

05 Jobcentre Plus Offer

08 Failure to Attend/Failure to Participate in a Work-Focused Interview and Failure to Undertake Work-Related Activity

Introduction

1. This chapter covers the action to take when a claimant Fails to Attend (FTA) or Fails to Participate (FTP) in a mandatory interview. These are:
 - New Joiner's Work-Focused Interview (NJWFI)
 - Flexible Intervention
 - Work Programme Referral Interview (WPR)
 - Work Programme Completer Interview
2. It includes information on the action to take when a claimant fails to undertake Work-Related Activity (WRA).
3. It also covers how, as a result of the above you should deal with:
 - Vulnerable Claimants (including Core Visits)
 - Consideration of Good Cause
 - Sanctions
 - Re-engagement
4. When completing any action around conditionality failures, advisers should be aware that claimants who have a sanction in place for a failure that took place prior to 3 December 2012 cannot have a sanction imposed for a failure that takes place on or after 3 December 2012.

Claimants who need help in using our services

5. In any determination of FTA/FTP in a mandatory interview or failure to undertake WRA, it is important to consider if the claimant needs help in using our services. See the Vulnerability Hub before referring to a Labour Market Decision Maker (LM DM) / taking any benefit sanctions action.
6. For ESA/IB claimants it is particularly important to consider the welfare of claimants who have mental health conditions or learning disabilities, or conditions affecting communication/cognition, for example, stroke or autistic spectrum disorder. These conditions can be identified via the ESA Incapacity Reference Guide. Those health conditions that are deemed to make the claimant vulnerable are marked with an asterisk (*).
7. These claimants must be referred for a Core Visit conducted by a DWP Visiting Officer if good cause is not shown within the time allowed.
8. A Core Visit should be considered each time a claimant FTA/FTP in a mandatory interview or fails to undertake WRA, in order to safeguard those claimants with fluctuating mental health conditions.

Good Cause

9. The Adviser must determine if a claimant who is required to take part in a mandatory interview or undertake WRA has failed to do so and, if so, whether the claimant has shown good cause for the failure.

10. In determining whether a claimant has shown good cause for FTA/FTP in a mandatory interview or failure to undertake WRA, the Adviser must take account of all the claimant's circumstances, including the claimant's physical or mental health condition.
11. The adviser should also consider previous FTA/FTP/Failed to undertake WRA and requests to rearrange interviews. See section on Multiple Failed To Attend and Good Cause Considerations
12. The Regulations apply equally whether the claimant has FTA, FTP or failed to undertake WRA.
13. It is for the adviser to determine whether a claimant has shown good cause for FTA/FTP/failure to undertake WRA and each instance should initially be considered on its own merits. While there is no prescribed definition of good cause some examples could include where the claimant:
 - Has misunderstood any requirement given to them due to any learning, language or literacy difficulties
 - Has been given misleading information by a member of staff
 - Were attending a medical or dental appointment, or accompanying a person for whom the claimant has caring responsibilities to such an appointment, and it would have been unreasonable for them to rearrange that appointment

Note: the circumstances of any conflicting appointment / activity must also be considered, for example where the claimant had advance knowledge of the other appointment / activity did they have the opportunity to re-arrange that appointment or their interview.

- Had difficulty with their normal mode of transport and there was no reasonable alternative
- Has established customs and practices of religion, which prevented them from attending at that particular time
- Was attending an interview for employment
- Was pursuing an employment opportunity as a self employed earner
- Had an accident, sudden illness or relapse in the case of a chronic condition which prevented the claimant from attending on the day
- is a person with caring responsibilities and the person for whom care is provided had an accident, sudden illness or relapse in the case of a chronic condition which prevented the claimant from attending on the day / undertaking the WRA.
- Suffered from any disability or health condition, which prevented them from attending on the day / undertaking the WRA.
- Was attending the funeral of a relative or close friend

this list is not exhaustive and all the customer's personal circumstances must be considered.

Failure to Attend/Participate in a Mandatory Interview or undertake WRA

14. If a claimant FTA/FTP in a mandatory interview or fails to undertake WRA they are given a period of time to show good cause.
15. The Adviser considers whether good cause has been shown and whether to defer the mandatory interview or rebook it, or amend the WRA.

16. If the Adviser determines that good cause has not been demonstrated in the time allowed, the case is referred to a Labour Market Decision Maker (LM DM) in the Benefit Centre using Decision and Automated Referral Toolkit (DART) to make a decision. If DART is not available use form ESA/IS285. Notifications issued to claimants as part of the FTA/P process notifies them of the re-compliance condition and explains about the fixed period upon re-compliance.

Note: for further detail re DART **see** DART user guide

17. The LM DM reviews the Adviser's determination and, if they agree the claimant has failed to show good cause, a decision is made to impose a sanction, such as the amount of ESA payable is reduced.
18. If the LM DM does not agree with the Adviser's determination, a decision is made to allow the case. The Jobcentre will be notified and should consider rebooking the mandatory interview or reconsider the WRA.

Time Allowed to Show Good Cause

19. Claimants who are required to take part in a mandatory interview or fail to undertake WRA by the required date must show good cause for the failure within five working days of the date on which they are notified of this failure.
20. Claimants who are notified by post of the requirement to show good cause the time allowed is extended by a further two working days to allow time for the letter to be received. This means the claimant has 7 working days from the date the notification letter is posted.
21. Claimants who are informed of the requirement face to face must show good cause within five working days of the date on which they are notified of this failure. The face to face discussion must include an explanation of the re-compliance condition and a reminder of the requirement to comply with conditionality and the consequences of not doing so. Explain that their ESA may be reduced if they don't show good cause. These discussions must be reinforced by handing them the FTA/FTP Letter or ESA48 - Failure to Undertake WRA letter or ESA48W which include a copy of the sanctions factsheet / (welsh version).

Example: if a claimant failed to attend an interview on Monday 10th, it is the date that they were notified which determines when they have to show good cause by. They would have to show good cause by Monday 17th if notified in person, or Wednesday 19th if notified by letter.

