

Explaining a sanctionable failure and gathering good reason

Summary

How to explain the impact of a sanctionable failure and gather good reason from a claimant.

Content

When an agent identifies that a claimant:

- may not have met a work-related requirement set out on their Claimant Commitment
- failed to attend (Work Focused Interview only or Work Preparation regimes)
- through their own actions have had a loss of pay or paid work (for example loss of employment/pay through misconduct, leaving employment voluntarily, losing pay voluntarily, failing to apply for a job or failing to accept a job)

The agent:

- explains to the claimant that a sanctionable failure has occurred (if face to face or by telephone)
- gathers Good Reason for the sanctionable failure from the claimant
- records the sanctionable failure on the claimant's record on the Work Services Platform (WSP)
- makes the claimant aware of the availability of a Recoverable Hardship Payment, the eligibility criteria and when/how to claim

Claimants with complex needs

If the agent is not in conversation with a claimant who has complex needs the agent telephones the claimant to explain the sanctionable failure and gather good reason.

If the claimant is unable to understand, the agent asks if a member of the household is available to help or if they have other support from intermediaries such as Citizens Advice Bureau, support worker or Age UK. See 'Explaining a sanctionable failure to a claimant' below.

Explaining a sanctionable failure to a claimant

The agent needs to be aware that their role when explaining sanctionable failures is to help the claimant understand the sanctions process and provide a clear and concise explanation. The agent should be able to explain to the claimant:

- how the sanctionable failure occurred
- the importance of providing good reason
- what they need to do to avoid a further sanction - the claimant must complete/attend the specified activity
- what to expect and do if they receive a sanction
- what financial help may be available when a sanction reduces their Universal Credit and what eligibility criteria they would expect to meet to get this

And if applicable:

- escalation of sanctions
- how to comply (for low and lowest level sanctions)

The agent accesses the claimant's doubt history in WSP to view any current or previous sanctions applied in the 365 days immediately preceding the latest failure as this information is needed to explain any escalation of sanctionable failures (if this applies).

The agent explains to the claimant that a sanctionable failure has been identified either because they:

- did not do what they were asked to do on their Claimant Commitment
- failed to attend (Work Focused Interview only or Work Preparation regimes)

- through their own actions, have had a loss of pay or paid work, for example:
 - loss of employment
 - loss of pay through misconduct
 - leaving employment voluntarily
 - loss of pay voluntary, for example reduced their hours
 - failure to apply for a job
 - failing to accept a job

The loss of pay or paid employment, or refusal of employment, may have occurred prior to the claim to Universal Credit. This is known as a pre-claim failure.

The agent needs to be aware of the sanction level that applies for potential escalation purposes.

- Higher level sanctions are 91, 182 or 1095 days
- Medium level sanctions are 28 or 91 days
- Low level sanctions are (open ended until compliance plus 7,14 or 28 days
- Lowest level sanctions are open ended until compliance

If a higher or medium level sanction is imposed, then a sanction with a fixed number of days is applied.

For higher level sanctions the length of the sanction depends on the length of any previous higher level sanction that applied to the claimant's Universal Credit award for a failure in the 365 days preceding the latest failure (but not the 13 days preceding the latest failure) A sanction for the latest higher level sanction will not increase if the previous failure was a pre-claim failure.

For medium level sanctions, a 28 day fixed period sanction is applied for a first failure and 91 days for a second or any subsequent failures within 365 days of a previous medium level sanction (but not the 13 days immediately preceding the latest failure)

For Low or Lowest sanctions, the claimant's Universal Credit is reduced for the number of days from the date they haven't done what was expected of them as set out in their Claimant Commitment to the day before they meet the compliance requirement.

Low level sanctions are also followed by fixed period of 7 days for the first failure, 14 days for a second failure within the 365 days since the date of a first low level sanction and 28 days for a third or subsequent failures within the 365 days of the date of a previous low level sanctionable failure. The fixed period will not escalate if the previous failure occurred in the 13 days immediately preceding the latest failure. Lowest level sanctions do not escalate.

Compliance for low and lowest level sanctions

Low and lowest-level sanctions affect a benefit claim for a period from the day of a sanctionable failure until the day before the claimant meets a compliance condition specified by the Secretary of State.

This is known as the 'open-ended' sanction.

A compliance condition is the action (in relation to complying with a work-related or connected requirement) the claimant has to complete/meet in order to stop the open-ended element of a low level (or lowest-level) sanction.

The compliance condition is 'specified' by the Secretary of State and must be clearly communicated to the claimant. It is the responsibility of the Secretary of State to inform the claimant clearly and precisely what they are required to do to comply, for example if a claimant is required to participate in an employment programme (such as the Work Programme) the compliance condition should be clearly set that the claimant 'must contact the scheme provider to arrange and attend an appointment to participate'.

Any compliance activity is normally recorded on the claimant's current Claimant Commitment but can be notified to the claimant however else the Secretary of State may determine (if it is not included on the Claimant Commitment), for example by phone, face to face or by letter or email.

What is important is that the claimant must be in no doubt as to what exactly they have to do to end the open-ended element of the sanction - and the activity must be reasonable and achievable.

Example:

If a claimant has failed to attend a meeting at the Jobcentre, the compliance condition should be set 'to arrange and participate in a meeting at the jobcentre' (if still appropriate).

