

Employment Programmes

Guidance Queries and Help

1. If you are unable to find an answer to a particular question regarding policy within this guide you must contact the Jobcentre Plus Live Support Advice Line. Do not give the Advice Line number to claimants or outside bodies under any circumstances, it is for the use of Jobcentre Plus staff only. Details of how to contact them can be found by clicking on the following hyperlink, Advice Line Home Page.
2. Please do not use the 'E-mail page owner' and 'Page information' links at the bottom of each page of guidance to raise policy queries. These should only be used to report broken hyperlinks.

Background

3. This chapter sets out general information on Jobseekers Allowance (JSA) and Employment and Support Allowance (ESA) in relation to DMA procedural action for employment programme sanction referrals.
4. The General Guidance section of this guide contains generic information which is common to all employment programme DMA activity.
5. This guidance is not intended to replace the Decision Makers Guide (DMG). For further information please see DMG Chapter 34 (Sanctions) and Chapter 53 (WfI, WRA, Disqualification and Advanced awards of ESA(IR)).
6. It is important that Decision Makers (DM) establish close working links with their providers and Jobcentres. A good working relationship involving the two-way transfer of information, possible establishment of a designated 'contact' and regular meetings etc should lead to an improvement in the standard of referrals and speed up the decision making process. Liaison with Third Party Provision Managers and attendance at contract provision meetings may also prove beneficial in driving up performance.

General Guidance

Good reason

7. With the exception of sanction referrals for Work Experience and the Work Experience Placement (WEP) element of sector-based work academies (sbwa), DMs will need to consider whether the claimant has shown good reason for their failure to participate in the programme or for failing to undertake a work-related activity.
8. Good reason is not defined in regulations relating to the Jobseeker's Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013 (SAPOE scheme), The Employment and Support Allowance (Work-Related Activity) Regulations 2011 or to Mandatory Work Activity (MWA). When deciding whether a claimant has shown good reason, the DM must take into account all of the circumstances of the case including in particular, the person's physical or mental health or condition and whether it was reasonable for the claimant to act, or fail to act, in the

way that they did. Please see DMG Chapter 02 paragraph 02601, Chapter 34 paragraph 34792 and Chapter 53 for further guidance.

9. It is for the DM to consider in every case, the claimant's reasons for any particular behaviour, act or omission when considering whether to sanction.
10. Previous allowances for good reason should be taken into account as evidence by the DM when considering whether it is reasonable that the claimant has displayed further good reason. Please see DMG paragraph 34803 and Gatekeeper Memo/Information Bulletin dated 9 July 2012 issued by Continuous Improvement Division on the revised approach for Work Experience and the Work Experience Placement (WEP) element of sector-based work academies (sbwa).
11. In all cases, the DM should give consideration to previous failures where the claimant has a record of failing to participate. Previous failures may be relevant as evidence of credibility of the evidence presented to support good reason for a current failure. For example, how likely is it that a person happens to have a problem coinciding each time when a course or placement is due to start, and how likely is it that it would happen twice, or more than that?
12. However, the issue of good reason should not be decided on previous case history alone. The general rule of taking each incidence on its own merits and considering all the facts and evidence should be applied. Consideration of all the evidence should be made on;
 - the balance of probabilities (see the guidance at DMG 01340 et seq); **and**
 - whether the evidence is inherently improbable (see the guidance at DMG 01392).
13. In consideration of good reason, the DM should establish;
 - what did the claimant do or fail to do that was different to what was expected?
 - what were the claimant's reasons for their actions or failure to act?
 - in the particular circumstances of the case, what would be considered reasonable to expect someone to have done? Was the act or omission preventable? For example, did the claimant have a medical or dental appointment for which it would have been unreasonable to have expected them to rearrange or the claimant had caring responsibilities and it was not practicable to make other arrangements or was it an appointment a provider would have allowed time off the scheme to attend?
 - what evidence is there available to support the claimant's reasons for the failure?
14. The DM should seek further evidence where necessary in order to clarify reasons put forward by the claimant or to seek further evidence, particularly in cases where there are multiple failures. If it is clear from the evidence that the claimant is not turning up to participate in the relevant schemes as required and they have a history of multiple failures, then they should be sanctioned
15. The DM should consider all the facts and evidence available including notes held on LMS and in the JSAG with regard to availability and ASE and on the referral from the provider as well as any evidence provided by the

claimant. The DM can contact the provider (by phone or letter) or JCP for any further information they think is necessary in deciding whether or not the claimant can show good reason.