Claimant Fails to Attend a Mandatory Interview

22. ESA Regulations state that, if required to attend in person, the claimant must attend the mandatory interview at the place, date and time notified. If not required to attend in person (for a telephone interview), the claimant must be available and respond at the date and time notified.
23. If the claimant FTA the mandatory interview or is not available at the agreed time, the Adviser records FTA on LMS as follows:

Step	Action
1	Click on the 'O/S Int' marker.
2	In the outstanding interview window select 'NActn'.

3	Select 'Failed to attend interview' from the available list.
4	Click on 'Save' then 'Close'.
5	<p>For claimants who have failed to attend a PWPS interview (including NJWFIs) where the PWPS pilot marker is not already set:</p> <ul style="list-style-type: none"> Set the ESA pilot marker to 'Started PWPS'. Once the pilot marker is set, it must not be removed. <p>Note: If the claimant has been accessing PWPS as a JSA claimant the PWPS pilot marker should be updated to show they are now an ESA claimant.</p> <ul style="list-style-type: none"> The PWPS pilot marker should remain at ESA even if the claimant changes benefit unless they make a claim to JSA. In these instances the PWPS guidance for JSA claimants Overview of the reconsideration and appeals process must be followed. Set a workflow 50 weeks from the Work Programme Completer Interview for Adviser Support to book an 'End of PWPS' interview. Annotate workflow with prefix – "End of PWPS - Book ESA end of PWPS Interview - DO NOT DELETE until < insert date workflow matures>". <p>The Work Programme completion date can be found in the Work Programme Marker.</p> <p>Note: guidance on booking and completing an 'End of PWPS' interview will be published before June 2014.</p>

Note: The action to mark the interview as Failed to Attend on LMS must be completed on every occasion where a claimant fails to attend, including where the interview is subsequently re-arranged following a discussion with the claimant.

- Following this the Adviser must review the claimant's details in JSAPS and LMS, to determine if the claimant is still subject to mandatory conditionality. For example, if the claimant is a Lone Parent with a child under one, a full time carer, has started work or moved out the area this affects conditionality. If any of these apply take appropriate action.
 - Consider whether there has been a relevant change in the claimant's circumstances since the mandatory interview was booked and if a retrospective deferral is now appropriate.
- In all other cases the Adviser must attempt to contact the claimant by telephone to establish their reason for non attendance. This must be attempted on the day the claimant FTA.
 - If the Adviser is unable to contact the claimant continue with FTA action.
 - Where contact is made, check if the claimant is a Lone Parent with a child under one. If so, the interview should be deferred until the date of the child's first birthday and update the 'CBW' hotspot.
 - If there is evidence of good cause, consider whether a deferral is appropriate. If not, rebook the interview. The adviser should make a note in LMS conversations stating that good cause has been shown, and detailing the reason.
 - If the adviser considers that good cause has not been demonstrated they should still continue with FTA action, as a fixed period sanction may be appropriate even if the interview is rebooked. Advise the claimant that their ESA may be reduced as a result. Explain that if their ESA is reduced, ESA

Hardship may be available. Claimants need to be advised of the re-compliance condition.

29. A copy of the JSA/ESA10JP should be issued to the claimant (even though a decision has not yet been made). This includes a copy of the claim form and information about ESA Hardship.

Note: ESA hardship is only available to claimants who have a sanction imposed for failures on or after 3 December 2012.

30. Claimants can only apply for ESA Hardship if they are in receipt of ESA(IR). If the claimant is receipt of ESA(C), and they receive an adverse decision on their ESA, before claiming ESA Hardship they must first make a claim for ESA(IR).

Multiple Failed To Attend and Good Cause Considerations

31. There may be some cases where the claimant repeatedly FTA but offers reasons each time that could be considered good cause. Here, the Adviser should consider whether a trend is emerging, for example, several dental appointments all coinciding with the WFI appointments. In such cases the Adviser should consider asking for evidence to support overall good cause.

Note: the circumstances of any conflicting appointment / activity must also be considered, for example where the claimant had advance knowledge of the other appointment / activity did they have the opportunity to re-arrange that appointment or their interview.

Rebooking the mandatory interview

32. The Adviser should remind the claimant about the purpose and the importance of attending the mandatory interview and the effect FTA may have on their ESA, such as sanctions. Then consider if a home visit is appropriate, if not:

Step	Action
1	Click on the 'New Int' marker.
2	In the pop up message (asking if you want to book a new appointment or rearrange an existing one) select 'ReArr'.
3	In the Rearrange Appointment window record a reason for rearranging the interview then select 'ReArr'.
4	The 'Appt Type' field will default to interview that the claimant FTA. If it does not then select the correct interview manually. This will be either: <ul style="list-style-type: none">• ESA – New Joiner's Work-Focused Interview,• Flexible Intervention ESA Mand (various durations),• Work Programme – ESA Referral, or• ESA – WP completer – Mandatory.
5	Complete the remaining appointment details (location, adviser) and click on 'Search' to bring up the next available appointment. If the claimant is happy with the appointment offered select 'Book'. If the date offered is not convenient select 'Next' to bring up the next available interview. Repeat this until you find a convenient appointment.
6	Complete the Prerequisites information and select 'Save' then 'Close'.

Taking Fail To Attend Action

33. If they were unable to contact the claimant, or the claimant was contacted but did not demonstrate good cause for FTA the interview, the Adviser should record this in LMS Conversations.

34. Raise a doubt on LMS for FTA:

Step	Action
1	Select the 'Decn/NoDec' button on the LMS Record to open the New Referral/Decision Details window (if a DMA doubt has been recorded in the past, the button label will be Decn) Select 'Question' marker to open the 'AR code/Question' sub window.
2	Select the (+) sign next to 'ESA' to expand the list of ESA questions. Note: Under no circumstances should you use any of the other questions listed for other client groups.
3	Highlight the appropriate doubt from those available – for an NJWFI this is 'ESA New Joiner WFI – FTA', for a Flexible Intervention, a Work Programme Completer Interview or a Work Programme Referral interview it is 'ESA Work Focused Interview – FTA'.
4	Complete the 'Source' field and 'Ref To' fields. The 'Ref To' field must be set to 'Local Office'.
5	'Save' the new referral.
6	When asked if you want to link this Referral/Decision Question to an outstanding interview select 'Yes', then select the interview appropriate to the DMA action. It is important that this is done as the LMDM will use the information to decide the appropriate length of the fixed period following re-compliance.
7	When the referral is saved you will be able to print the FTA letter which must be sent/issued to the claimant. For information about printing see Printing/Issuing FTA/FTP Letter. Issue a copy of the JSA/ESA10JP Hardship form to the claimant at the same time. A copy of the sanction factsheet / (welsh version) will be included on the FTA/FTP letter. Note: ESA hardship is only available to claimants who have a sanction imposed for failures on or after 3 December 2012.
8	Set a workflow as a prompt for the end of the time allowed to show Good Cause. For information on how to set a workflow reminder refer to the LMS User Guide, Chapter K.

