

Sanctions

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Sanctions

A sanction is a financial reduction that is applied on a Universal Credit claimant who:

- doesn't comply with their work-related requirements and does not provide a good reason
- leaves work voluntarily
- loses pay without good reason
- ceases work or loses pay due to misconduct

Before applying a sanction, the claimant is given the chance to explain why they have not complied with the set requirements which can lead to a sanction.

All claimants will have their conditionality tailored to their individual circumstances. In some circumstances, conditionality is 'switched-off' for a period of time. Refer to Switching-off requirements.

Staff must ensure that the claimant fully understands both the requirement and the consequences of not meeting it. A claimant is more likely to meet a requirement if they understand that by failing to do so their Universal Credit will reduce.

The claimant must understand that subsequent failures to meet requirements will result in an increased sanction length. Information about sanctions is available on the journal and agreed by the claimant when they accept their Claimant Commitment.

Before referring for or applying a sanction staff must consider if the claimant is a care leaver, has complex needs, is vulnerable, has a health condition or if there have been previous sanctions recorded in the last 12 months.

When considering a sanction referral for a care leaver where good cause has not already been identified, staff must speak to the Care Leaver SPOC so that any additional information can be taken into account. The Care Leaver SPOC will then contact the Local Authority Personal Advisor (or equivalent representative in Scotland as they don't have Personal Advisors) to consider any information received before proceeding with a sanction referral.

If a referral for, or a sanction is considered appropriate in these circumstances, a case conference is held to decide if it is correct to refer and apply a sanction.

When a Universal Credit claimant is sanctioned, they will receive Universal Credit at a reduced rate. Their payment may be reduced to zero depending on entitlement.

Action must be taken promptly as sanctions start from the date of the missed appointment.

A claimant who is subject to a sanction may apply for a Recoverable Hardship Payment.

If a claimant is entitled to Universal Credit and New Style Jobseeker's Allowance or New Style Employment and Support Allowance, the sanction only applies to the Universal Credit award.

Which mandatory appointments are sanctionable

Only low and lowest level sanctions can be applied if a claimant fails to attend any mandatory appointments including:

- Work Search Review - low level sanction
- Commitments Review
- Self-Employment Review in the Start-up Period
- Work Focused Interview - low or lowest level sanctions (depending on the regime)
- Youth Obligation 5-month stocktake assessment
- Youth Obligation 6-month stocktake

What sanctions cannot be applied to

A claimant cannot be referred for, or have a sanction applied, if they are in one of the following Labour Market regimes:

- No Work Related Requirements

- Working Enough
- Light Touch

However, if a claimant in one of the above groups reports a change of circumstances which moves them into another regime, they are required to attend an interview to consider imposing work-related requirements. If the claimant then fails to attend the interview, they can be referred for a sanction.

A sanction cannot be applied if a claimant was not entitled to Universal Credit on the day of the appointment which they failed to attend.

Sanctions do not apply for failure to attend the following types of interview:

- Initial Evidence Interview
- First Commitments meeting
- Habitual Residence Test interview

Sanction levels

The duration of the sanction depends on the level applied. In Universal Credit there are four levels of sanction:

- higher
- medium
- low
- lowest

Higher level sanctions

Higher level sanctions apply to claimants subject to All Work Related Requirements Light Touch or Intensive Work Search regimes who:

- leave paid work or lose pay through misconduct
- leave paid work or lose pay voluntarily without good reason
- fail to apply for a particular vacancy without good reason
- fail to take up an offer of paid work without good reason

For claimants aged 18 and over, higher level sanctions will be for a fixed duration. Refer to Escalation of sanctions.

For eligible claimants aged 16-17, each higher level sanction will be for a fixed duration of either:

- 14 days if there has been no previous higher level failure in the 365 days prior to the current failure date
- 28 days if there has been a 14 or 28 day, higher level sanction imposed in the 365 days prior to (but not within 14 days) of the current failure date

Loss of work or loss of earnings

A sanction may apply when a claimant moves from the Working Enough regime to the Intensive Work Search or Light Touch regimes because they lost or reduced their earnings.

A sanction doesn't apply if:

- the loss of earnings or work is not the claimant's fault
- they have good reason for the loss of work or earnings
- the claimant remains in the Working Enough regime

Sanctions do not apply to claimants who are gainfully self-employed and give up paid work or lose pay - they lose their self-employed status instead.

Pre-claim failures

A pre-claim failure happens when the date of failure is before the date of the Universal Credit claim.

