

02(c) Considering IS WRA Labour Market Doubts

Background

1. This section sets out specific information regarding the processes to support consideration of Work Related Activity (WRA) Labour Market Doubts for certain lone parents receiving Income Support (IS). It must be used in conjunction with the DMG and the other chapters of this guide, primarily Chapter 1 which provides more general information on Labour Market Decision Making and Appeals processes.

Note: From the 2 March 2015 access to the work programme for IS/IB/SDA claimants is no longer be available. The last date claimants could be referred was 27 February 2015.

Types of IS Labour Market Doubt

2. Only one kind of doubt exists as part of IS Labour Market Conditionality. This is referred to as a **Sanction doubt** - these are questions which may affect the payment of, rather than the entitlement to IS.
3. An IS Lone Parent can be sanctioned for the following:
 - Failure to Undertake Work Related Activity. This includes failure to participate in the Work Programme.

Failing to undertake Work Related Activity

Background

4. The Income Support (Work-Related Activity) and Miscellaneous Amendments Regulations 2014 Part 2 introduce a requirement for some IS lone parents who are already required to take part in WFIs, to undertake Work-Related Activity ("WRA"). SI 2014/1097.
5. As a condition of continued entitlement to a full award of IS, an Adviser may, where the claimant meets certain criteria, require the lone parent to undertake WRA.
6. Work-related activity should only be used for activities which increase the lone parent's employability. It cannot be used to require them to apply for or take up work. Relevant lone parents cannot be mandated to register onto Universal Jobmatch (UJ) and upload their CV as WRA. Lone parents can only be mandated to undertake steps to prepare for work. To require them to register on UJ is classed as a work search activity.
7. Regulation 8 of the WRA Regs provides that (unless an easement applies) the amount of income support payable to the lone parent is to be reduced if the lone parent who was required to undertake WRA has failed to do so and not shown good cause for that failure. SI 2014/1097.
8. If a lone parent fails to undertake WRA, they are sanctioned in the same way as Failure to Attend (FTA) or Failure to Participate (FTP) in a mandatory interview where the decision is made by the Adviser in the Jobcentre.

Applicable sanction

9. For details of the sanction to be applied see Chapter 10 – Failure to Attend/Participate in a WFI and Sanctions.

What information should be included as part of the DMA referral

10. For detail see What information should be included as part of the DMA referral

Action to take on receipt of the DART referral / ESA/IS285

11. The referral to the Labour Market Decision Maker for a decision on Failure to undertake Work Related Activity will be made by DART referral or ESA/IS285 but only when DART is unavailable . For detail of action to take see Action to take on receipt of the DART referral

Making a decision

12. For detail see Making a decision at para 42.

AR Codes

13. The AR Code IS/301WRA is used for Failure to Undertake WRA (IS/249/310WRA for a reconsideration)

Recording the decision

14. When a LM doubt is decided, see Recording the Decision.

Failure to Undertake Work Related Activity in the Work Programme

Background

15. The Income Support (Work-Related Activity) and Miscellaneous Amendments Regulations 2014 Part 2 introduce a requirement for some IS lone parents who are already required to take part in WFIs, to undertake Work-Related Activity (“WRA”) and this covers where a lone parent fails to undertake WRA in the Work Programme, as long as they are participating in the Work Programme on a mandatory basis.
16. If the lone parent is found to fail to undertake WRA whilst in the Work Programme they are sanctioned in the same way as someone who Fails to Attend or Participate in a mandatory interview.
17. Once the claimant has been referred to the Work Programme Provider (WPP), the Provider is responsible for identifying if there is a compliance doubt and raising the doubt with the LMDM.
18. The WPP will refer a compliance doubt on form WP08 direct to the LMDM to decide if a sanction should be imposed.
19. The WPP will have considered whether the claimant is vulnerable and if so taken all reasonable steps to contact them to ensure that they fully understand the WP requirements placed upon them.

