

## Chapter 4b - Safeguarding and Vulnerability

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### Background and further information

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. The 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 (See also [Work Programme Provider Guidance Chapter 3a - Work Programme mandation](#)).

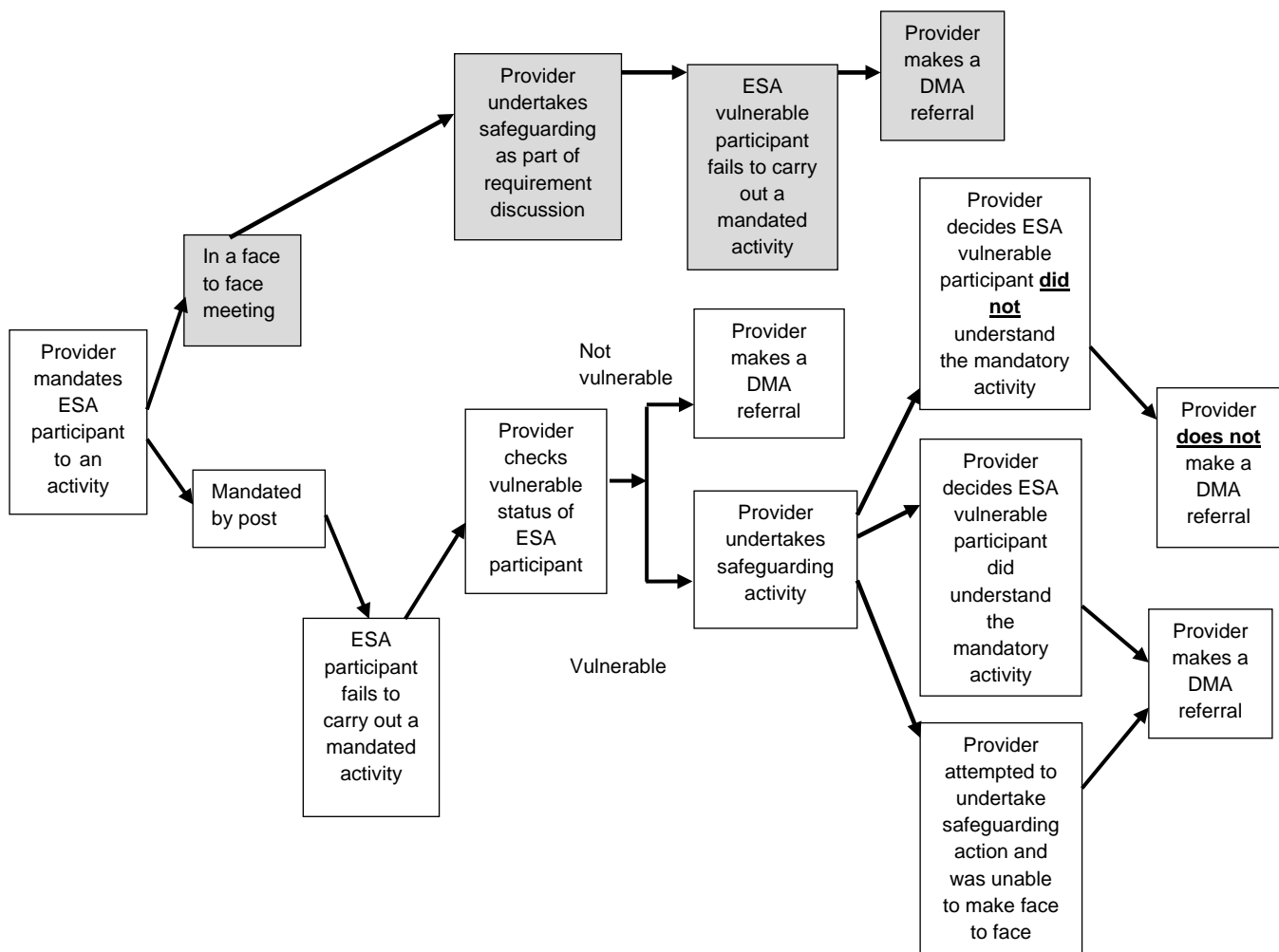
**Please Note:** This chapter should be read in conjunction with [Work Programme Provider Guidance Chapter 4 - Accepting referrals, initial participant engagement and registering an attachment](#), [Work Programme Provider Guidance Chapter 5 – Change of circumstances](#) and [Work Programme Provider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

#### Definition of a vulnerable ESA participant

3. The official definition of a vulnerable ESA participant is:

“Vulnerable Employment and Support Allowance (ESA) participants are those who have mental health conditions or learning disabilities or conditions affecting communication/cognition.”

## High Level Must Do's



### ESA participant fails to carry out a mandated activity

4. Before raising a sanction doubt referral for vulnerable ESA participants you must have ensured, by engaging face to face with the participant, that they have understood the requirements of the activity and possible consequences of not carrying out the mandated activity. This is referred to as 'safeguarding.'
5. This policy is intended to protect vulnerable ESA participants and ensure no sanction is imposed inappropriately, that is because the vulnerable ESA participant has not understood what they were being asked to do. When an ESA participant fails to carry out a mandated activity you should:

**Action**

- check the initial PRaP referral for their vulnerable status
- check for vulnerable status feedback on recent sanction decision notifications
- check relevant change of circumstances notifications ([WP07b](#))
- check your records for any notes taken.

**Participant is not a vulnerable ESA claimant**

6. If there is no evidence the participant is a vulnerable ESA claimant then you should make the sanction doubt referral in the usual way.