Claimant Fails to Participate in a Mandatory Interview

35. If the claimant attends the mandatory interview but refuses to supply answers to questions or behaves unacceptably they have FTP in the mandatory interview.

36. The Adviser tries to establish the reason why the claimant is not participating in the interview and explain to them what will happen if they continue to FTP, such as potential sanction. They will also need to explain

to the claimant what re-compliance activity is required if their ESA is sanctioned.

37. The Adviser considers whether deferring the mandatory interview to a later date is appropriate. For example, the claimant may have additional requirements that need to be met in order for them to fully participate, and the interview can be deferred until these are put in place.
38. Exceptionally, there may be cases where a claimant is placed in the Work Related Activity Group (WRAG) by the Work Capability Assessment (WCA) process and there is a genuine doubt about the decision. If, despite attempting to meet the claimant's individual needs, doubts persist about the claimant's ability to participate in the mandatory interview **and** there is evidence for reconsideration of the decision, phone the Labour Market Decision Maker (LM DM) to discuss whether they agree to seeking a review of the WCA outcome. The Adviser must be able to provide the LM DM with evidence of engaging with the claimant to support any such request.
39. The LM DM decides, on the evidence available, whether to revisit the decision. Where the LM DM has been asked to consider seeking a review of the WCA outcome decision, the Adviser might decide to defer the mandatory interview to a later date to allow the review process to take place.

Taking Fail To Participate action

40. The Adviser raises a doubt for FTP in LMS whilst the interview is in progress (this deletes any actions previously recorded):

Step	Action
1	Select the 'NoDec' button on the LMS Record to open the 'New Referral/Decision Details' window (if a DMA doubt has been recorded in the past, the button label will be Decn) Select 'Question' marker to open the 'AR code/Question' sub window.
2	Select the (+) sign next to 'ESA' to expand the list of ESA questions. Note: Under no circumstances should you use any of the other questions listed.
3	Highlight the appropriate doubt from those available – for an NJWFI this is 'ESA New Joiner WFI – FTP', for a Flexible Intervention, Work Programme Completer Interview or Work Programme Referral interview it is 'ESA Work Focused Interview – FTP'.
4	Complete the 'Source' field and 'Ref To' fields. The 'Ref To' field must be set to 'Local Office'.
5	'Save' the new referral.
6	When asked if you want to link this Referral/Decision Question to an outstanding interview select ' Yes ', then select the interview appropriate to the DMA action. It is important that this is done as the LMDM will use the information to decide the appropriate length of the fixed period sanction following re-compliance.

7	<p>When the referral is saved you will be able to print the FTA letter which must be issued to the claimant. If the claimant has left before you can hand this to them this letter must be posted. For important information about printing see Printing/Issuing FTA/FTP Letter. Issue a copy of the JSA/ESA10JP Hardship form to the claimant at the same time. A copy of the sanction factsheet / (welsh version) will already be included in the FTA/FTP letter.</p> <p>Note: ESA hardship is only available to claimants who have a sanction imposed for failures on or after 3 December 2012.</p>
8	<p>Set a workflow as a prompt for the end of the time allowed to show Good Cause. For information on how to set a workflow reminder refer to the LMS User Guide, Chapter K.</p>
9	<p>For claimants who have failed to participate in a PWPS interview (including NJWFIs) where the PWPS pilot marker is not already set:</p> <ul style="list-style-type: none"> • set the ESA pilot marker to 'Started PWPS'. Once the pilot marker is set, it must not be removed and must remain ESA even if the claimant changes benefit. • set a workflow 50 weeks from the Work Programme Completer Interview for Adviser Support to book an 'End of PWPS' interview. Annotate workflow with prefix – "End of PWPS - Book ESA end of PWPS Interview - DO NOT DELETE until < insert date workflow matures>". <p>The Work Programme completion date can be found in the Work Programme Marker.</p> <p>Note: guidance on booking and completing an 'End of PWPS' interview will be published before June 2014.</p>

41. Although the FTP doubt is added to the interview record straight away, it is not shown immediately on the interview window itself. The FTP action is shown on the interview window only after the interview has been ended.
42. At the end of an interview LMS will prompt the Adviser to rebook the same interview the claimant has FTP in. However, it is not appropriate to book the interview at this stage so select 'No'.

Printing/issuing the Fail to Attend/Fail to Participate letter

43. The FTA/FTP letter must be issued on the day the FTA/FTP occurs.
44. The FTA/FTP letter is printed from the DMA details. For example, when the interview is marked as FTA and you have raised a doubt on LMS, when the doubt is set up and linked to the FTA interview the Print button becomes active, as shown in the example screenshot below.

45. When Print is selected another window appears, see example of the screenshot below. Select Referral Notification Letter to print the FTA letter.

46. A reprint of the ESA FTA/FTP letter for a specific interview can be requested at any time until the interview is recorded as being successfully completed.
47. Record the FTA/FTP details in LMS Conversations, including that the FTA/FTP letter and JSA/ESA10JP have been issued, and set a workflow to check if the claimant has made contact by the date prescribed in the letter.

Claimant meets criteria for immediate Work Programme referral

48. If the claimant would have been referred immediately to the Work Programme following the NJWFI and FTA/FTP and does not show good cause, they will not be referred to the Work Programme until they re-engage.
49. Do not book another Work Programme referral or take any further action until the claimant makes contact.

Claimant makes contact inside allowed time

50. If the claimant telephones or is face to face, the adviser should use the DART template to complete the information gather around the reason the claimant FTA / FTP in the interview. This will ensure that if no good cause is allowed by the adviser, the LMDM will have sufficient evidence to make a decision and reduce cancelled referrals.