What information should be included as part of the DMA referral

20. The Work Programme Provider (WPP) will refer any cases to the LMDM, via the Customer Service Officer Labour Market Decision Making Appeals (CSO LM DMA) admin officer on form WP08.
21. The relevant information from the Mandatory Activity Notification (MAN) issued to the lone parent giving detail of the specific action that there is now a doubt against, should be transposed by the WPP onto the WP08.
22. The WPP will have also have notified the lone parent of an activity to re-comply and this should be detailed within the **WP08**. It is not however a requirement to send a copy of the MAN with the **WP08**.
23. The WPP will not however have approached the lone parent asking why they failed to undertake the specific action in doubt, and will therefore not have considered good cause. The WPP may however be able to supply

some background information about the lone parent's circumstances / behaviours which may help the LMDM, within the WP08.

24. It is essential that the WPP gives the provider correspondence address at Part 5 of the WP08 to enable the LMDM to return the sanction decision to the correct address.

Note: The WPP may have undertaken activities to seek re-engagement with the claimant in the same way that JCP would.

Action upon receipt of WP08.

25. On receipt of the WP08 the CSO LM DMA admin officer registers the referral on Decision Making and Appeals System and inputs the date of the sanctionable failure in the DMAS notes box. They then pass the referral on to the Labour Market Decision Maker (LMDM).

Note: Always consider when the failure occurred. If a sanction has been applied within 2 weeks of the date of the current failure, if the benefit is still in payment at a reduced rate, the claimant cannot be sanctioned. The referral must be cancelled on DMAS.

26. Upon receipt of the completed WP08 and any supporting evidence, the LMDM should consider whether the referral contains all of the information required to enable a decision to be made. If not, the DM should contact the provider for clarification or further information.

27. The DM should also decide whether the activity they were mandated to undertake was reasonable in the lone parent's circumstances.

28. To speed up the decision making process, the DM must telephone the lone parent in an attempt to establish good reason. If telephone contact fails, a clerical letter WP13IS must be sent to the claimant on the same day as the failed call inviting them to provide their reasons for failing to participate to establish if there is good cause for non-compliance. – WP13IS

29. The clerical good cause letters WP13IS have a 'Reply Due Date' of 7 working days from the date sent included on them. The LMDM should apply existing processes to BF the case for review on the appropriate date.

30. If necessary the LMDM can contact the Work Programme Provider (WPP) for additional evidence.

31. If the lone parent cites non-receipt of the notification from the WPP as a reason for non-participation in the scheme, the LMDM will need to investigate further before making their determination. This detail is not included in legislation and is based purely on the evidence presented.

32. Things to consider may include:

- Have they recently changed address?
- Was the notification sent to the correct address?
- Previous history. Have they a record of non-participation before? Have they given non-receipt as reason in the past?
- Have they previously reported non-receipt of other items sent by DWP e.g. giro, advisory interview appointments, letters etc
- Do they have an otherwise good history of participation?

Making a Decision

33. Once the LMDM is satisfied that they have all the evidence required to make their decision as to whether the IS lone parent has good cause for failing to undertake work-related activity, they need to make the decision.

Applicable sanction

34. For details of the sanction to be applied see Chapter 17 – Failure to Undertake WRA and Compliance.

AR Codes

35. The AR Code IS/301WRA is used for lone parents who have Failed to Undertake WRA with a WPP (IS/249/310WRA for a reconsideration).

Recording the decision

36. When a LM doubt is decided, see Recording the Decision.

What information should be included as part of the DMA referral

37. Where the Adviser does not accept good cause for the Failure to undertake Work Related Activity they will refer cases to the Benefit Centre via DART
38. Supporting evidence may be attached to the referral. This can be:
- Evidence from the claimant
 - A core visit report
 - Additional evidence from the Adviser.
39. The Adviser will have accessed LMS and in the View Referral / Decision Details screen selected the appropriate Acts and Regulation (AR) code before linking the doubt to an outstanding Adviser interview.
40. The DART referral must include the Date of the Sanctionable Failure. Where there are multiple sanction decisions outstanding, this will enable the LMDM and the Customer Service Officer-Claims Maintenance (CSO-CM) to be able to match the decision to the referral.

Action to take on receipt of the DART referral

41. On receipt of the referral within the Benefit Centre the Customer Service Officer Labour Market Decision Making Appeals (CSO LM DMA) admin officer registers the referral on Decision Making and Appeals System (DMAS) and should input the date of the sanctionable failure in the DMAS notes box. They then pass the referral on to the LMDM
42. Once the LMDM is satisfied that they have all the evidence they need they make their decision.

