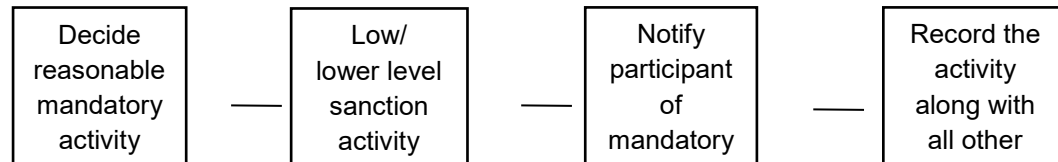


Chapter 5a - Mandation to activity attracting a Low/Lower Level sanction

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High Level Must dos



Mandating Long Term Unemployed (LTU) participants to undertake activity that attracts a Low/Lower Level sanction

Sanctions are there to encourage claimants to comply with reasonable requirements, developed and agreed by them based on their individual circumstances, which in turn help them move into/prepare for work. It is important to set and agree realistic and achievable conditionality requirements, to support all claimants towards work.

Sanction - A benefit sanction is a penalty imposed on a benefit participant by the Department of Work and Pensions (the Department). It is a decrease or loss of a benefit when someone without good reason has not met conditions imposed by the Department.

- A Lower level sanction – this is defined in paragraph 37
- A Low level sanction – this is defined in paragraph 41

Please note - For participants on Universal Credit (UC) the mandated activity (e.g. attend a workshop) attracts a Low Level sanction and for participants on Jobseeker's Allowance (JSA) the mandated activity attracts a Lower Level sanction.

1. You have the delegated authority to require LTU participants to undertake activity which would help them find and retain work. If LTU participants mandated to the WHP fail to undertake mandatory activity, you will refer a compliance doubt to a DWP Decision Maker who will decide whether or not to sanction.
2. To mandate LTU participants you must ensure policy procedural and legal requirements are adhered to.

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- A Low/Lower Level sanction may be imposed where there has been a failure by a LTU Participant to carry out any activity that attracts a low/lower level sanction that you have mandated the Participant to do whilst on the WHP, for example attending an appointment or a workshop.
- 4. If you choose to mandate a Participant to undertake activity, you must do so using the appropriate letter contained in the annexes of this guidance (Mandatory Activity Notification for JSA participants – JSA MAN or Mandatory Activity notification for Universal Credit participants – UC MAN). You must not draft and/or issue any mandation letters you have devised yourself.

Please note - Do not notify a LTU Participant to undertake multiple activities on one notification - you must issue a separate notification for each activity.

- The following steps must be taken on every occasion you want to mandate a LTU Participant to do something:
 - ensure that the activity is reasonable in the Participant's circumstances
 - Where you are notified that a Participant has complex needs and/or additional support requirements, you must carefully consider any impact these may have on the Participant's ability to understand or comply with the requirements of the mandated activity.
 - identify if the JSA Participant has an [Extended Period of Sickness](#) (EPS) and consider accordingly
 - notify the Participant in writing on the appropriate [Mandatory Activity Notification \(MAN\)](#) of:
 - the fact that the action is mandatory
 - the specific action that they are required to undertake
 - when or by when they must undertake it
 - what evidence, if any, they must supply to demonstrate completion
 - the [MAN](#) must be either handed directly to the Participant or sent by post
 - keep the rationale on why you are mandating them to an activity
 - record the above information (the [MAN](#)) along with all other ongoing mandatory requirements in a single action planning document.
- Further information can be found in Chapter 4 - Action Planning.

Consequence

If you mandate the Participant to an activity that is not reasonable in their circumstances, a compliance doubt referral may be cancelled by the DWP Labour Market Decision Maker (LMDM)/Universal Credit Decision Maker (UCDM).

The LMDM/UCDM will make a decision based on an assumption that the [MAN](#) meets requirements. If you fail to mandate correctly any sanction imposed would not be underpinned by the legal framework, and any decision to sanction may be overturned by the Disputes and Resolution Team.

6. Where you choose to mandate you must always take follow up action if the LTU Participant fails to carry out the mandated activity by undertaking the compliance doubt process. This means always raising a compliance doubt unless you have been advised not to by DWP. Further information can be found in Chapter 8 - Raising a Compliance Doubt.

Detailed Background and further information

Mandating LTU participants to undertake activity that attracts a Low/Lower Level sanction

7. You may decide to use mandation where you feel it is the best approach for encouraging a LTU Participant to attend an appointment or complete an activity.