MF37 received inside allowed time

51. If the MF37 is received and additional detail is required, for example good cause cannot be accepted and detail regarding the DART template questions have not been provided, the adviser / adviser support should try to contact the claimant to get the additional information to complete the DART template.
52. If the claimant cannot be contacted referral should be made, using DART, explaining that additional evidence was sought, but contact could not be made.
53. If the MF37 is received and good cause can be accepted on the information received no DART template is required, and action should take place as per Good Cause is Demonstrated.

Good Cause is demonstrated

54. If the claimant responds within the time allowed and the Adviser considers that Good Cause has been demonstrated, or that they are a Lone Parent with a child under one, LMS must be updated to reflect this.
55. The Adviser updates the doubt as follows:

Step	Action
1	Select the 'Dec' button on the LMS Record to open the 'View Referral/Decision Details' window
2	If more than one decision has been recorded, select the relevant line in the 'List of Referrals/Decisions' window
3	Click 'Amend'
4	In the 'Ref To' field, select 'N/A – Straightforward'
5	Click 'Save'

56. The Adviser should consider the next steps as appropriate for the claimant, such as rebooking the interview or considering a deferral.
57. Any DART template completed should be deleted at this point.

Good Cause not demonstrated

58. If there is no apparent valid reason for the claimant's FTA/FTP and a deferral is not appropriate, the Adviser considers whether the claimant has a condition that could affect their understanding of interview conditionality and the consequences of non compliance. Where this is the case, arrange a Core Visit before taking any further action.
59. If a core visit is not appropriate and the claimant does not demonstrate good cause for the FTA/FTP, but after the consequences of not attending/participating have been explained the claimant agrees to attend/participate, book another mandatory interview.
60. Agreement to attend a future mandatory interview meets the compliance condition.
61. To avoid delaying a mandatory interview indefinitely, the first available appointment should be booked, providing that it is reasonable and practical to expect the claimant to meet that appointment time.
62. Even though the claimant has agreed to attend an interview in the future, this alone does not mean they have shown good cause for the original failure. If the adviser considers that good cause has not been

- demonstrated they should still make a referral to the LM DM as a fixed period sanction may be appropriate. This must be done immediately.
63. If the claimant does not agree to attend/participate and fails to demonstrate good cause the adviser must carry on with the FTA action as if the good cause period had expired.

Action to take if claimant fails to make contact inside allowed time or fails to demonstrate good cause

64. If there is no valid reason for the claimant FTA/FTP and a deferral is not appropriate, the Adviser considers whether the claimant has a condition that could affect their understanding of interview conditionality and the consequences of non compliance. Where this is the case, arrange a Core Visit before taking any further action.
65. Where the Adviser considers the claimant has not shown good cause for FTA/FTP a mandatory interview and a core visit has taken place or one is not appropriate, the Adviser refers the case to the Labour Market Decision Maker (LM DM) via DART as follows:

Step	Action
1	<p>To ensure referrals to the LM DM are accurate and include all the information required complete the following checks:</p> <ul style="list-style-type: none"> • Confirm the claimant is still subject to mandatory activity: <ul style="list-style-type: none"> ○ The ESA claim is still live and in payment ○ The claimant is in the WRAG ○ The claimant isn't a Lone Parent with a child aged under 1 ○ The claimant isn't in receipt of Carer's Allowance ○ Has there been a change of circumstances which means a deferral was appropriate at the time the interview was scheduled or the requirement has now ceased? • Confirm that on LMS/JSAPS <ul style="list-style-type: none"> ○ The doubt been recorded against the interview, ○ All action taken has been recorded. ○ The claimant isn't subject to an ongoing sanction which was imposed prior to 3 December 2012 • Where the claimant has not responded, further action to attempt to contact the claimant should take place prior to making a referral where: <ul style="list-style-type: none"> ○ The current JSAPS address hasn't been used for letters/core visits to the claimant (unless evidence recorded on LMS suggests this address is incorrect). ○ A new contact number has been input on JSAPS. ○ The claimant has a condition which might affect their understanding of mandatory interview requirements and the consequences of failing to comply – If so has a core visit been attempted?

2	Make a prompt referral of the case using DART to the LM DM for a good cause decision. If DART is not available use form ESA/IS285.
3	<p>The DART referral must include all appropriate evidence, including:</p> <ul style="list-style-type: none"> • The date the claimant failed to attend the interview, • The date the claimant complied, such as agreed to attend an interview in the future (if appropriate), • Evidence from the claimant if available, for example, reasons given by claimant for FTA • Core Visit report where appropriate (vulnerable claimants) • Any additional evidence you have that is not already recorded on LMS (LMS screen prints should not be included as Decision Makers have access to LMS). • If no contact has been made a DART template must be completed, using the reason 'General' and a note input to state 'No contact received from claimant within allowed time' • The adviser name and contact number for any queries. • Note: Additional evidence can either be scanned and sent alongside the DART email, or can be sent via post. The DART referral must inform the LMDM accordingly.
4	If the claimant requests the interview is rebooked the adviser should do so but should continue with FTA action. Where the interview is re-booked, ensure the date the claimant made contact and the date of the interview is included in the referral to the LMDM.
5	Set a LMS workflow for 10 working days to check whether the LM DM has made the good cause decision and, where appropriate, a sanction decision has been applied in JSAPS.

Decision made by LM DM

66. When the LM DM notifies the Jobcentre that a decision has been made, the decision will need to be recorded in LMS.

67. If the decision is that good cause has been accepted:

Step	Action
1	Select the 'Decn' button on the LMS Record to open the 'Decision Details' window.
2	<p>Select the 'Amend button and update the:</p> <ul style="list-style-type: none"> • 'Decision' field to 'Allowed' • 'Made by' field to whoever made the decision • 'Date made' field to the date the decision was made.
3	Save the updates.
4	Consider if the mandatory interview should be deferred to a later date. If you think a deferral is appropriate contact the Adviser (by workflow) to consider if a deferral is appropriate. If

	a deferral is not appropriate rebook a mandatory interview.
5	Clear the workflow set to check whether the LM DM has made the good cause decision.