16. The DM should not automatically accept good reason even if the reasons given for the failure would, in isolation, normally support good reason. It is not unreasonable for the DM to ask the claimant to provide written evidence to support their reasons for a failure, for example, medical evidence from a doctor or a letter to provide evidence of another appointment
17. Although a decision should be made on the balance of probability (see DMG 01340), a sanction should always be applied unless there is a good reason not to. In reaching their decision, a DM should not try to second guess the likely result should a claimant appeal against a sanction.

Notification of the decision

18. Once the DM has made a decision as to whether or not to apply a sanction, a copy of the DMAS decision notification should be immediately sent to the provider and to the JSA or ESA claims maintenance teams.
19. For ESA claimants the decision notification must include detail of the decision, i.e. that a sanction should be applied (open period). In addition it **must** also give detail of the length of the fixed term period of the sanction to be applied should the claimant meet the condition for which they have been sanctioned, and the date of the failure. If the claimant has already complied by the time the DM is considering good cause, there will be no open period just a fixed penalty. For further detail on ESA sanctions see Chapter 4.

Cancelled and Reserved Decisions

20. If a claimant was not in receipt of benefit at the point at which they failed to comply with the employment programme requirement, the case should be cancelled and the provider making the referral notified of the reason.
21. If a claimant was in receipt of JSA at the point at which they failed to comply with the employment programme requirement, but ceased to claim benefit before a sanction decision is made, the DM should make a reserved decision and send a copy of their decision to the provider and to the appropriate Jobcentre. There is no requirement for a reserved decision to be sent to the JSA claims maintenance team as there is no input required in JSAPS for a reserved decision.
22. There is no requirement to make an opinion decision on JSA credits only cases. Any such referrals received should be cancelled, annotated accordingly and returned to the provider or to the referring Jobcentre as appropriate.
23. A referral should be cancelled (**not allowed**) if it arrives incomplete and all attempts by the DM to obtain the missing information or clarification etc are unsuccessful. The referral should be annotated accordingly and returned to the provider or to the referring Jobcentre as appropriate.

Change of claimant's address

24. If it is evident that the claimant's address is wrong, it is important that the provider, Benefit Centre and Jobcentre are informed of the correct address

immediately. Current business rules for notifying changes of address should be followed. Providers can be notified by the use of form WP07 (although this form was designed for the Work Programme, there is no reason why it cannot be used for other programmes as well if required). If there is a doubt as to what is the correct address, refer to the Jobcentre to resolve.

25. If it is clear the provider has written to the claimant at the wrong address, the DM should allow the case but inform the provider of the correct address.
26. By not informing the provider of a change of address, they may not be able to adequately support the claimant and may raise unnecessary sanction doubts, wasting the resources of both the provider and the DM team.

Disclosure of claimant's personal information to providers

27. DWP is able to disclose information relating to social security and employment and training to persons providing services to DWP for use for those purposes, under section 3 of the Social Security Act 1998. This could include personal information about claimants who have been referred to a service provider for the purposes of the Work Programme or other contracted employment schemes.
28. Welfare to Work providers are carrying out work on behalf of DWP and require access to individuals' personal data and information held by the Department to be able to provide the required services. In this situation, DWP remains the data controller and the provider acts as the data processor as defined by the Data Protection Act. Therefore there is no breach of the principles of the Data Protection Act as the Department remains the data controller.
29. There is therefore no issue regarding the sharing of relevant claimant personal data with providers including Skills Funding Agency providers.

Work Programme

Referrals to the Work Programme

30. JSA claimants are required to participate in the Work Programme (WP) when they are issued with a **written** notice which **must** specify:
 - that the claimant is required to participate in the Scheme;
 - the day on which their participation will start;
 - details of what they are required to do by way of participation;
 - that they are required to participate until told otherwise or until their JSA terminates, whichever is earlier; and
 - the consequences of failing to participate.
31. The requirement to notify is met by:
 - the issue of a letter to the claimant by the JCP advisor at the point of referral (or 're-referral' following a new claim) to the SAPOE scheme (eg: WP05/06) and
 - a notification from JCP or the provider to tell the claimant what specific activity they are actually being mandated to do.
32. Please see DMG paragraph 34776 for further information.

