Part 11 - WFIs

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Introduction

11000 Work Focused Interviews support the claimant in appropriate activity to become work ready. Interviews should be conducted as soon as reasonably practicable after the requirement for interview arises. Part of the interview is the completion of an Action Plan where specified in legislation. The majority of the PM WFI methodology is generic, but where specific methodology is appropriate it is provided.

Notification of the WFI requirement

11001 The claimant must be verbally informed of the WFI requirement and understand the implications of failing to attend before benefit can be withdrawn or a sanction imposed.

Note: this equally applies to partners who are subject to the WFI (P) regime.

11002 All claimants who have claimed at a Jobcentre Plus rolled out site will have had the WFI requirement explained to them by the First Contact officer in the Contact Centre. PM will accept that any claimant who has made a claim in this manner is aware of the WFI requirement.

Note: JCP Guidance currently requires that where the claimant has a health condition which affects cognition, a compliance visit is made before any good cause decision being made on a FTA WFI and before any sanction can be imposed.

11003 In the following situations PM will deem that the claimant is aware of the WFI requirement:

• a repeat claim to benefit where the claimant attended a WFI in the course of a previous claim
• a review/trigger interview where the claimant has attended a previous initial/review/trigger interview
• any interview that follows a verbal explanation of the WFI requirement where the claimant has not previously attended a WFI.

Note: a sanction cannot be applied to a claimant who has not been informed of the WFI requirement.

11004– 11009

Background
11010 There are two groups of claimant subject to WFI. Each group is subject to different requirements. These are:

- claims on the grounds of Incapacity
- lone parents and others

11011 These two strands are supported by six main pieces of legislation which are applied using the following order of precedence.

**Order of Precedence**

11012 The following order of precedence applies to the WFI regulations:

- the ESA Regs 2008 SI 2008/794
- the Social Security (Work-focused Interviews for Lone Parents) and Miscellaneous Amendments Regulations 2000 (SI 2000/1926)
- the Social Security (Jobcentre Plus Interviews for Partners) Regulations 2003 (SI 2003/1886)

11013 - 11019

**ESA cases**

11020 The guidance on legislation for WFI and ESA claimants is in Volume 9 Chapter 53 of the DMG

11021 For claimants in receipt of ESA it is not decided whether they are subject to WFI until the main phase of the ESA claim begins.

11022 Where for the main phase of the ESA claim the claimant is placed in to the Work Related Activity Group they will then be subject to WFI. This means that a claimant appealing a LCW decision is not subject to WFI as they are not in the WRAG. A claimant appealing a LCWRA decision is still in the WRAG and is still subject to WFI.

11023 Their partner may also be subject to WFI. *Volume 1 Chapter 5* of the DMG Paragraph 5500.
11024 Failure to attend an interview can mean that the benefit is subject to sanction. The rate of sanction and the conditions for imposing or lifting sanctions are laid down in the legislation. (See later in this chapter for information on sanctions).

WFIs conducted by telephone

11025 Legal Group advice is that for ESA claims only legislation (Regulation 57(1) of the ESA Regulations as amended from 01/06/11) enables ESA claimants to be regarded as taking part in a WFI where they are not required to attend in person and they respond at the time and date notified. This is reflected in the DMG guidance Volume 9 Chapter 53 paragraph 53020 - Employment and Support Allowance and this means that in the case of ESA claims, WFIs conducted by telephone meet the legislation when notified correctly to the claimant.

11026 In the case of other benefits subject to the WFI regime where information is obtained by telephone from claimant they will not be treated as having taken part in an interview. The law has not changed for these benefits and still requires the claimant to attend at a time and place as specified by the Secretary of State.

Waivers and deferrals

11041 The legislation states when an officer can decide on behalf of the Secretary of State that the requirement for a claimant to attend a WFI can be waived or deferred. This means that they are treated as satisfying the WFI requirements until they are next required to attend a WFI. See the guidance on legislation for the conditions where waivers and deferrals apply. When a WFI can be deferred or waived.

Waivers

11042 It will be rare for an interview to be waived. Waivers are not available for claims on the grounds of incapacity. The decision to waive an interview must be recorded.
Deferrals

11090 A WFI can be deferred if at the time the WFI is to take place, or was due to take place if the interview would not at that time be of assistance to the claimant or appropriate in the circumstances.

11091 The legislation states that where a WFI is deferred the time for the next WFI to take place must be set so where a deferral has taken place a decision should be recorded detailing when the next WFI is due.

Sanctions

11100 Sanctions can only be imposed under certain conditions, and after a claimant is made aware of the WFI requirements. WFI conditionality is currently explained to the claimant as part of the JCP claim process where WFIs are required. There are different sanction rates depending on which WFI regime applies to the claimant.