68. If the decision is that good cause has **not** been accepted:

Step	Action
1	Select the 'Decn' button on the LMS Record to open the 'Decision Details' window.
2	Select the 'Amend' button and update the: <ul style="list-style-type: none"> • 'Decision' field to Sanction Applies • 'Made by' field to whoever made the decision • 'Date made' field to the date the decision was made.
3	Save the updates
4	Select the FTA marker on the LMS record: <ul style="list-style-type: none"> • Select 'NActn' (New Action) • Select 'FTA WFI Sanction Applies' and click on 'Save' This will clear the interview. Note: this step is not required where an interview has previously been rebooked
5	Clear the workflow set to check whether the LM DM has made the good cause decision.

Good cause decision workflow matures

69. When the LMS workflow is received, Adviser Support checks whether the Benefit Centre has recorded a good cause decision in JSAPS.

70. If notification has not been received from the LM DM and/or a good cause decision has not been recorded in JSAPS, Adviser Support takes the following action:

Step	Action
1	Contact the Benefit Centre and check the progress of the case.
2	Depending on the progress of the case, set a personal LMS workflow to recheck whether it has been recorded.

Failure to Undertake Work-Related Activity

71. If the workflow for the WRA for a claimant matures and it has not been completed, the claimant has failed to undertake WRA.

72. The Adviser should:

- review the claimant's details in JSAPS and LMS, to determine if the claimant is still subject to mandatory conditionality. For example, if the claimant is a Lone Parent with a child under one or a carer, has started work or moved out the area this affects conditionality. If any of these apply take appropriate action. Consider whether there has been a relevant change in the claimant's circumstances since the WRA was given and if a retrospective amendment to the completion date is now appropriate.

73. In other cases the Adviser must attempt to contact the claimant by telephone to establish their reason for failing to undertake the WRA.

Contact is successful

74. The adviser should use the DART template to complete the information gather around the reason the claimant Failed to Undertake (FTU) WRA. This will ensure that if no good cause is allowed by the adviser, the LMDM will have sufficient evidence to make a decision and reduce cancelled referrals.
75. If good cause is not accepted, the FTU letter should still be issued, so it may be useful to save the DART referral in a shared folder until the allowed time has been reached or the claimant responds to the letter.
76. Where contact is made and good cause is accepted, the completion date for the WRA can be amended. Update the Action Plan and send to the claimant. The DART template can be deleted.
77. If the Adviser decides the claimant has not shown good cause for failing to undertake WRA, or is unable to contact the claimant, take failed to undertake WRA action. As well as issuing the Failure to Undertake WRA letter, ensure a copy of the Hardship form JSA/ESA10JP is issued.
- Note:** ESA hardship is only available to claimants who have a sanction imposed for failures on or after 3 December 2012.

Taking Failed to Undertake Work-Related Activity action

78. The Adviser should record in LMS Conversations if they were unable to contact the claimant, or the claimant was contacted but did not demonstrate good cause for failing to undertake the WRA.
79. Raise a doubt on LMS for failure to undertake WRA:

Step	Action
1	Select the 'NoDec' button on the LMS Record to open the 'New Referral/Decision Details' window (if a DMA doubt has been recorded in the past, the button label will be Decn) Select 'Question' marker to open the 'AR code/Question' sub window.
2	Select the (+) sign next to 'ESA' to expand the list of ESA questions. Note: Under no circumstances should you use any of the other questions listed.
3	Highlight the appropriate doubt from those available – 'ESA Failed to Undertake WRA'.
4	Complete the 'Source' field and 'Ref To' fields. The 'Ref To' field must be set to 'Local Office'.
5	'Save' the new referral.
6	Print the clerical Failure to Undertake WRA letter (Failure to Undertake WRA letter - Welsh) and send to the claimant. This must be issued on the day that the adviser decides the WRA was not completed. Issue a copy of the JSA/ESA10JP to the claimant at the same time. Note: ESA hardship is only available to claimants who have a sanction imposed for failures on or after 3 December 2012.

80. Record the Failure to Undertake WRA details in LMS Conversations, including that the letter and Hardship claim form have been issued, and

set a Workflow to check if the claimant has made contact by the date prescribed in the letter.

Claimant makes contact inside allowed time

81. If the claimant telephones, the adviser should use the DART template to complete the information gather around the reason the claimant Failed to Undertake WRA. This will ensure that if no good cause is allowed by the adviser, the LMDM will have sufficient evidence to make a decision and reduce cancelled referrals.

Note: A DART template may have already been completed earlier in the process at this stage we should confirm those details, or obtain any additional relevant detail.

MF37 received inside allowed time

82. If the MF37 is received and additional detail is required, for example good cause cannot be accepted and detail re the DART template questions have not been provided, the adviser / adviser support should try to contact the claimant to get the additional information to complete the DART template.

83. If the claimant cannot be contacted referral should be made, using DART, explaining that additional evidence was sought, but contact could not be made.

84. If the MF37 is received and good cause can be accepted on the information received no DART template is required, and action should take place as per Good Cause is Demonstrated.

Good cause is demonstrated

85. If the claimant responds within the time allowed and the Adviser considers that Good Cause has been demonstrated, LMS must be updated to reflect this.

86. The Adviser updates the doubt as follows:

Step	Action
1	Select the 'Dec' button on the LMS Record to open the 'View Referral/Decision Details' window
2	If more than one decision has been recorded, select the relevant line in the 'List of Referrals/Decisions' window
3	Click 'Amend'
4	In the 'Ref To' field, select 'N/A – Straightforward'
5	Click 'Save'

87. The Adviser should consider the next steps as appropriate for the claimant, such as amending the WRA or reviewing the timescales.

88. The DART template should be deleted at this point

Good cause is not demonstrated

89. If there is no apparent valid reason for the claimant Failing to Undertake WRA, and it is not appropriate to amend the requirement or completion date, the Adviser considers whether the claimant has a condition that could affect their understanding of WRA conditionality and the

consequences of non compliance. Where this is the case, arrange a Core Visit before taking any further action.