They apply to higher level failures only - for example, the loss of a job because of misconduct or voluntarily leaving a job for no good reason prior to their claim for Universal Credit.

Sanctions for misconduct (in cases where there is a pre-claim failure) only apply when they relate to the claimants last period of employment before the Universal Claim is made.

The sanction length reduces for each day between the date of failure and the date of claim.

A pre-claim failure cannot be used to escalate any later higher level sanction. Refer to Escalation of sanctions.

A pre-claim failure can only escalate if there is a previous higher level sanction within 365 days of this failure - but not if this is within 14 days and was not a pre-claim failure.

Refer to ADM sanction failure reason summary below.

Medium level sanctions

Medium level sanctions apply to claimants subject to All Work Related Requirements or Intensive Work Search and who without good reason fail to:

- undertake all reasonable work search action
- be available and willing to immediately take up paid work, more work or better paid work

For claimants aged 18 and over, medium level sanctions will be for a fixed duration. Refer to Escalation of sanctions.

For eligible claimants aged 16-17, each medium level sanction will be for a fixed duration of either:

- 7 days if there is no previous medium level failure in the 365 days before the current failure date

- 14 days if there has already been a 7 or 14-day medium level sanction applied for a failure within the 365 days (but not within 14 days) of the current failure date

Refer to ADM sanction failure reason summary below.

Low-level sanctions

Low-level sanctions apply to claimants subject to All Work Related Requirements, Intensive Work Search and those in the Work Preparation regime.

Sanctions apply where without good reason the claimant fails to:

- undertake specified work search activity
- comply with a work preparation requirement
- comply with a Work Focused or Work Search Interview requirement

There are two parts to a low-level sanction - an open-ended part and a fixed period. This fixed period makes certain that the sanction has an impact, even when the claimant complies straightaway.

For eligible 16 and 17 year olds, the fixed period is only ever for 7 days - but it does not apply for the first failure (or within 14 days) of the most recent failure.

For claimants aged 18 and over, refer to Escalation of sanctions.

Refer also to Preventing multiple sanction referrals and Failure to attend with good reason which includes an explanation of the circumstances when good reason cannot be accepted.

Lowest level sanctions

Lowest level sanctions apply to claimants subject to the Work Focused Interview group who without good reason fail to attend or participate in a Work Focused Interview.

Lowest level sanctions are only open-ended and not a fixed period. Refer also to Preventing multiple sanction referrals and Failure to attend with good reason.

Refer to the ADM sanction failure reason summary below.

ADM sanction failure reason summary

The table below has three columns. The first column shows the sanction rate, the second shows the failure reason and the third column indicates the relevant 'to-do'.

Level	Failure Reason	To-Do
High	Leaves paid work through misconduct. Loses pay through misconduct. Leaves paid work voluntarily	Refer to Decision Maker (Leaving Voluntarily/Misconduct/Lost Pay)

	without good reason. Loses pay voluntarily without good reason.	
	Fails to apply for a particular vacancy without good reason. Fails to take up an offer of paid work without good reason.	Refer to Decision Maker (Failure to apply or take up work)
Medium	Fails to undertake all reasonable work search action.	Refer to Decision Maker (Failure to Search for Work)
	Fails to be available and willing to take up paid work immediately (or more paid work, or better paid work).	Refer to Decision Maker (Failure to be available to take up work)
Low	Fails to comply with a Work Focused or Work Search Interview requirement. Fails to comply with a Work Focused or Work Search Interview requirement (self-employed).	Refer to Decision Maker (Fail to Attend)
	Fails to undertake mandatory work activity with no good reason. Fails to comply with a work preparation requirement. Fails to undertake specific work search activity (covers many different requirements, see <u>ADM for definition of failing to comply</u> and examples). Fails to comply with a requirement to report specified changes in circumstances relevant to work-related requirements. Fails to comply with a requirement to provide evidence or confirm compliance.	Refer to Decision Maker (Failure to Participate or Comply)
Lowest	Fails to comply with a requirement to report specified changes in circumstances relevant to work-related requirements (lowest).	Refer to Decision Maker (Failure to Participate or Comply)
	Fails to comply with a requirement to provide evidence or confirm compliance (lowest).	Refer to Decision Maker (Failure to Participate or Comply)
	Fails to attend in Work Focused Interview (Work Focused Interview group only).	Refer to Decision Maker (Fail to Attend)
	Fails to participate in a Work	Refer to Decision Maker (Fail

	Focused Interview (Work Focused Interview group only).	to Attend)
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Multiple open-ended sanctions

If a claimant fails to attend a mandatory appointment and then fails to attend a re-booked appointment of the same type, no new referral is made. This is to prevent multiple referrals and multiple sanctions when a claimant has not yet met the compliance condition for the first failure.