**Action**

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

**Participant is a vulnerable ESA claimant**

7. [Paragraph 3](#) provides the official definition of a vulnerable ESA participant.
8. If either the original PRaP referral, vulnerable status feedback on recent sanction decision notification, relevant change of circumstances notifications ([WP07b](#)) or your own evidence tells you the participant meets the official definition of vulnerable you must carry out safeguarding activities before you raise a sanction doubt.
9. 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 do 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 during the face to face meeting and made sure they understood what they were being asked to do and the consequence of them not doing it, you do not need to do it again following the transgression (that is the date they failed to carry out the activity) [See Work Programme Provider Guidance Chapter 6 - Raising a compliance doubt](#).

**Background**

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

**Safeguarding activities successful**

11. If you have had a face to face discussion with the participant (when you have seen them face to face and handed over the mandation notification or after they have failed to carry out an activity you have mandated them to) 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 sanction doubt referral in the usual way. You do not need to explain on the [WP08](#) what safeguarding activities you have undertaken.

**Background**

12. Further detail is provided in the [Background and further information section](#).

**Safeguarding activities unsuccessful**

13. If you have attempted to undertake safeguarding actions and been unable to carry these activities out you should still raise the [WP08](#). The action you have attempted will still be taken into account by LMDM when deciding good cause.

**Action**

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

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

**Consequence**

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.

If a referral is received by the LMDMs without an explanation of actions undertaken while attempting safeguarding action, the referral will be cancelled.

**Jobcentre Plus identifies that an ESA participant is vulnerable**

14. The notification you will receive on the initial referral will be annotated with the word “safeguarding” to alert you of the participant’s vulnerable status.
15. After the initial referral to the programme if Jobcentre Plus identify that someone previously not defined as vulnerable changes their circumstances and becomes vulnerable, Jobcentre Plus will notify you via the [WP07b](#) process.

**LMDM identifies that an ESA participant is vulnerable**

16. 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 new information given to the LMDM, which has not been shared with DWP or hidden by the participant until this point.
17. In this scenario the LMDM will not “Cancel” the [WP08](#) in this first instance and will continue with the decision making process. This is because you have indicated on the [WP08](#) that you were unaware of vulnerable status.
18. The LMDM will inform you of the new vulnerable status on your copy of the sanction decision:

**‘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.’**

19. On receipt of the information from the LMDM ensure that your participant’s records are updated to note that they are now classed as vulnerable. Failure to update your records and subsequent referrals which suggest that the participant is not vulnerable will be cancelled because the LMDM has informed you about the participant’s vulnerability status.
20. The LMDM will ensure a grace period of four weeks is applied starting from the date that the notification is issued. Any referrals received during the four week grace period will not be cancelled.
21. This 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.

22. See [Work Programme Provider Guidance Chapter 6 - Raising a compliance doubt](#) for further information on completing the [WP08](#) and sanction decisions.

**Provider identifies that an ESA participant is vulnerable**

23. Throughout the 104 weeks a participant is on the Work Programme their circumstances may change.
24. 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 [WP07b](#) form notifying you of a change in circumstances.
25. 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/ condition that means that they now meet the official definition of vulnerable.
26. 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**

27. When talking about safeguarding we are referring to the measures that should be taken to make sure that a participant understood what was required of them and the possible consequences of not carrying out the mandated activity before making a referral for a sanction.
28. It is your responsibility to make every effort to see vulnerable ESA participants face to face after they failed to carry out the mandated activity, to ensure that they fully understand their responsibilities and possible consequences of not carrying out the mandated activity.
29. Alternatively you could mandate the participant face to face, hand them the Mandatory Activity Notification (MAN) and as part of the conversation make sure they understand what you are mandating them to do and the consequences of not doing it.
30. 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.

31. 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**

32. 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**

33. 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**

34. You must ensure that you have met your responsibilities within the Act when asking your staff to visit participants off site.

### **Representatives**

35. A vulnerable ESA participant may have a representative who helps them.

Examples of representatives are:

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

36. You are free to talk to the representative about the participant if they have given you written consent.

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

### **Appointees**

38. If the vulnerable ESA participant has an appointee you are free to speak to them about the participant without any written consent as they have the same

legal status as the participant themselves and are legally empowered to act on their behalf.

**Good practice**

39. It is important to ensure that vulnerable ESA participants are well managed in order to keep them engaged on the Work Programme.
40. It would be good practice to:
- mandate all vulnerable ESA participants face to face and ensure that the participant understands the requirements and possible consequences of not carrying out the mandated activity. This ensures that you have undertaken the safeguarding action required and no further safeguarding action is required if the participant fails to carry out the mandated activity.

**Please Note:** That 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 advocate or representative (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 be aware of the new CMO check and the evidence required
- try to establish if there are any other “hidden” circumstances that could change and affect the participant's ability to engage with you e.g. try to establish what support they have in their personal lives. See Work Programme Provider Guidance - Chapter 5 - Change of circumstances and notifications **[ADD LINK]**
- 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 – Mandation](#), the [WP08 Hints and Tips](#) document and the [WP08 Quality Assurance Framework](#) for help with completing the [WP08](#) form



- contact Provider Direct to make sure you have the latest information on participants circumstances.

### **Compliance Monitoring Officer (CMO) checks**

41. A new Compliance Monitoring Officer (CMO) check has been introduced where 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 they mandated the participant face to face. 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 DMA 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 'Failed' compliance check will be:

- evidence that a Safeguarding meeting was carried out and no DMA referral was made, except in the circumstances above when it wouldn't be appropriate to make the referral
- 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.

- [Voice UK](#) is a national charity supporting people with learning disabilities and other vulnerable people who have experienced crime or abuse. Its helpline for carers, parents and professionals can be reached on 0808 802 8686, Monday to Friday between 0900 to 1700 BST, e-mail [helpline@voiceuk.org.uk](mailto:helpline@voiceuk.org.uk) or text message 07797 800 642.

- [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.