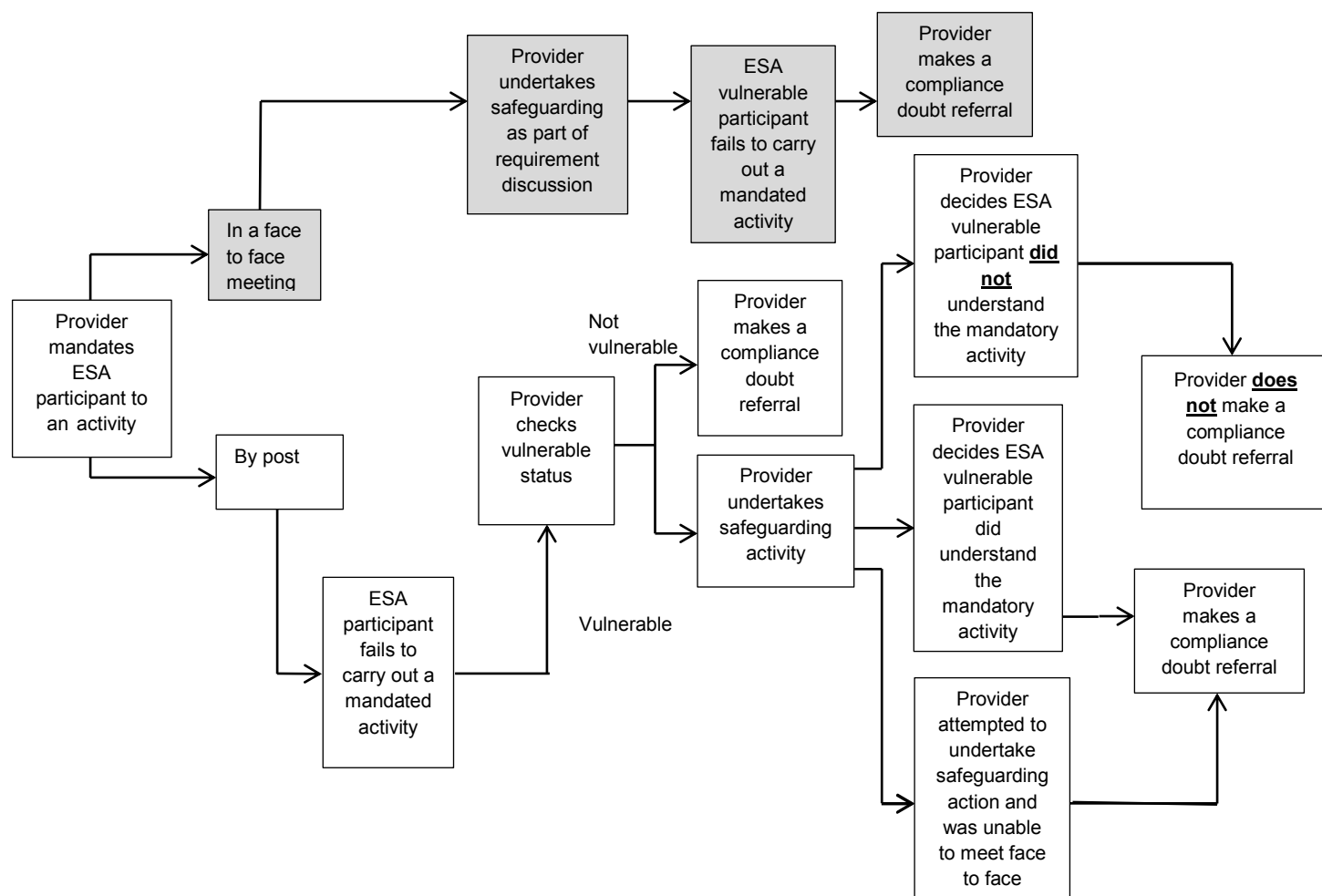


Chapter 4b - Safeguarding and Vulnerability

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High level must do's



1. The purpose of this chapter is to provide you with a single dedicated source of information relating to the treatment of vulnerable Employment and Support Allowance (ESA) participants when they are on the Work Programme.
2. This chapter explains the safeguarding procedures that must be followed when dealing with vulnerable ESA participants, as well as the unique challenges that they may face when referring them to a mandatory activity.