90. If the claimant makes contact and does not demonstrate good cause for the Failure to Undertake the WRA, but after the consequences of not completing it have been further explained the claimant agrees to undertake the WRA, amend the completion date.
91. However, use this facility with caution to avoid the claimant delaying the WRA indefinitely. If the claimant repeatedly Fails to Undertake WRA, check if their circumstances have changed and if an amendment to the completion date is appropriate.
92. The Failure to Undertake WRA must still be sent to the LMDM for a decision
93. Agreement to undertake a future mandatory WRA meets the compliance condition.
94. Even though the claimant has agreed to undertake WRA in the future, this alone does not mean they have good cause for the original failure. If the adviser considers that good cause has not been demonstrated they must still make a referral to the LMDM as a fixed sanction period may be appropriate. This must be done immediately.
95. Where the Adviser considers the claimant has not shown good cause for Failing to Undertake WRA, the Adviser refers the case to the Labour Market Decision Maker (LM DM) as follows:

Step	Action
1	<p>To ensure referrals to the LM DM are accurate and include all the information required complete the following checks:</p> <ul style="list-style-type: none"> • Confirm the claimant is subject to mandatory activity: <ul style="list-style-type: none"> ○ The ESA claim is still live and in payment ○ The claimant is in the WRAG? ○ The claimant isn't a Lone Parent with a child aged under 3 ○ The claimant isn't in receipt of Carer's Allowance? ○ Has there been a change of circumstances which means that the activity is no longer appropriate or should be rescheduled? • Confirm that on LMS/JSAPS <ul style="list-style-type: none"> ○ The doubt been recorded, ○ All action taken has been recorded. ○ The claimant isn't subject to an ongoing sanction which was imposed prior to 3 December 2012? • Where the claimant has not responded further action to attempt to contact the claimant should take place prior to making a referral where: <ul style="list-style-type: none"> ○ The current JSAPS address hasn't been used for letters/core visits to the claimant (unless evidence recorded on LMS suggests this address is incorrect). ○ A new contact number has been input on JSAPS. ○ The claimant has a condition which might affect their understanding of WRA requirements and the

	consequences of failing to comply – If so has a core visit been attempted?
2	Make a prompt referral of the case using DART to the LM DM for a good cause decision. If DART is not available use form ESA/IS285.
3	<p>Refer the case to the LM DM for a good cause decision. Ensure all appropriate evidence / information is attached with the submission papers, including:</p> <ul style="list-style-type: none"> • The activity that should have been undertaken • The date the WRA should have been undertaken by. • The date the claimant complied, for example agreed to undertake the activity (if appropriate). • Evidence from the claimant if available, for example, reasons given by claimant for Failing to Undertake the WRA. • Core Visit report where appropriate (vulnerable claimants). • Any additional evidence from the Adviser not already recorded on LMS. • The adviser name and contact number for any queries. • NOTE Additional evidence can either be scanned and sent alongside the DART email, or can be sent via post. The DART referral must inform the LMDM accordingly. <p>Note: do not include prints from LMS as LM DMs have access to LMS</p>
4	<p>Record the referral in LMS by amending the 'Ref To' field from 'Local Office' to 'LM DMA Sector'.</p> <p>Note: If this is not done the LM DM cannot update LMS with the decision outcome.</p> <p>Ensure you include the date the WRA should have been undertaken by in the 'Notes' box.</p>
5	Set a LMS workflow for 10 working days to check whether the LM DM has made the good cause decision and, where appropriate, a sanction decision has been applied in JSAPS.

Decision made by LM DM

96. When the LM DM notifies the Jobcentre that a decision has been made, the decision will **not** need to be recorded in LMS as, unlike for FTA/FTP, this will be done automatically.

97. The Adviser should consider if future interventions are needed and if so how far ahead this should be, for how long and whether it will be voluntary or mandatory for the claimant to attend.

Note: ESA WRAG claimants (who are subject to mandatory interventions) must, as a minimum, have two interventions with their adviser every year, for more information see Chapter 5 - Flexible Interventions

98. According to local arrangements, the Adviser books the next Intervention or sets a workflow as reminder to arrange the meeting nearer the time.

Good cause decision workflow matures

99. When the LMS workflow is received, Adviser Support checks whether the Benefit Centre has recorded a good cause decision in JSAPS and LMS has been updated.
100. If notification has not been received from the LM DM and/or a good cause decision has not been recorded in JSAPS/LMS, Adviser Support takes the following action:

Step	Action
1	Contact the Benefit Centre and check the progress of the case.
2	Depending on the progress of the case, set a personal LMS workflow to recheck whether it has been recorded.

Core Visits

101. If a claimant has a condition that could affect their ability to understand and comply with conditionality, a Core Visit to their home must be arranged before any sanction decision is considered.
102. A Core Visit should be considered each time a claimant FTA/FTP in a mandatory interview or fails to undertake WRA, in order to safeguard those claimants with fluctuating mental health conditions.
- Note:** DWP Visiting will not conduct visits to a 'care of' address, if you are unable to trace a confident address please take action as if two ineffective visits have taken place.
103. A Core Visit is undertaken by a Visiting Officer from the DWP Visiting, to ensure the claimant fully understands why they have to take part in the Work Capability Assessment (WCA) and the mandatory interview. The Visiting Officer does not conduct the mandatory interview.
104. If the claimant has an Appointee or someone with Power of Attorney (POA), assume that the Appointee/POA fully understands the mandatory interview requirements and is therefore being proactive in assisting the claimant to comply. Core Visits should still be undertaken in these cases and include the Appointee/POA.
105. Consider the possibility that the claimant's Failure to Attend (FTA) might be an indication that the Appointee/POA is not fulfilling their responsibilities, in which case take the appropriate action - see the Agents, Appointees, Attorneys and Deputies Guide.
106. If a claimant has FTA an interview and not responded to the FTA letter, the Adviser reviews the case to check whether the claimant has a mental health condition or learning difficulties, or conditions affecting cognition such as stroke, autistic spectrum disorder or attention deficit disorder that might affect their understanding of mandatory interview requirements and the consequences of failing to comply.
107. If there is such evidence, a Core Visit is arranged as soon as possible, and no further action should be taken regarding the claimant's FTA until the outcome of the Core Visit is known. The Adviser:
- Refers the case to the Visiting Officer in accordance with Core Visits process, detailed in the Core Visits Guide, on form MF37 which must include:

- Claimant's condition
- Claimant's representative/third party these could include social worker, health visitor, family member/friend and so on
- Details of action taken to contact the claimant or representative
- If a previous visit has been undertaken
- If good cause has been considered
- For Failure to Undertake WRA, details of the activity the claimant was directed to undertake must be included, and the date it was to be completed by.
- Request the Visiting Officer to check if the claimant is a Lone Parent with a child under one if this information is not already known
- Sets a personal workflow in LMS for 10 working days to check the outcome of the visit. If this workflow matures and the MF37 has not been received, follow up the referral following local procedures and consider extending the workflow.