11101 The legislation and guidance specifies when a sanction is appropriate and what rates must be used.

11102 The sanction ceases to apply when:

• the claimant takes part in a WFI or
• the claimant subsequently ceases to meet the requirements

Performance Measurement check

11110 You will need to check that all WFI activity laid down by the legislation and JCP policy has been carried out. There can be no claimant errors on WFIs as all WFI errors are due to either:

• official failure to follow legislation and guidance or
• an incorrect application of legislation or guidance

11111 Any error will either have a monetary value or be procedural as there are no deemed errors recorded on WFI failures.

11112 Where there is no potential for the benefit subject to check to be affected by a sanction Performance Measurement will record procedural errors for any identified process failings.
11113 Where the office has incorrectly decided that the claimant is not required by the legislation to attend WFIs, there are two questions to ask. Would a WFI have been due prior to the selected period and could the benefit award for the selected period be affected? If the answer to both questions is yes an error will be raised immediately for each missed interview prior to the selected period, so multiple errors may be applicable. The monetary value of the error/s will equal the amount of sanction/s that would have applied at the selected period should the WFI invitation/interview have taken place at the correct date.

11114 Where the case would normally be left as incomplete for the office to conduct WFI activity to establish an outcome (as in Paragraph 11119) but the WFI process has taken place after the selected period in the normal course of business the outcome of that activity will be applied to the selected period (“Rule of thumb”).

11115 The following guidance covers specific situations which arise. Where the guidance does not cover the circumstances of your case you should submit the details of the individual case to AGA for advice.

**Action Plans**

11116 A WFI is not complete without an action plan being drawn up where one is required by the legislation. Where the legislation requires an action plan and there is no action plan the interview is regarded as not taking place and an error will be recorded as if that interview had not been conducted.

**Initial interview due before benefit award**

11117 Where there should have been an initial interview before benefit is awarded and the office has paid benefit without the WFI taking place, there will be a whole award error as in law there is no valid claim until the WFI takes place. This is recorded as an official error immediately. Because there is no claimant involvement in the error, benefit will continue in payment, and Performance Measurement will notify JCP of the error so that action can be taken as soon as possible re the WFI to validate the claim.

**Other WFI interviews**

11118 Where during the course of the claim prior to the selected period the office has failed to conduct a WFI required by legislation or policy guidance, the
claim should be left as incomplete for the office to invite the claimant to attend a WFI (this does not apply to incorrect exiting which is covered in paragraph 11114).

11119 The outcome of that invitation would be applied to the selected period ("Rule of thumb"). Where there is an error to record, the monetary value of the error will equal the amount of sanction/s that would have been applied at the selected period should the WFI invitation/interview have taken place at the correct date.

11120 Before raising the error PM must check the claimant has been made aware of the WFI requirement (See 11001-11003). Where the claimant has not been made aware an official error cannot be raised, but a procedural error would be recorded.

Sanctions
(See DMG Chapters 5 and 53 and ESA policy guidance)

11121 You should check that sanctions have been applied correctly. See individual benefit guidance for sanction rates. Where an office has incorrectly applied a sanction or applied an incorrect rate of sanction the error will be the amount of the incorrectness in the benefit award.

11122 Where a sanction has been applied and there is no evidence to support the sanction then the error will be the amount of the sanction.

11123 Where the sanction has ceased to apply but the office has failed to remove the sanction from the benefit award the error will be the amount of the sanction being applied.

Multiple errors

11124 Where there are multiple errors relating to WFI activity, a monetary value will be attached to each error until the maximum amount of sanction applicable to the individual claimant is reached. Any error with no effect on the benefit being checked will be recorded as procedural.

WFIs for partners

11125 Where a partner is required to attend a WFI, follow the methodology as for the claimant. The requirement for a partner to attend a WFI applies once the
claimant has been in receipt of the specified benefit for 26 weeks. See DMG Chapter 5 and JCP guidance for ESA.

Claim dormant since the selected period

11126 Where the claimant’s entitlement to benefit ceases between the selected period and the date of the Performance Measurement check so that “Rule of thumb” cannot be applied, the action that you take will depend on the reason for the termination of the claim and type of error. If:

• the claimant has started work, PM will accept that the WFI requirements are satisfied for the selected week and treat the case as correct
• the claimant has claimed another benefit, where entitlement is dependant on satisfying the WFI requirements, and those requirements are satisfied, PM will accept that the WFI requirements are satisfied for the selected week, and clear the case as correct
• the failure was no initial interview taking place and the claimant’s entitlement ceased for any other reason you will record a whole award error
• the failure relates to a WFI during the claim you will record a procedural error as no outcome can be established

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