Please Note: This chapter should be read in conjunction with [Work Programme Provider Guidance Chapter 3a – Mandation](#), [Work Programme Provider Guidance Chapter 4 - Accepting referrals, initial participant engagement and registering an attachment](#), [Work Programme Provider Guidance Chapter 5 – Change of circumstances and notifications](#) and [Work Programme Provider Guidance Chapter 6 - Raising a compliance doubt](#).

ESA participant fails to carry out a mandated activity

3. Before raising a compliance doubt for vulnerable ESA participants you must have ensured, by engaging face to face with the participant, that they have understood the mandatory requirement of the activity and possible consequences of not carrying out the activity. This is referred to as [‘safeguarding.’](#)
4. This policy is intended to protect vulnerable ESA participants and ensure no sanction is imposed inappropriately because the vulnerable ESA participant has not fully understood the mandatory requirement and the consequences of non-compliance. When an ESA participant fails to undertake a mandated activity you should complete the following actions.

Action

- Check the initial PRaP referral for their vulnerable status.
- Check for vulnerable status feedback on recent sanction outcome decision notifications.
- Check relevant change of circumstances notifications WP07b or CEPD1.
- Check your records/systems for any notes made.

Please Note: A new cross provision change of circumstances form (CEPD1) was introduced on 23 November 2015 which replaces the WP07b for notifications issued by Jobcentre Plus.

Participant is not a vulnerable ESA claimant

5. If there is no evidence the ESA claimant is vulnerable then you should make the compliance doubt referral in the usual way.

Action

- Take the compliance doubt referral steps detailed in [Work Programme Provider Guidance Chapter 6 - Raising a compliance doubt.](#)

Participant is a vulnerable ESA claimant

6. The Work Programme definition of a vulnerable ESA participant is:
“Vulnerable ESA participants are those who have mental health conditions or learning disabilities or conditions affecting communication/cognition.”

7. If either the original PRaP referral, vulnerable status feedback on recent sanction outcome notifications, relevant change of circumstances notifications WP07b, CEPD1 or your own evidence tells you the participant meets the Work Programme definition of vulnerable you must carry out safeguarding activities before you raise a compliance doubt referral.
8. This means, as a minimum, you must have a face to face discussion to confirm the participant has understood the activities that you have mandated them to carry out and the consequences of not complying. Face to face includes carrying out a home visit if necessary. Safeguarding must be carried out for each mandated activity.

Action

- Carry out face to face safeguarding activities.

Please Note: If you mandated the participant to an activity/appointment during a face to face meeting and confirmed their understanding of the mandatory requirement and the consequences of non-compliance, you do not need to undertake another face to face meeting following the date of transgression (that is the date they failed to carry out the activity). Further information can be found in [Work Programme Provider Guidance Chapter 6 - Raising a compliance doubt](#).

Background

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

Safeguarding activities successful

10. If you have had a face to face discussion with the participant (either at the point of mandation where you explained and issued the mandatory notification, or after they have failed to complete the mandatory requirement) and you are content that they did understand the requirements and possible consequences of not carrying out the mandated activity, the appropriate safeguarding steps have been undertaken.

Action

- Raise the compliance doubt in the usual way. You do not need to explain on the [WP08](#) form what safeguarding activities you have undertaken.

Background

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

Safeguarding activities unsuccessful

12. If you have attempted to undertake safeguarding actions and were unable to carry these activities out you should still complete the [WP08](#) form detailing the actions you have undertaken while attempting to take safeguarding. These actions will be considered by the Labour Market Decision Maker (LMDM) when deciding good cause.

Action

- Raise the compliance doubt referral using the [WP08](#) form and explain how you have attempted to carry out the safeguarding action.

Please Note: You **must** make every effort to see the participant face to face and then make the compliance doubt referral. You **cannot** choose not to carry out safeguarding.

Consequence s

You must be able to show evidence that you have, at least, attempted to contact the vulnerable participant to engage them in safeguarding discussions in order to avoid a 'Failed' Compliance Check. Further information on the new Compliance Monitoring Check can be found in [paragraph 40](#).