Note: It is essential that the MF37 is fully completed and that telephone number included in the referring officer contact details will be manned as the Visiting Officer will need to use this to rearrange the interview during the visit. This number can also be given to the claimant for them to get in touch direct.

108. The Visiting Officer will undertake the Core Visit to establish whether the claimant understands the requirement to attend and participate in the mandatory interview and/or undertake the WRA and gather information.
109. The Visiting Officer contacts the Adviser to have the mandatory interview rebooked, or book an interview to review the WRA, by agreeing a date and time with the claimant and the Adviser. The Visiting Officer will not undertake any mandatory interview activity or make any decisions relating to deferral, good cause and so on
110. The Visiting Officer contacts the Adviser immediately if it appears deferring the mandatory interview might be appropriate, where possible this should be by telephone at the time of the visit.
111. Where the Adviser confirms the appointment has been booked, the Visiting Officer completes an appointment letter.
112. Once the visit is completed, the Visiting Officer returns the MF37 and all the information to the Adviser for good cause consideration.
113. Where the claimant is not at home or refused to cooperate see details of Ineffective Visits. For more information on Core Visits, see the Core Visits Guide.

Ineffective Visits

114. An ineffective visit is one where the claimant either:
 - is not at home,
 - refuses to cooperate, or
 - lives in an area that DWP Visiting deems unsafe.

First Visit Ineffective

115. In the event of an ineffective visit, the Visiting Officer will leave a letter at the claimant's address asking the claimant to contact the Adviser within five working days.

116. If the claimant makes contact within five working days of the ineffective visit, the Adviser notifies DWP Visiting so that they do not make an unnecessary second visit.
117. If the claimant does not make contact within five working days of the ineffective visit, the Visiting Officer must attempt another visit to see the claimant face to face.

Second Visit Ineffective or where core visits cannot take place

118. DWP Visiting must attempt to undertake a Core Visit if the claimant has a mental health condition, learning disability or health condition which affects cognition but this may not be possible where the claimant lives in an area that DWP Visiting deem unsafe.
119. In these cases the HEO should continue to take the action as if 2 ineffective visits have taken place, including ensuring the safety of the claimant and that we have taken all reasonable steps to safeguard the claimant.
120. Where two Core Visits have been ineffective, the claimant's details must be referred to the HEO to consider whether Jobcentre Plus have taken all reasonable steps in safeguarding these claimants.
121. It is important the HEO considers the welfare of claimants who suffer from mental health conditions, learning disabilities or health conditions which affect cognition before imposing any sanction on benefit. Refer to the ESA Incapacity Reference Guide if unsure whether the claimant's condition is a mental health condition or learning disability.
122. To avoid any hardship to claimant's in a vulnerable group every attempt must be made to ensure the claimant's welfare. In the event of two ineffective visits, the HEO must attempt to contact the following sources to establish the claimant's welfare:
- Claimant's Appointee/POA/next of kin,
 - Claimant's Community Psychiatric Nurse,
 - Social Services,
 - Police.

Note: The contact with these people/organisations is to ensure a claimant's welfare (we have a moral obligation to make organisations aware of potential incidents around vulnerable claimants) and not to gather information to support the Labour Market process. The Data Protection act does not allow for these people/organisations to report back to DWP the outcome of any investigations they choose to undertake.

123. Supplying a claimant's details to Social Services or the Police in these circumstances does not contravene the Data Protection Act. Providing that there is evidence to support the referral, the sharing of information falls under the exemption category.
124. If the HEO considers that the claimant continues not to provide good cause or it has not been possible to establish contact then they should review information (mainly from LMS) to inform the decision maker of the steps taken, including:
- Considering the context of the interview and whether the interview should be deferred.
 - Notifying the claimant of the date, time and place of the interview and asking them to get in touch if they cannot make it.

- Offering a more convenient location or a home visit where appropriate and encouraging advocacy support if needed.
 - Identifying any relevant issues where known that might impact on attendance.
 - Contacting the claimant before the interview to remind them that it is due.
 - Visiting those claimants with whom there has been no verbal contact prior to the interview.
 - Visiting every claimant with a stated mental health condition or learning disability, with their representative if appropriate, to ensure they understand their responsibilities, and details of the attempts made to visit the claimant and the reasons they are not effective.
125. Jobcentre Plus's commitment to safeguard claimants means that all these steps should have taken place and so it is important that they are carried out and noted to inform the adviser.
126. The adviser will then gather the relevant documentation so that the case can be sent to the LM DM, including details of safeguarding steps taken. This will enable the LM DM to make an informed decision about whether a sanction is appropriate, even where a claimant is deemed vulnerable. LMS prints should not be included as the LM DM has access to LMS.

Sanctions

127. A claimant who FTA/FTP in a mandatory interview, or fails to undertake WRA, and does not demonstrate good cause risks having a sanction imposed on their benefit.
128. If the Labour Market Decision Maker (LM DM) determines the claimant has not shown good cause for FTA/FTP or failure to undertake WRA, and sanctions their ESA, the Benefit Centre sends a notification to the claimant and returns the decision papers to the Jobcentre. Details of the action undertaken by the LM DM are given in the Chapter 02(b) of the Labour Market DMA Procedural Guide.

Sanction amounts

129. The amount of sanction for FTA/FTP in a mandatory interview or failure to undertake WRA is:
- 100% of the prescribed amount for a single claimant from the first day of the benefit week in which the failure determination is made, unless the claimant has been paid benefit since the determination is made, in which case the deduction will be applied from the first day of the benefit week after the claimant was last paid.
 - Following re-compliance a further one, two or four week fixed period is applied (unless the claimant complies within the same week in which case they will only get a fixed period sanction).
130. The adviser does not need to take any action to decide the length of the fixed period. This will be determined by the LMDM.
131. The fixed period is determined by the number of sanctionable failures within 52 weeks of the current failure. The 52 week period begins on the date of the current failure and counts back for 52 weeks.. The fixed term

period will escalate if it is within 52 weeks of the last sanction but not within two weeks of it. When two or more sanctionable failures occur in the same two weeks each one will be given the same level of fixed period, it does not escalate.