The sanction for the original failure will remain in place until the claimant complies or is no longer required to comply.

Good reason

A claimant must be given the chance to explain why they have not complied with any set requirements that can lead to a sanction.

There is no definitive or legally prescribed list as to what circumstances may amount to good reason when considering the failure to meet a requirement and imposing a sanction.

When good reason cannot be accepted

Good reason is not considered when a claimant ceases paid work or loses pay through misconduct.

However, the claimant will have the opportunity to provide facts and evidence which will be considered by the Decision Maker along with any evidence provided by the employer to determine if there has been a failure and whether a sanction is appropriate.

Compliance condition

A compliance condition is the action a claimant must take to stop the open-ended part of the sanction - low and lowest sanctions.

The compliance condition will usually be the original requirement agreed by the claimant or a new requirement where the original is no longer appropriate. These may include:

- meeting the actual agreed requirement – for example, updating a CV or registering with an employment agency
- booking and attending an appointment for a Work Focused Interview or other interview
- any reasonable, appropriate and achievable work-related activity as specified

The open-ended part of a sanction will end when the claimant meets the compliance condition by undertaking the activity.

It is important that the compliance condition is clearly explained when the requirement is set so that if the claimant fails to comply, they know what they must do immediately to stop the open-ended part of a sanction building-up.

If the sanction failure was failure to attend, the compliance condition is to re-book and attend the appointment.

If the claimant cannot be seen on the same day, the open-ended period comes to an end the day before they contact the Service - provided they attend the rearranged appointment on the correct day.

If the claimant is in prison, the compliance date is the day before the date the claimant entered prison.

How open-ended sanctions are calculated

Open ended sanctions run for a period equal to the number of days from the date of the failure until:

- the day before the date the claimant meets a compliance condition
- the day before the date the claimant moves to the No Work Related Requirements regime or Working Enough regime
- the day before the date the claimant is no longer required to undertake a particular work preparation requirement
- the date the award is terminated - other than as a result of the claimant ceasing to be or becoming a member of a couple
- the day before the date of the claimant's death

After the open-ended sanction is applied

If an open-ended sanction is applied, staff must use every opportunity to encourage the claimant to attend the appointment they missed in order to stop the sanction.

If contact is made, ensure the claimant understands why they have been sanctioned as well as how to bring it to an end. Advise the claimant on the availability of a Recoverable Hardship Payment once they have complied.

If the claim is open, the claimant must be contacted and encouraged to engage where they have not made contact within 6 weeks. Staff must routinely check their caseload to identify these claimants.

Staff must be satisfied that once a claimant has complied or the claim has been closed, the open-ended sanction is ended correctly and on time.

Escalation of sanctions

Escalation of a sanction is an increase in the length of a sanction.

Sanctions only escalate when there is a previous sanction at the same level - higher, medium or low.

The date the claimant failed to take the required action is used to work out whether a sanction escalates. The current sanction will escalate when all of the following apply to the earlier sanction. The earlier sanction is:

- within 365 days of the current sanctionable failure
- not within 14 days of the date of the current sanctionable failure
- not a pre-claim failure

Sanction duration

The tables below show the sanction level against the number of failures with notes in the final row.

	1st failure	2nd failure	3rd or following failure
Low	Open-ended period, ending the day before compliance is met, plus 7 days.	Open-ended period, ending the day before compliance met, plus 14 days.	Open-ended period, ending the day before compliance met, plus 28 days.
Medium	28 days	91 days	91 days

Notes:

The sanction durations for 16-17 year olds are different from the above. Refer to each sanction level section for details.

	1st failure	2nd and any subsequent failure
Higher	91 days	182 days

Notes:

The sanction durations for 16-17 year olds are different from the above. Refer to each sanction level section for details.

A pre-claim failure cannot be used to escalate any later higher level sanction.

Total Outstanding Reduction Period

When a claimant has more than 1 sanction, the sanction periods run one after the other up to a maximum of 1,095 days.

The Total Outstanding Reduction Period (TORP) is limited to 1,095 days. If a new sanction is added and it takes the TORP over 1,095 days, the sanction duration is reduced to ensure the TORP does not exceed 1,095 days.

The Universal Credit award is reduced until all sanction days applied on the claimant are served.