If the LMDM receives a referral where safeguarding action hasn't been completed and there is no explanation of the activities undertaken to safeguard, the referral will be cancelled.

Detailed background and further information

Jobcentre Plus identifies that an ESA claimant is vulnerable

13. The initial referral to the programme will be annotated with the word "safeguarding" to alert you to the participant's vulnerable status.
14. After the initial referral, if Jobcentre Plus identify that someone previously not defined as vulnerable changes their circumstances and becomes vulnerable, Jobcentre Plus will notify you via a WP07 or CEPD1 process.

LMDM Identifies that an ESA claimant is vulnerable

15. During the decision making process undertaken by an LMDM it may become apparent that the ESA participant's status should be changed to "vulnerable." This may be due to new information being given to the LMDM, which has not previously been shared with DWP or not declared by the participant until this point.

16. In this scenario the LMDM will not cancel the referral in the first instance and will continue with the decision making process. This is because you have indicated on the [WP08](#) form that you were unaware of the participant's vulnerable status.
17. The LMDM will inform you of the new vulnerable status using the following wording on your copy of the decision notification:

'Please note that claimant is considered to be vulnerable. Please note your records and ensure that appropriate safeguarding action is undertaken before any future referrals are made. Any further referrals for which no safeguarding action has been undertaken may be cancelled.'
18. On receipt of the information from the LMDM ensure that the participant's records are updated to note that they are now classed as vulnerable.
19. The LMDM will ensure a grace period of four weeks is applied starting from the date that the decision notification is **issued**. Any referrals received during the four week grace period will not be cancelled.
20. This process is to allow you time to update your records and that of your supply chain. Once this grace period is over new referrals will be cancelled if safeguarding has not been undertaken.
21. See [Work Programme Provider Guidance Chapter 6 - Raising a compliance doubt](#) for further information on completing the [WP08](#) form and sanction outcome decisions.

Provider identifies that an ESA participant is vulnerable

22. Throughout the 104 weeks a participant is on the Work Programme their circumstances may change.
23. To assist in your identification of a vulnerable ESA participant you should use any information provided by Jobcentre Plus, your own records of meetings and communications you have already had with the participant. This will also include any on-going Jobcentre Plus communications, for example form WP07b/CEPD1 notifying you of a change of circumstances.
24. The participant is on the Work Programme for 104 weeks, therefore it is important that you continually monitor ESA participants to check if there has

been any change in their circumstances or condition that means that they now meet the Work Programme definition of vulnerable.

25. Once it has been identified that a participant is vulnerable, you must continue treating them as such. Only Jobcentre Plus can decide if a participant is no longer vulnerable.

Safeguarding

26. Safeguarding refers to the measures that must be taken to ensure a vulnerable ESA participant understood a mandatory requirement and the consequences of non-compliance. Safeguarding activity must be carried out prior to raising a compliance doubt for a vulnerable ESA participant.
27. It is your responsibility to make every effort to see vulnerable ESA participants face to face to ensure they have fully understood the mandatory requirement and the consequences of non compliance.
28. Alternatively you could mandate the participant face to face, issue them with the MAN by hand and, as part of the conversation, make sure they have fully understood the mandatory requirement and the consequences of non compliance.
29. The specific measures that you will take to engage with the participant face to face vary according to the participant's individual circumstances, but they could include:
- asking the participant to attend an appointment with you
 - visiting a participant at a neutral location such as a community hall or public library
 - visiting a person at home – the participant may feel more comfortable or secure in their own environment and consequently more receptive to what you are asking of them.
30. You must consider what is reasonable in respect of the individual's circumstances. However more than one attempt at contact **must** be made.

Home visits

31. A home visit must be attempted if you are unable to have the face to face discussion any other way.

Health and Safety of your people

32. You are expected to ensure the safety of any of your staff who visit participants off site. Your legal responsibilities are set down in the Health and Safety at Work Act 1974 and you must ensure that you are meeting your responsibilities within the Act when asking your staff to visit participants off site.

Representatives

33. A vulnerable ESA participant may have a representative who helps or supports them in their engagement with you. Examples of representatives are:

- relative
- welfare organisation
- social worker
- Careers Service/Connexions Service.