132. The only scenario where a further sanction can be applied over and above the 100% of the prescribed amount is when the Partner FTA/FTP in a mandatory interview (see WFIP for more detail). In these cases, a further reduction in ESA is applied that is equal to 20% of the Personal Allowance component of Income Support for a person aged 25 years or over.
133. Sanctions cannot be applied to claimants who are not mandated to the Jobcentre Plus Offer or the Work Programme (even if they volunteer) as a condition of receiving the full entitlement of ESA, that is:
- Claimants awaiting their Work Capability Assessment (WCA) outcome,
 - Incapacity Benefit – prior to IB (IS) Reassessment,
 - Claimants appealing a WCA decision that they have no LCW,
 - Support Group claimants,
 - Credits Only claimants,
 - Full time carers,
 - Lone parents with child aged under 1.
134. ESA claimants cannot be sanctioned under the current regime whilst there is a sanction in place under the old regime (pre 3 December 2012).

SMS Notification

135. While there is no requirement for advisory service teams to attempt to re-engage the claimant once a sanction is imposed, local offices may decide to issue a SMS text to encourage claimants to re-engage.
136. If and when you do this is to be decided locally.
137. Where you do choose to issue a SMS text it is essential that the wording below is used, for more information about SMS see SMS Homepage.

Scenario	Wording
Claimants who have FTA a WFI and are living with the sanction	You may be better off financially if you take up the help and support available from Jobcentre Plus or the Work programme. To find out more contact <<insert phone no>> to make an appointment
Welsh	Gallech fod yn well eich byd yn ariannol os byddech yn derbyn yr help a'r cymorth sydd ar gael gan y Ganolfan Byd Gwaith a'r Rhaglen Waith. I gael mwy o wybodaeth, cysylltwch â <<insert phone no>> i drefnu apwyntiad

Explanations, Mandatory Reconsiderations and Appeals

Action to take when a claimant disputes a decision

138. Where the claimant contacts the jobcentre directly, basic explanations for a decision will be handled by Jobcentre Plus staff.
139. If the claimant wants either:
- a full verbal explanation of the decision and/or
 - a Written Statement of Reasons (WSOR) and/or

- a Mandatory Reconsideration (MR)
- arrange for a HOTT transfer to the Benefit Centre for the LM DM to action. No further action is required.

Overview of the reconsideration and appeals process

140. The claimant will first be offered a full explanation of the decision by the LM DM, if they still wish to dispute the decision they must request a MR. For more information on the LM DM process see the Labour Market DMA Procedural Guide.
141. Following the introduction of Appeals Reform a MR has been introduced for all disputed decisions notified on or after 28 October 2013. The claimant will be unable to appeal until the MR has been completed. This activity is carried out by the Dispute Resolution Team (DRT), for more information on the process see Dispute Resolution Team - Labour Market Mandatory Reconsiderations Guidance.
142. When the MR has been completed, the claimant will be sent two copies of a Mandatory Reconsideration Notice (MRN). If the claimant still disputes the decision and wants to appeal, the claimant must send their appeal directly to Her Majesty's Courts and Tribunals Service (HMCTS) enclosing one copy of their MRN.
143. The Code of Appeals Procedure (CAP) gives detailed guidance on dealing with appeals.
144. For guidance on the legislative provisions and the correct interpretation of the law, decision makers (DMs) refer to the Decision Makers Guide (DMG).

Re-engagement by a sanctioned claimant

145. When a claimant re-engages, the requirement they have to meet to comply and have their sanction removed will be determined by when the failure took place, either:
- before 3 December 2012, or
 - on or after 3 December 2012.
- The action to take when that requirement is met is the same.
146. If the claimant subsequently complies the Adviser must notify the Benefit Centre immediately by completing and sending form JCP27 so that the Benefit Centre will lift any sanction from the first day of the benefit week in which they comply and reassess the claimant's ESA, taking into account any fixed period sanctions that are appropriate.
147. This includes where a claimant who was carrying a sanction from FTA/FTP in an interview from before the closure of Pathways and has subsequently re-engaged.
148. If the failure was before 3 December 2012, when completing the JCP27 the adviser should leave the date of transgression box blank and strike through the inappropriate wording about the open ended sanction.
149. If the failure was after 3 December 2012, when completing the JCP27 the adviser should complete all appropriate boxes on the form, ensuring the date of transgression box is completed.

150. Detail of the re-engagement should be recorded in 'Conversations' within LMS, including the date on which the claimant participated / agreed to participate

Failures before 3 December 2012

151. When a claimant re-engages, in order to meet the requirement and have their sanction ended for failures that took place before 3 December 2012:
- if required to attend an interview in person, the claimant must attend the mandatory interview at the place, date and time notified,
 - if not required to attend in person, for example for a telephone interview, the claimant must be available and respond at the date and time notified,
 - if required to undertake WRA, the claimant must undertake the activity.

Failures on or after 3 December 2012

152. When a claimant re-engages, in order to meet the requirement and have their sanction ended for failures that took place on or after 3 December 2012:
- if required to attend an interview in person, the claimant must agree to attend the mandatory interview at the place, date and time notified.
 - if not required to attend in person (for a telephone interview), the claimant must agree to be available and respond at the date and time notified.
 - if required to undertake WRA, the claimant agree to undertake the activity.

Guidance queries and help

153. If you are unable to find an answer to a particular question regarding the process within this guide you must contact the Jobcentre Plus Live Support Advice Line. Do not give the Advice Line number to customers or outside bodies under any circumstances, it is for the use of Jobcentre Plus staff only.
154. Do not use the 'E-mail page owner' and 'Page information' links at the bottom of each page of guidance to raise policy queries. These should only be used to report broken hyperlinks.
155. Use the comments box at the bottom of each page to submit suggestions for guidance improvement only, any questions raised via this route will not be answered.