For example, once it is apparent that a LTU Participant has failed to carry out a non-mandated activity, you should consider mandating them to their next activity to help ensure they engage effectively with you. This also gives a clear message that a pattern of failing to take part in the WHP will result in a sanction.

8. You must ensure there is a clear link between cause and consequence to demonstrate that failing to comply with a mandated activity will result in a sanction being imposed if there is no good reason for it.
9. The activity should be something that will help LTU participants with more tailored support than is available in the Jobcentre Plus Offer, enhancing their employment prospects in order to achieve sustained employment.

10. Irrespective of your model you must issue a separate [MAN](#) for each activity and it must be clear on the notification that the activity is mandatory.
11. It is a requirement that any change to what is required is notified on a new [MAN](#) to the LTU Participant so that it is specific to the new activity. It is also important to issue it in good time (see paragraph 29 onwards for further information on timings).
12. **For UC participants**, where you mandate a Participant to an appointment or an activity, you must inform them of the relevant pre-approved compliance condition at the same time as notifying the original mandatory requirement. The compliance condition must also be recorded on the [UC MAN](#). This way if a Participant fails to meet the original requirement (mandated activity) they should have the opportunity to be able to comply immediately and are aware of what action they need to take to comply.

LTU participant's circumstances

13. When deciding whether an activity is reasonable in a LTU Participant's circumstances you need to consider the Participant's personal circumstances such as any health condition they may have their ability to use transportation, their skills/education, any childcare responsibilities the Participant may have, etc. These examples are not exhaustive. Where you have been notified or identified that a Participant has complex needs and/or additional support requirements you should carefully consider the impact of these. Please see chapter 6 for more information.
15. You may be notified of any disclosed disadvantage(s) and associated commitments that may limit availability, for example drug/alcohol treatment/probation requirements.

Mandatory Activity Notification attracting a Low/Lower Level sanction

16. You must give specific detail about the sanctions that could apply should a LTU Participant fail to carry out a mandated activity.
17. When completing the [MAN](#), you must adhere to the policy, procedural and legal requirements because a sanction can only be considered for non-compliance if the LTU Participant was correctly notified. Such notification(s) must include the specific action(s) that they are required to undertake as part of mandatory participation.

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18. Only one activity is to be included in each [MAN](#).

For example: a LTU Participant is mandated to attend a specific appointment. The attendance at the appointment is the requirement, although you may include additional information such as:

- to find details of five jobs which would be applied for during the session
- update their cover letter/CV ready to be sent with the applications in time for the specific appointment
- when or by when they must undertake it
- include date information – if not a one-off activity, for example the activity is a training course, you must put the start and end dates of the activity
- that the activity is mandatory
- what evidence, if any, they must supply to demonstrate completion. If required, this should be as specific to the activity as possible to ensure that the Participant time is focused and are under no illusion of what is required to participate. If for example, the Participant is mandated to go to a catering jobs fair – the specific activities could be to obtain relevant literature from at least five stands hand your CV to them and obtain follow up contact details

19. You may decide that, in addition to benefit warning information that is contained in the [MAN](#), the LTU Participant may benefit from further clarification of how the sanction regime could affect them. Financial hardship provision (payments are recoverable for UC participants) is also available from Jobcentre Plus, where applicable, to ensure LTU participants are not placed in financial hardship if sanctioned. Further details provided [here](#)

20. For UC LTU participants - The Participant must know from the outset what the compliance condition is, so that they are in a position to re-comply as soon as they have committed the failure.

Confirm compliance condition for UC participants

21. The compliance condition is the action the Participant needs to take to stop the open ended element of the low level sanction continuing.

22. Where you mandate a Participant to an appointment or an activity, you must inform them of the relevant pre-approved compliance condition at the same time as notifying the original mandatory requirement. The compliance condition must also be recorded on the [MAN](#). This way if a Participant fails to meet the original requirement (mandated activity), they

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should have the opportunity to be able to comply immediately and are aware of what action they need to take to comply.

23. By issuing the compliance condition at the same time as the original requirement the UCDM is able to stop the open ended element of the sanction as soon as they are notified that the Participant has complied.
24. DWP has pre-approved a list of compliance conditions for providers to use. These compliance conditions are:
 - Contact the provider and agree a date for future attendance and attend re-arranged appointment.
 - Undertake agreed work preparation activity (or agree to and undertake this activity at an agreed future date where it cannot be completed on the same day).
 - Supply specific information (relevant to work-related requirements).
 - Agree a date for future attendance at an appointment/placement with a third party (i.e. college, skills training course) where the third party cannot arrange for same day and attend the re-arranged appointment.