If the claimant was given a compliance condition 'to contact the Jobcentre to re-book an appointment' there is no requirement within that condition for the claimant to actually attend - so if the claimant calls and re-books an appointment, the open-ended part of the sanction will end regardless of whether they turn up at the interview.

This is why it is important that the compliance condition is clearly and precisely communicated to the claimant and that the method and content of the notification is correctly recorded for evidence purposes in the claimant's contact history. Failure to do so could mean the correct sanction period cannot be imposed.

The compliance condition can be revoked or varied at any time but will usually be the original requirement the claimant failed to meet. However, where this is not appropriate or no longer reasonable then it will be a suitable alternative requirement as specified.

Example:

If the compliance condition was to participate in a training course that is no longer available, or only available at a date significantly in the future, the new compliance condition could be to arrange and attend an interview with the work coach to discuss what alternative training may be available and suitable.

A claimant cannot be disadvantaged if they are willing to comply, for example if a claimant fails to attend for an interview, the date of compliance can be treated as the date the claimant makes contacts to arrange a new appointment - providing they then attend the re-arranged appointment (if that was the compliance condition clearly set on the Claimant Commitment).

The agent must ensure that they explain to the claimant that the open-ended sanction will only end if they attend the re-arranged appointment and ensure this is recorded on the doubt within WSP.

If there are multiple sanctionable failures, the agent explains each one of the compliance conditions to the claimant and what they must do to comply.

If the claimant has provided evidence of compliance, the agent records the details of the compliance activity and the date of compliance in the notes on the doubt within WSP.

If the agent is in conversation with a claimant who states they have complied or need their work-related requirements reviewing, the agent books a work-related interview.

Gathering good reason from the claimant

An agent gathers good reason from the claimant whilst in conversation with them and gets them to answer the questions on the Good Reason Gather notification/template - explaining the importance of providing good reason. The agent makes every effort to gather this information at the point the sanctionable failure is identified to help speed up the decision making process.

However, if the agent is for any reason unable to gather the claimant's reasons whilst in conversation with them, they can be invited to provide these through the issue of the appropriate good reason gather letter. The agent identifies the correct good reason gather notification relevant to the sanction level and completes with the details of the work-related requirement and date of failure:

- Higher or Medium – UC71
- Lowest or Low (except for Low Level FTA) – UC72
- Low FTA only – UC70
- Loss of pay – UC84a
- Loss of paid work – UC84

Agents should complete the relevant evidence gather template if the identified sanctionable failure relates to:

- UC421/UC422/UC423/UC424/UC425/UC426/UC427 - failure to attend
- UC428 - failure to participate
- UC429 - failure to undertake all reasonable work search action

When possible, the template should be completed whilst the agent is in conversation with the claimant, either face to face or by telephone.

If there are multiple sanctionable failures the agent gathers Good Reason for each sanctionable failure and completes a good reason notification for each failure.

The agent gathers the claimant's reasons for not meeting their requirements on the good reason gather notification/template, the reasons are typed on to the notification/template so that the agent can copy and paste this directly into the relevant 'doubt' record on WSP.

For loss of pay or paid employment sanctionable failures, the agent gets the claimant to sign the UC84/UC84a so information can be gathered from their previous employer.

If the agent has telephoned the claimant they complete the UC84/UC84a and posts to the claimant so a signature can be obtained. See 'Providing good reason by post' below.

If the claimant refuses to give consent, the agent informs the claimant that the decision maker will make the sanctionable failure decision based on the reasons provided.

The completed Good Reason Gather notification/template is uploaded to the Document Repository System (DRS):

- Universal Credit outlet agents must print a copy of the notification and send it to the Mail Opening Unit (MOU) for upload to DRS marked 'No CAMLite action required'
- Service Centre agents upload the notification to DRS

The agent records the sanctionable failure on WSP.

Providing good reason by post

If the agent is not in conversation with the claimant (or in exceptional circumstances the claimant cannot provide the reasons whilst in conversation) the claimant should be given sufficient time to comment and to provide evidence appropriate to the particular circumstances of the failure.

The agent issues a copy of the good reason gather notification to the claimant by hand if they are in the office or by post if not and uploads a copy of the good reason gather notification to DRS.

The good reason gather notification must be returned to the MOU within 7 calendar days from date of issue to allow the claimant to provide evidence.

If there are multiple sanctionable failures the agent will issue a good reason gather notification for each sanctionable failure.

The agent can set the date for longer than 7 days where the claimant:

- needs to seek information or evidence from a third party
- has an agent or representative
- has complex needs, for example a health condition, life event, personal circumstances that may have prevented them from replying at this time (these may include a pre-existing health condition or existing caring or parental responsibilities that may be relevant)

The agent creates a CAMLite task to follow up the return of good reason gather notification from the claimant.

- Task Type: Generic Clerical
- Sub Type: Action Required
- Start Task From: this will be 10 days after the 'Good reason gather letter was issued
- SLA: 3 days
- Notes: 'Sanctionable failure evidence received?'
AR code, brief description of failure, include details of complex needs if applicable, multiple sanctionable failure referral
- Assigned To: UC – Work Services

If there are multiple sanctionable failures the agent creates a case in CAMLite, then creates a separate task for each sanctionable failure to follow up the return of the good reason gather notifications so the tasks can be put in one case.

The agent records the doubt on WSP.