

# Chapter 13 - Decision Making and Appeals & Sanctions

## Introduction – Decision Making and Appeals (DMA) & Sanctions

1. It is the responsibility of the Work Coach Team Leader and Jobcentre Customer Service Manager that all staff carry out the following activities:

- ensuring that the work coach team supports delivery of Fraud and Error performance by addressing labour market conditionality;
- ensuring the referrals to a Decision Maker or the Fraud Investigation Service/Customer Compliance Officer are made where appropriate;
- working with the DMA team manager to ensure that effective two-way communications operate between the work coach team and DMA team; and
- ensuring DMA and sanction action is taken promptly in all Failed to Attend cases.

### Decision Making and Appeals (DMA)

2. Decision Making and Appeals (DMA) is the name given to the process that supports the enforcement of Jobcentre Plus conditionality. Conditionality is defined in the legislation that sets out what claimants have to do in order to be both entitled to and retain their entitlement to benefit. It applies to both active (Jobseeker's Allowance (JSA)), (Universal Credit (UC)) and inactive (Incapacity Benefit (IB)/Employment and Support Allowance (ESA)/Income Support (IS)) benefits.

3. The conditions of entitlement differ depending on whether the claimant is claiming JSA/UC or IB/ESA/IS.

4. JSA claimants must adhere to labour market conditionality legislation. Failure to do so may result in their JSA entitlement being:

- sanctioned - questions which affect the payment rather than the entitlement of JSA such as left voluntarily (LV), refusal of employment (RE) and failure to comply with the Jobseeker's Direction; and/or
- disallowed - questions on which JSA entitlement depends such as availability and actively seeking work.

5. There are 3 levels of sanctions:

- Higher level – Higher level failures will lead to claimants being sanctioned for a period of 13 weeks or 26 weeks
- Intermediate level – Intermediate level failures will lead to a claimants' award ending followed by a sanction. In total claimants will lose benefit for a period of 4 weeks or 13 weeks.
- Lower level – Lower level failures will lead to claimants being sanctioned for a period of 4 weeks or 13 weeks

**Note:** The length of the sanction imposed will depend on whether the claimant has already been sanctioned for a doubt of the same level, and if so, the number of times. For more details on these changes which came into effect Oct 2012 can be found in the Sanctions and DMA chapter of the Labour Market Conditions Guide.

6. Some labour market decisions can be made locally but most must be referred to a Decision Maker. For full guidance on all types of JSA doubt, the referral and decision making process, the appeals procedure and inputting decisions, please refer to the Labour Market Conditions Guide.

## **JSA conditionality**

7. Work Coach Team Leaders are responsible for ensuring that work coaches consistently apply labour market legislation in all cases where there is a doubt to JSA entitlement. This covers all of the duration of the JSA claim including time spent on mandatory programmes. Failure to do so may result in overpayment of benefit and failure to meet the Fraud and Error performance aspirations.

8. Through Quality Assurance Standards observations, you are responsible for monitoring the work coaches' ability to identify and challenge jobseekers' understanding of labour market requirements where there is sufficient reason to doubt actively seeking, availability or capability. Work coaches must be capable of clearly describing the consequence of claimant non-compliance and be ready to explore other alternatives such as a referral to Fraud.

9. You are responsible for ensuring that there are effective handovers between the work coach, and Service Delivery Support for all cases of doubt, which are identified and referred.

10. Service Delivery Support must also ensure that decisions are input accurately and that there is effective communication with the Work Coach in cases where the Decision Maker requires further information. This will limit the number of DMA cancellations.

11. You must work closely with the Service Delivery Coach to support Service Delivery Support staff in identifying and referring JSA claimants on actively seeking, availability and capability doubts through the jobsearch review process. This will ensure that there is a consistent and robust approach in challenging jobseekers' understanding of labour market requirements.

12. You are responsible, through the Jobcentre Customer Service Manager, for ensuring that there is sufficient diary capacity for the Service Delivery Support team to book interviews to a named work coach to resolve all cases of labour market doubt identified. The interviews should ideally be booked on the same day or the day after the jobsearch review takes place. The work coach will decide on the most appropriate next step but should ensure that the Service Delivery Support team member who made the referral receives feedback as to the outcome.

## **Universal Credit conditionality**

13. Sanctions are a key part of Universal Credit supporting the conditionality regimes and compliance. Sanctions support conditionality by:

- encouraging claimants to always do what is reasonable to look for work, increase hours worked or increase their pay;
- ensuring claimants experience the consequences of a failure to meet requirements;
- increasing in length following repeated non-compliance; and
- ensuring claimants understand they are responsible for the consequences of their actions;

For Universal Credit claimants, the focus is on setting suitable work-related requirements, tailored to the claimant's circumstances, so they are more likely to enter work when meeting them. For more details about Universal Credit sanctions, see the Universal Credit Sanctions instructions.

## **Conditionality - Non-JSA claimants**

14. Non-JSA claimants are invited to attend mandatory work focused interviews (WFIs). For claimants claiming IS, this interview is a condition of entitlement to benefit. The IS claim will not be processed if the claimant does not attend.

15. For Lone parents claiming IS solely on the grounds of being a lone parent with a youngest child aged 2, the frequency of WFIs is tailored to the requirements of the

individual lone parent. The recommendation is that they attend a minimum of 2 WFIs every year until the youngest child reaches the age of 4, when the recommendation is a minimum of 4 every year. You are responsible, through the Service Delivery Support for ensuring that these interviews are booked. Failure to attend may result in a sanction. This will only be reassessed when the claimant attends the interview.

16. Claimants claiming IB, ESA or IS on the grounds of incapacity are invited to attend a mandatory WFI after 8 weeks have elapsed from the date of claim and benefit entitlement has been established. This interview is a condition of ongoing entitlement to benefit. Failure to attend may result in a sanction. This will only be reassessed when the claimant attends the interview.

**17. All work coaches should be aware that in mental health cases, a referral for a core visit is appropriate before a sanction is imposed.**

18. Partners of JSA claimants are required to attend a WFI 6 months after the claim was made and every 6 months following. Partners of IS/ESA claimants are required to attend one WFI only 6 months after the claim was made.

19. In all cases of Failed to Attend (FTA), the work coach must consider whether the claimant has shown good cause for not taking part in the WFI. The work coach will give the claimant 5 days from the date of the WFI to provide good cause before issuing a decision. Examples of good cause include where learning, language or literacy difficulties have lead to a misunderstanding of the WFI requirement or where the claimant was attending a job interview. If good cause is shown the work coach will book another appointment or where appropriate, waive or defer the interview.

## **Good Practice – DMA and Sanctions**

20. The following are some good practice suggestions to help manage the DMA and Sanctions process:

- invite Decision Makers in to team learning sessions to discuss DMA issues and good practice;
- ensure effective pre-calls are made to claimants;
- identify a named work coach for Service Delivery Support Teams to refer actively seeking and availability doubt cases to. Ensure feedback is given as to the outcome of these referrals.

21. The following are links to relevant guidance sections that may provide useful further reading:

- Labour Market Conditions Guide
- Labour Market Decision Making and Appeals Procedural Guide
- DMA Referrals Guide
- Labour Market Conditions Guide – Availability and Actively Seeking