Please note: You cannot mandate to work experience for this programme.

Actions

Ensure:

- The compliance condition is on the pre-approved list before mandating the Participant to an appointment or activity.
- That consideration is made to the individual's circumstances, in particular any complex needs and/or additional support requirements as set out in Chapter 6 of this Guidance
- It is made clear to the Participant that if they fail to undertake a mandated activity, they may be subject to a sanction; comprising of an open-ended element and a fixed period (low level sanction). The open-ended period will continue until they meet the compliance condition or original requirement.
- The agreed compliance condition is inserted into the [Mandatory Activity Notification \(MAN\)](#).

Consequence

If the compliance condition is not on the pre-approved list, the UCDM will cancel your compliance doubt referral. This will waste resource and time for you and the UCDM.

Developing the recommended compliance condition

25. DWP has a pre-approved list of compliance conditions for providers to use, which can be found at paragraph 24.

- Example 1: You mandate Gary to attend a CV writing appointment on the 15th January. You include in the [MAN](#) the compliance condition that you consider appropriate e.g. if he does not attend the mandatory activity on the 15th January, he must agree to undertake this activity at an agreed future date.
- Example 2: You mandate Sue to attend a one day training course on 15th January. As the course will not run again for another 6 months, [MAN](#) should specify a compliance condition that can be achieved as soon as possible. She should not be given attending the next available course as her compliance condition as she will be unable to meet it immediately and will be unfairly penalised for an open ended period before she could comply.

Please note - It is important to be careful if you use a specific date. Using a specific date as part of a compliance condition could mean that the Participant could not comply quickly and therefore their open ended sanction could continue to build i.e. a date is too far into the future.

Timing of sending the MAN

26. Ensure that the timeframe between issuing the notification and the taking part in the activity is reasonable.
27. If the [MAN](#) is posted, it is taken to have been received on the second working day after posting (not including Saturday, Sunday, Christmas Day, Good Friday or bank holidays).

For example: if an activity was due to start on the Tuesday at 9am, it would be advisable to send the [MAN](#) on the preceding Tuesday. It could then be assumed to have been received in good time. It would be doubtful

that the LTU Participant could provide good reason for failing to take part due to not receiving the [MAN](#) in good time.

Method of sending the MAN

28. The [MAN](#) must be either handed directly to the claimant or posted to the LTU Participant's home address. Where a Participant is of no fixed abode the Participant's correspondence address should be used. You may choose to use registered post to ensure delivery. If it is posted it is deemed to have been received on the second working day after posting (see above). Where you have been notified that a Participant has complex needs and/or additional support requirements, you should consider their impact when issuing the MAN to the Participant.
29. It is not acceptable to use electronic methods, such as text or email, to send the [MAN](#) to LTU participants. However, it is acceptable to communicate electronically with LTU participants to remind them of mandatory (or non-mandatory) activities.

Additional information on MAN

30. In addition, it may be of benefit to include other useful information that may minimise the risk of non participation, such as:
- supplying map and/or directions to the location of the mandated activity
 - encouraging LTU participants to inform you of any circumstances that could affect their participation at the activity.

Rearranging a mandatory activity

31. If **prior** to a LTU Participant undertaking a mandated activity, you are contacted by the LTU Participant because they are unable to undertake the activity, you may choose to rearrange the activity and not follow the compliance doubt process (see WHP Provider Guidance; Chapter 8 - Raising a Compliance Doubt).
32. Rearranging an activity before it has occurred does not contravene the good reason consideration undertaken by the LMDM/UCDM. This is because until the mandated activity date has occurred, no failure to take part has occurred.

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33. However, not taking compliance doubt action and allowing a LTU Participant to arrange an alternative appointment on a number of occasions weakens the link between cause and consequence.
34. It is important to consider before agreeing to rearrange an activity if there is good reason, whether or not this is the first time this has happened, or whether or not a pattern appears to be emerging. In these circumstances you may wish to consider challenging the LTU Participant, for example asking if they have evidence to support the reason they have given for needing to rearrange. If you decide not to re-arrange the activity and the Participant fails to comply with the mandated activity, you must raise a compliance doubt (see WHP Provider Guidance; Chapter 8 - Raising a Compliance Doubt). In these circumstances you must add to the compliance doubt referral form [WHP08](#) or [UC193 \(WHP\)](#) that the request to rearrange was made and refused, and your reasons for refusing the request in full.

For example: two days prior to the mandated activity, the LTU Participant telephones you and explains that following a routine doctor's visit, an urgent hospital appointment has been arranged for the morning of the activity. They explain the appointment may overlap with your activity. You could then decide to rearrange the activity. If you agreed to re-arrange the activity, there would be no need to raise a compliance doubt referral for the original activity.