34. You are free to talk to the representative about the participant if the participant has given you written consent to do so.

35. This can be helpful as it allows you to explain fully what is required of the participant and the representative can in turn explain this to the participant in their own time (for example, back at home).

Appointees

36. If the vulnerable ESA participant has an appointee you are free to speak to them about the participant without any written consent as they are legally empowered to act on their behalf.

37. An appointee is a person who is appointed by the Secretary of State to act on behalf of a benefit customer. The appointee is fully responsible for acting on the participant's behalf when dealing with you.

Good practice

38. It is important to ensure that vulnerable ESA participants are well supported in order to keep them engaged on the Work Programme.

39. It is good practice to:

- see all vulnerable ESA participants face to face at the point of mandation to ensure they fully understand the mandatory requirement and consequences of non-compliance. This ensures safeguarding action has been completed and would not need to be repeated should the participant subsequently not comply with the original mandatory requirement.

Please Note: This action would be applicable each time a participant is mandated to an activity

- consider meeting them at a community centre or a local library rather than on your own premises if you think that they may find this less intimidating
- with the participant's consent (when required) meet with their representative or appointee (if they have one) to establish if there is anything specifically you can do to help. They may be aware of special circumstances that could affect the participant's ability to fully engage in the Work Programme
- consider having specially trained advisors who are experts in dealing with and understanding participants who are vulnerable and have special needs
- ensure that you fully document any safeguarding activities that you have taken. This will allow you to identify the most effective method of engaging with the participant (and eliminate ineffective measures)

Please Note: You must be aware of the [new CMO check](#) and the evidence required

- try to establish if there are any other previously undisclosed circumstances that could change and affect the participant's ability to engage with you, for example try to establish what support they have in their personal lives. See [Work Programme Provider Guidance Chapter 5 – Change of circumstances and Notifications](#) prior to making a compliance doubt referral
- Carry out a management check to ensure that all relevant safeguarding action was taken – this could help to reduce DMA cancellations. See [Work Programme Provider Guidance Chapter 3a - Work Programme mandation](#), the [WP08 Hints and Tips](#) documents and the [WP08 Quality Assurance Framework](#) for help with completing the [WP08 form](#)
- contact the Provider Direct service to make sure you have the latest information on participant's circumstances.

Compliance Monitoring Officer (CMO) checks

40. A new Compliance Monitoring Officer (CMO) check has been introduced. The CMO will look for evidence that you have undertaken a face to face safeguarding meeting following the participant failing to carry out a mandated activity, or at the time that you mandated the participant face to face.
41. You should therefore ensure that you have noted all relevant safeguarding information on your systems. If the CMO cannot view evidence that safeguarding took place, you must be able to show evidence that you have, at least, attempted to make contact, more than once, with the vulnerable ESA participant to engage them in safeguarding discussions. In most circumstances a compliance doubt referral must be made, the exception is:

- where safeguarding has been carried out and the participant failed to understand what they were being mandated to do or the consequences of not doing it. In these circumstances a referral should not be made.

42. A compliance check will fail because:

- there is evidence that a safeguarding meeting was carried out and no compliance doubt referral was made, except in the circumstances (where the participant failed to understand the mandatory requirements) when it wouldn't be appropriate to make the referral
- there is no evidence of safeguarding and no attempted participant contact.

Useful links

43. Guidance on helping people with mental health conditions to find and stay in employment can be found by clicking on this [link](#).

44. Additionally the following organisations are designed to assist vulnerable individuals. You may find it useful to make the participant (or a representative) aware of them.

- [Mencap Learning Disability Helpline](#) provides advice and information on all issues relevant to people with learning disabilities and their families in England, Wales and Northern Ireland. Contact the helpline by phone on 0808 808 1111.
- [The National Autistic Society](#) is a leading UK charity for people with autism – including Asperger's syndrome – and their families. It provides information, support and campaigns for a better world for people with autism. Persons with autism or their families or carers are free to contact them by phone on 0845 070 4004 Monday to Friday between 1000 and 1600 BST.
- [Scope](#) is a charity that seeks to promote equal rights for disabled persons. They can be contacted on 0808 800 3333.

Further information on organisations available to assist vulnerable individuals are available on the internet.