Note: for further detail re DART see DART user guide

Making a decision

43. The Labour Market Decision Maker (LMDM) needs to decide:
- Whether to sanction the claimant; and
 - The sanction to be applied

Whether to sanction the claimant

Consider when the failure occurred

44. If a sanction has been applied within 2 weeks of the date of the current failure, if the benefit is still in payment at a reduced rate, the claimant

cannot be sanctioned. To establish whether there is a previous sanction on the claim, and when it was applied, the LMDM will need to access the Common Update Enquiry dialogue (CUED) and check in ISCS, as follows:

ISCS Dialogue	Action
D 510 - notepad	View notepad. When a sanction is applied for FTA WFI a note is entered in notepad, 'sanction applied to claimant's Personal Allowance due to a) failure to attend a mandatory WFI, or b) failure to undertake mandatory WRA
D 500 – enquiry/ evidence screen	View enquiry screen. Enter [y] against 'exceptional conditions' and press enter. If a sanction is still current on the award, the exceptional condition reason code 15 will show with a start date but no end date.

Consider good cause

45. In all cases referred to the LMDM for a decision from the Jobcentre, an Adviser will have already considered good cause. However, it is important that even though the Adviser has not allowed good cause the LMDM always considers good cause, even where the lone parent has not provided an explanation about why they failed to undertake Work Related Activity (WRA)
46. When considering whether good cause has been shown the LMDM must consider the following:
 - Taking into account the lone parent's individual circumstances was it reasonable for the claimant to undertake the WRA? The regulations allow lone parents to restrict the times when they can be required to undertake WRA, however, there are exceptions to these.
 - Is the lone parent suffering from a mental health condition, learning disabilities, which may have prevented their attendance or ability to show good cause?
 - May the lone parent have misunderstood any requirement given to them due to any learning, language or literacy difficulties
47. The LMDM should also check that the appointment letters, and letters asking the lone parent to provide good cause have been issued at the correct time.
48. Evidence from the lone parent with regard to good cause may be attached to the DART referral or may have been received on form WP13IS in the case of a lone parent on the Work Programme failing to undertake Work Related Activity.
49. In addition a core visit report may be attached in circumstances where the lone parent may be vulnerable (has learning difficulties or a mental health condition) which could affect their ability to understand and comply with conditionality. A core visit to the lone parent's home must be completed by the Jobcentre before any sanction decision is considered for lone parents suffering these conditions. If the core visit shows that the lone parent has a condition which affects their ability to understand the requirement a sanction should not be applied until further efforts have been made to

explain the requirement, and the lone parent has been given the chance to comply with the requirement.

Matters which must be taken into account when good cause is being considered

50. Matters which must be taken into account when good cause is being determined are listed legislation, but this list is not exhaustive. Detail is given in DMG paragraph 05090.

Applicable sanction

51. For details of the sanction to be applied see Chapter 17 – Failure to Undertake WRA and Compliance.

Recording the decision

52. When a LM doubt is decided, the LMDM must record their decision on DMAS, recording the date of transgression (date of sanctionable failure) on the DMAS template. They must then issue the decision notifications DMAS template to the correct recipients including the Benefit Centre, Jobcentre, claimant or Work Programme Provider.

53. See the DMAS System User Guide for further information around entering the decision and notification options.

Issuing notifications that claimant has shown good cause

54. If the LMDM determines that good cause has been shown for failure to undertake WRA, the LMDM will be required to notify the claimant of the decision by completing clerical letter JCP79b (JCP79b Welsh)

55. DMAS will update LMS with the details of the decision.

56. Upon receipt of the notification the Adviser will determine the next steps for the claimant.

Issuing notifications that claimant has not shown good cause and to implement sanction

57. When the decision is made that the lone parent has not shown good cause, action needs to be taken as follows:

- Upon receipt of the DMAS template the Benefit Centre Claimant Service Officer Claims maintenance (CSO CM) will notify the lone parent of the sanction

If the DMAS template shows an open ended period, as the lone parent has not re-complied, manually issue clerical notification JCP79a (IS WRA).

58. For further information see Action Required by Benefit Centre (BC) Claimant Service Officer Claims Maintenance (CSO CM)

Guidance Notes

See Chapter 1

Guidance Queries and Help

See Chapter 1