35. However, if you have any doubt that the reason for the request is not genuine when the LTU Participant asks to rearrange, you would inform them that they need to attend and that if they do not attend, a compliance doubt will be raised.

Sanctions

Jobseeker's Allowance (JSA) sanctions

36. There is no provision to revise the period of a JSA sanction for failure to take part in the WHP without good reason when the LTU Participant re-engages. Therefore, even if the JSA LTU Participant complies with the mandated activity, they will still have to serve the full period of sanction.
37. A **Lower level sanction** - includes, without good reason, failure to comply with a "work for your benefit" scheme, such as the failure to take part in the WHP. If a sanction is imposed it will lead to the LTU participant's JSA payments ceasing for a fixed period of four weeks for a first failure, followed by 13 weeks for any second or subsequent failure within a 52 week period of their last failure.

For example: James fails to attend an interview techniques workshop he was mandated to attend. The LMDM determines James has failed without good reason to take part in the WHP and imposes a four week sanction as this is James' first failure. Six months later James fails to attend his Jobcentre Plus Work Search Review appointment and the LMDM determines that he failed without good reason. This is James' second lower level failure and therefore a sanction of 13 weeks is imposed. The sanction escalates as both of the failures are within the lower level category.

JSA Hardship Provision

38. If a LTU Participant is sanctioned for failure to take part in the WHP, they may have access to hardship payments. JSA will not be payable for the full period of any sanction imposed regardless of whether they re-engage.
39. If a LTU Participant receives hardship provision, there will still be a two week wait where they will not have access to funds. LTU participants who are classed as vulnerable may receive hardship provision from day one of the sanction. This may need to be taken into account when requesting them to take part in WHP activities.

UC Sanctions Detail

40. For UC a low level sanction has an open-ended element as well as a fixed period. Generally, the open ended period runs from the date of failure and remains in place until the day before the Participant complies with the requirement or satisfies the pre-approved compliance condition you have agreed. The fixed period is then applied.
41. A **low level sanction** is in two parts:
 - Open ended period – this starts on the day the Participant first failed to comply and will stop running the day before the Participant meets the compliance condition or is no longer subject to the original requirement. The open ended period of the sanction will be applied to the 'Total Outstanding Reduction Period' (the total of all sanctions imposed on the Participant which have not yet resulted in a reduction to the award) from the start of the sanctionable failure rather than waiting for the compliance condition to be met. The open ended element of a sanction runs until:
 - The day before the Participant meets the compliance condition; or

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- The day before the Participant is no longer subject to the original requirement (e.g. they move to a different labour market regime); or
- The day that the UC award ends (unless this is by reason of a couple forming or splitting).
- **Fixed period** – The length of the fixed period depends on previous low level sanctions. A first failure will attract a fixed period of 7 days; a second (within 365 days of the first) of 14 days, and third and subsequent failures (within 365 days of the previous) will attract a fixed period of 28 days. However, if two failures happen within 14 days of each other, the fixed period will not escalate.

For example: Carol was mandated to update her CV and bring it to the provider office on Monday. When mandated she was told if she fails to bring the CV in on Monday without good reason then a low level sanction will apply including an open-ended period that will continue to build until she brings her CV in. Bringing her CV in is the compliance condition. Carol brings in her CV on Thursday. The provider has raised a compliance doubt (see WHP Provider Guidance; Chapter 8 - Raising a Compliance Doubt) and the UCDM determines Carol has failed without good reason to meet a work preparation requirement and imposes a low level sanction. This sanction has an open ended period of 3 days and a fixed period of 7 days as this is her first failure. Six months later Carol fails to attend an appointment she has been mandated to on a Tuesday. She contacts the provider on the Thursday, the provider is unable to see Carol until the following Monday and makes a new appointment which Carol attends.

Following the Provider raising a compliance doubt, the UCDM determines that she failed without good reason to meet the requirement and so imposes an open ended sanction of 2 days and a fixed period of 14 days as Carol has had a previous low level sanction in the last 365 days.

Please note - Where 2 low level failures occur within 14 days of each other the fixed period of the sanction will not escalate.

Please note - [For further details on Compliance condition for participants on UC](#)

UC Recoverable Hardship Payments

42. If a Participant is sanctioned then they can apply for a recoverable hardship payment from Jobcentre Plus to help them to meet their

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immediate and most basic and essential needs, or those of a child or qualifying young person for whom they or their partner is responsible. They will not be awarded a recoverable hardship payment until they have met all of their work related requirements.

