

Identifying a sanctionable failure

Summary

How to determine whether a sanctionable failure has occurred

Content

Where there is reason to believe that a claimant has:

- failed to meet the work-related requirements set out in their Claimant Commitment,
- failed to attend an interview (Work Focused Interview only and Work Preparation regimes), or
- through their own actions have had a loss of pay or paid work

An agent asks the claimant to provide reasons for the failure.

A claimant may provide evidence of other things they have done to meet the work-related requirements that give them a good prospect of finding work or increasing their earnings, for example a claimant may have spent less time applying for jobs as they may have prepared for and attended interviews

When identifying whether a possible sanctionable failure has occurred, the agent determines whether or not the work-related requirement the claimant was expected to fulfil was reasonable in light of the evidence they have provided.

What is reasonable?

The agent must consider the following when determining what is reasonable:

- what would be reasonable to expect someone to do in particular circumstances?
- what did the claimant fail to do?
- did the claimant do anything that was different to the required action?
- what were the claimant's reasons for their action or failure to do as required?

For example, a change of circumstances (such as when a claimant is now caring for a sick relative) may have been declared. If the agent is in the Service Centre, an appointment should be booked on the Work Services Platform (WSP) for them to see their owning work coach to revise their Claimant Commitment.

The agent views the claimant's record on WSP and their current Claimant Commitment to determine whether they could still reasonably have met their work related requirements. If not, the agent considers revising the Claimant Commitment.

The agent should be aware that a sanctionable failure has not occurred if a second opinion of the Claimant Commitment results in changed work-related requirements and the claimant fails to do something which on review is no longer relevant.

If the claimant reports they are starting work whilst in conversation with an agent, see Earnings - claimant reports starting work.

If the claimant declares another change of circumstances whilst in conversation, the agent asks them to contact the Service Centre by telephone and to report the change (if they haven't already done so):

- if the change of circumstances occurs after the claimant failed to meet their work-related requirements (as set out on their Claimant Commitment), the agent still refers the sanctionable failure to the decision maker
- if the change of circumstances occurs before the claimant failed to meet their work-related requirements and would mean that they are no longer entitled to Universal Credit, it is not appropriate to send the referral

The agent records details of the change in CAMLite Contact history.

If a loss of pay or paid employment has occurred (this may be a pre-claim failure) the agent asks the claimant for evidence that the employer has reduced their hours or terminated their employment:

- if evidence provided shows that the claimant lost pay or paid employment through no fault of their own, for example they have a compulsory

redundancy notice or a reduction of hours notice, then a sanctionable failure has not occurred

- if the claimant does not provide evidence (for example they left their job voluntarily, they were dismissed due to misconduct or they have a Compromise Agreement) then a sanctionable failure has occurred - see 'Sanctionable failure has been identified' below

Claimant has complex needs

If a claimant has complex needs, the agent considers whether the work-related requirements set out on their Claimant Commitment were reasonable at the time - or are still reasonable if complex needs are established at a later date.

The agent setting the work-related requirements must be assured that the claimant understands them and the consequences of not complying.

Sanctionable failure has been identified

If the agent identifies that a sanctionable failure is appropriate and has considered that the work related requirements are reasonable.

A detailed explanation of why the sanction doubt is being raised and what will happen must be given to the claimant. Additionally, the process for claiming a Recoverable Hardship Payment should be explained and the basic eligibility criteria made clear to the claimant.

Multiple sanctionable failures

When an agent identifies that a claimant has multiple sanctionable failures, they refer all the sanctionable failures together in one CAMLite case so they can be dealt with by the same decision maker.