his work coach asks him if he can show evidence of his work search for the last 2 weeks. John says he didn’t realise he would be asked for his work search and only thought he was meeting the employer to discuss the fork lift truck driving opportunity.
No sanction can be considered as John was not adequately informed about the work search review requirement.
(Also see Example at K1183).

K1184 It may well be permissible to take into account a regular pattern of interviews. For example; a claimant may have been asked back for the same kind of interview two weeks later. The claimant’s experience from earlier interviews may be relevant as to whether they have been informed of the substance of a requirement.

Example

Rhonda has been claiming UC since 23.1.19. She regularly takes part in fortnightly work search reviews with her work coach on a Tuesday at 10.30am.
On 15.3.19 a ‘to do’ is set in her journal to take part in an interview with her work coach at the Jobcentre on Tuesday 19.3.19 at 10.30am.

As Rhonda has been regularly taking part in work search reviews on Tuesday's at 10.30am it would be permissible to take into account her regular pattern of interviews when considering whether a requirement was validly imposed. It is reasonable to assume Rhonda should know the reason for her required attendance. However, the work coach had discussed with Rhonda updating her CV with details of a recent work experience placement. At the interview on 19.3.19 Rhonda is asked to produce her updated CV but she says she has not brought it with her. Rhonda provides sufficient evidence of her work search for the past 2 weeks.
As the 'to-do' and journal entries did not make it clear to Rhonda the purpose of the interview was to discuss the updated CV no sanction can be considered for her failure to produce an updated CV at that interview. Rhonda thought she was attending her normal work search review and provided sufficient work search evidence for the relevant 2 weeks. This was reasonable in her circumstances as the meeting was scheduled for the same day and time of her regular work search reviews.

K1185

Participating in an employment programme

K1186 In addition to a requirement imposed on the claimant commitment to participate in a relevant employment programme, the requirement to notify is usually met by

1. the issue of a letter and accompanying leaflet (see **Note 2**.) to the claimant by DWP at the point of referral to the relevant employment scheme (also see K1187) and

2. a notification from JCP or the provider to tell the claimant what specific activity they are actually being mandated to do including the specifics of the date, time and place as required (usually a MAN or a MEN) .

Note 1 : These notifications contain the crucial information required for mandatory participation in an employment scheme. The combined effect of these notices meet the obligations to properly notify and mirror the requirements in JSA legislation[1] which have been tested in the courts[2] and found to be valid notices within the legal requirements.

Note 2: The claimant will also usually be issued with further information outlining the specific scheme, i.e. Sc, sbwa, Youth Obligation, Wp, WhP. For example, Wp claimants are issued with an information leaflet which outlines the responsibilities whilst participating in the scheme to include attending meetings and taking phone calls as arranged and completing activities the provider tells the claimant to do.

Note 3: For full guidance on participating in employment schemes see ADM Chapter K5 (Sanctions- low-level sanctions).

1 *JSA(SAPOE)Regs, reg 5;*
2 *SSWP v Reilly and Hewstone and SSWP v Jeffrey and Bevan [2016] EWCA Civ 413*

K1187 In addition to the notifications outlined in ADM K1186 the work coach will have discussed with or advised the claimant

1. the benefits of participation in a relevant employment scheme

2. what is expected of them whilst participating **and**

3. the consequences of failing to participate

before they are mandated to take part.

Note 1: This gives the claimant opportunity to raise any representations about the scheme in order to meet the ‘prior information requirement’ (also see K1151). The onus is on the claimant to establish that any representations would have changed the decision to refer the claimant to the scheme.

Note 2: Even though the public law principles of fairness means claimants should have the relevant information about a scheme prior to referral to it, there is no obligation to allow claimants to negotiate and decide which scheme they participate in. For full guidance on employment schemes see ADM Chapter K5 (Sanctions - low-level sanctions). Once they have been referred to an employment scheme a claimant is expected to remain with that provider for the duration of the specific scheme.

K1188 – K1999

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