If a new claim is made and the TORP is incomplete, it will continue to countdown in the new award. This ensures that a claimant cannot avoid a sanction by ending their award and then re-claiming. This also applies if New Style Jobseekers Allowance or Employment and Support Allowance is claimed.

The TORP is reduced by 1 day for each day in every assessment period that is covered by a sanction. If the claim terminates their claim and the TORP is more than zero, it continues to count down for each day after the claim termination date. This means if the claimant subsequently reclaims before the TORP has expired, they will serve that unexpired sanction in the new award.

Each member of a couple has their own TORP. Sanctions are applied for the appropriate duration and level against half of the Standard Allowance payable to the couple.

Ending unexpired sanctions

Sanctions remain in place until exhausted, unless one of the following exceptions applies. The sanction will then be terminated and the TORP reduced to zero:

- the claimant (based on individual - not joint claimant earnings) can prove they have been in employment at or above their Conditionality Earnings Threshold (CET) in other words - in the No Work Related Requirements group (or would be if single) for at least 6 assessment periods since their last sanctionable failure (however, the period in employment above the CET does not have to be continuous)
- a claimant in the No Work Related Requirements group (for reasons other than earnings) can prove they have had personal earnings from employment at or above an amount equivalent to 16 hours at the National Minimum Wage for at least 6 assessment periods since their last sanctionable failure (however, the period in employment above the fixed level does not need to be continuous)
- the claimant is assessed or treated as having both a limited capability for work and a limited capability for work or work-related activity - sanctions will remain in place whilst the claimant awaits the Work Capability Assessment outcome
- the claimant dies

Daily reduction amount

The daily reduction amount is based on the Standard Allowance for each category of claimant using the following formula:

(standard allowance x 12 divided by 365) x percentage rate (refer to the table below) with the result rounded down to the nearest 10p.

Percentage rates depend on the claimant's circumstances

The table below shows the circumstances and percentage rates in columns and the sanction levels or age range in rows.

Higher, medium or low level sanctions	Single claimant aged 18 or over	100%
	Joint claimants where both are 18 or over and both are sanctioned	100%
	Joint claimants where both are 18 or over and one is sanctioned	50%
Lowest level	Single claimant aged 18 or over	40%
	Joint claimants where both are 18 or over and both are sanctioned	40%
	Joint claimants where both are 18 or over and one is sanctioned	20%
16/17 year olds	Single claimant	40%
	Joint claimants where both are sanctioned	40%
	Joint claimants where one is sanctioned	20%

The reduction will take effect from the first day of the assessment period in which the adverse decision is made.

Refer to the Monthly rates for the sanction amounts.

Change to the daily amount – child care responsibilities

For a claimant with an outstanding sanction who moves into the No Work Related Requirements regime due to childcare responsibilities, the sanction reduction rate changes to 40% of their Standard Allowance. This includes claimants:

- who become the responsible carer for a child under 1
- who are pregnant and are within 11 weeks or less before (or 15 weeks after) their expected week of confinement
- who are an adoptive parent or responsible foster parent of a child under 1

Earnings Taper

If a claimant receives less than the Standard Allowance, the daily sanction amount is still calculated as if they were in receipt of the full Standard Allowance.

The reduction amount may reduce the Universal Credit award to zero but the claim will not be closed.

Ending a low or lowest level sanction when a claimant moves conditionality regime

When the sanction is low or lowest level, the claimant is treated as having complied at the point they move to the following regimes:

- No Work Related Requirements
- Working Enough
- Light Touch

The open-ended part of the sanction is ended the day before the date the claimant moves to the new regime.

The fixed period of 7, 14 or 28 days on a low-level sanction will continue to apply.

Claimant moves into the Light Touch regime

A claimant who moves into the Light Touch regime will continue to have any high or medium level sanction applied until the end of the sanction period.

Conditionality does not apply to a claimant whilst in the Light Touch regime.

Migration of Legacy sanctions to Universal Credit

Any current or outstanding sanctions on ESA or JSA are taken into account on a claim for Universal Credit. Sanctions applied to the Legacy award may count towards the escalation of Universal Credit sanctions if within 356 days of the date of the new failure.

Fraud sanctions

If a Loss of Benefit penalty due to fraud reduces the Standard Allowance, the conditionality sanction is suspended. The sanction is suspended from the day before the fraud penalty begins until the day after the fraud penalty ends.

A fraud Loss of Benefit penalty is disregarded in the calculation of escalating sanctions and for the TORP.