43. If a Participant asks about or requests information on Hardship provision you should direct them to their Jobcentre Plus Office.
44. Hardship payments are calculated on a daily basis based on 60% of the amount of reduction. A payment is made to cover a maximum of one month from the date on which the conditions for hardship are met (see paragraph 48 below), up to the point when a customer is next due to receive a payment. The customer must re-apply each at each assessment period, if they are still in hardship and a sanction (or combination of sanctions) extends over a number of assessment periods. The total amount they receive is recoverable once their UC award is no longer reduced by sanction apart from any month where the customer (or customers in the case of a couple) are placed in the No Work Related Requirements group due to high earnings. The hardship payments cease to be recoverable once the customer (or customers) have had monthly earnings in excess of their individual threshold for at least six months.
45. A Participant whose UC award is subject to a Higher, Medium or Low level sanction can apply for a Recoverable Hardship Payment if they meet all the following conditions:
 - They, or their sanctioned partner, are aged 18 or over
 - They have received a sanctioned payment (i.e. they cannot apply until they have actually received a reduced payment);
 - They (or their sanctioned partner) have met any compliance condition relating to an open-ended sanction relevant to them – which, for Work and Health Programme participants, will usually mean they have re-engaged and done what was asked of them on their Action Plan, the failure to do so being what led to them being sanctioned;
 - They have submitted an application and accompanying information and evidence;
 - They, or each member of a couple, accept payments are recoverable;
 - They, or each member of a couple, have undertaken all their work-related requirements in the 7 days before applying for payment;
 - A UCDM is satisfied the Participant, and any children/qualifying young person they are responsible for, is in hardship because they;
 - are unable to meet their immediate and basic and essential needs in respect of accommodation, food, heating and hygiene costs only;

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- have made every reasonable effort to seek other sources of support to meet those needs; and
- Have made reasonable effort to reduce non-essential expenditure.

46. This means a Recoverable Hardship Payment will only start from the point a participant can show they are actually in hardship.

Participant moves to Scotland

47. If an LTU participant moves to Scotland, and whilst they remain in Scotland, they are no longer a mandatory participant. However they may choose to continue participating on a voluntary basis.

LTU Participant has Extended Period of Sickness (EPS) – JSA participants only

48. You may be notified that a JSA participant has agreed to continue to claim JSA whilst on an EPS. This is in addition to the two, two week periods of sickness allowed on JSA and means that a LTU participant can agree to remain on JSA whilst sick for a third period or a longer period of up to 13 weeks. Further information can be found in Chapter 10 - Change of Circumstances and Notifications.
49. During the period of the EPS the LTU participant will have their conditionality tailored to reflect their health condition or illness.
50. The Jobcentre Plus Work Coach will notify you on form CEPD1 of:
- confirmation that the Participant is on an EPS
 - the start and end dates of the EPS
 - details of their conditionality (whether No conditionality or Limited conditionality)
 - start and end dates of each conditionality period.
51. The Jobcentre Plus Work Coach will issue further CEPD1 forms during the period they are on EPS in the following circumstances:
- if further supporting medical evidence is provided
 - if the Participant decides to end their claim to JSA
 - to notify you if the Participant's conditionality changes
 - to notify you of the date when EPS ends and when the participant will be ready to continue with their normal action plan activities.

Tailored Conditionality

52. The Jobcentre Plus Work Coach will then decide whether:
- to remove the conditionality requirements completely for the whole duration of the EPS
 - to remove conditionality requirements completely for part of the EPS and the Participant has limited conditionality for the remaining duration of the EPS
 - the Participant has limited conditionality for the whole duration of the EPS.

No conditionality

53. If the LTU participant's conditionality is removed you cannot mandate the LTU participant to undertake any specified activities.

Limited conditionality

54. Where a JSA LTU participant has limited conditionality, you must consider their health condition prior to mandating the LTU participant to an activity. The LTU participant cannot be mandated to take up work, however they can be mandated to apply for a job or complete activities that are reasonable steps towards preparing them for work.

Please note - Full details on conditionality can be found in Chapter 10 - Change of Circumstances and Notifications.

55. If the period of EPS overlaps a period where you have previously mandated the LTU participant to undertake specified activities, a new notification may have to be issued to mirror amendments to the LTU participant's action plan if they have limited conditionality. Alternatively if they have no conditionality the notification will have to be withdrawn taking into account the LTU participant's circumstances.
56. You must consider the LTU participant's current circumstances prior to making a DMA referral.