33. Any changes to these requirements must be notified to the claimant in writing.
34. There is no similar legal obligation for such a notification to be issued to ESA claimants, although for consistency, they will be issued with a WP06 letter which is very similar to the WP05. Although an ESA claimant must be notified of the requirement to undertake a work-related activity (WRA) in a written action plan and that the action plan must specify the WRA which the claimant is required to undertake, the WP06 is not a part of this process
35. A Work Programme participant, whose JSA award is terminated, is no longer required to participate in the SAPOE scheme. If that claimant subsequently reclaims JSA, they must be issued with a new WP05 to re-mandate them to the SAPOE scheme if appropriate. The Jobcentre will issue the new WP05.
36. If a JSA claimant has their JSA disallowed for not being available or actively seeking work, this decision terminates their JSA award, therefore the Jobcentre will also re-issue a new WP05, if appropriate, if the claimant becomes re-entitled to JSA.
37. The issue of the WP05/06 should always be recorded by the adviser in the conversations screen on LMS. However the lack of such evidence should not prevent the DM from making a sanction determination where the claimant does not raise the issue of non-receipt of the notification as a reason for non-participation in the scheme. An assumption can be made that the claimant was correctly notified; the DM does not require sight of the WP05/06. Please also see DMG paragraph 34831.
38. In addition, the JCP PA will also issue to both JSA and ESA claimants, a WP01 leaflet which explains their rights and responsibilities whilst on the WP and which, like the WP05 and WP06 letters, explains the consequences of non-compliance.

Work Programme Provider raises a sanction doubt

39. Where a WP provider decides that a claimant has not fully participated, they will raise a sanction doubt on form WP08 and send this to their designated DM team.
40. The WP provider to whom the claimant is referred will retain responsibility for supporting that claimant throughout their time on the WP. This will still apply even if the claimant moves to another part of the country.
41. Although providers have been instructed to only raise one sanction doubt on each WP08 form, any multiple referrals received should not be cancelled if clear differentiation can be made between each referral. Local liaison with the provider should prevent this from occurring.
42. Providers will **not** consider good reason; this will be determined solely by the DM.
43. A provider cannot raise a sanction doubt for non-participation unless they have properly mandated the claimant to undertake that activity. A proper notification/action plan should meet all of the following criteria:
 - it must be in writing. Electronic communications (text, email) are not currently acceptable for notification of mandatory activities but can be used to remind claimant of appointment etc);
 - it must tell them what they have to do;

- it must tell them when (or by when) they have to do it;
 - where applicable, it must tell them what evidence, if any, will be needed to demonstrate completion;
 - it must state that completion of the activity is a mandatory requirement;
 - it must advise them of the consequences of failing to participate.
 - for ESA claimants, providers were advised in August 2011 in provider guidance to include on the notification, words to the effect that, 'this activity forms part of your work-related activity action plan'. However, if this wording has been omitted, provided that all other notification requirements are met, a sanction should still be imposed if applicable.
44. ESA (WRA) Regs state that the claimant must be notified of the requirement to undertake WRA in a written action plan but do not define what an action plan is or what form it must take (apart from being in writing). This action plan must not be confused with the plan developed by an adviser and/or the provider. In reality, a written notice, in any form, requiring the claimant to undertake a specific activity can be construed as being an action plan.
45. A notification to undertake WRA will still be acceptable even if the words 'mandatory' and/or 'requirement' are omitted as long as the wording makes it clear to the claimant that they have to undertake that activity.
46. DMs should not confuse the 'mandatory activity notification' (MAN) or action plan issued by the provider, with the WP05/06 letter issued by JCP which serves an entirely different purpose. The MAN mandates the claimant to undertake a particular activity; the WP05/06 notifies the claimant of their requirement to participate in the WP.
47. The MAN should inform the claimant what is required by way of participation in the scheme and when they are required to start. Any other information required operationally is from a good practice point of view to provide clarity for the claimant and not as a legal requirement. Logically, the more information the claimant has in respect of their placement the less likelihood their claiming that they did not understand their obligations to participate as their reasons for non-participation. DMs should not be interpreting the provider guidance or operational guidance to mean that all the requirements are legal requirements on every MAN and if not included, will prevent a sanction being considered.
48. Activities for which claimants have not been mandated (optional activities) or an activity, for which they were verbally notified or notified by text or email message, cannot be considered for a sanction if the claimant fails to comply with that activity. Part 3 of the WP08 will state the method by which the activity was notified to the claimant in these cases, any referral received should be cancelled and returned to the provider with an explanatory note.
49. Providers cannot require ESA claimants to apply for a job, undertake any work or undergo medical treatment. Any activity must also be reasonable in the claimant's circumstances. There is no concept of reasonableness for a JSA claimant's activities.
50. Providers must also consider, before raising a sanction doubt, whether the ESA claimant can be classed as vulnerable and if so, take all reasonable

steps to contact them to ensure that they fully understand the WP requirements placed upon them. There is no guidance available for DMs in this area but if the provider has given assurances that the claimant is vulnerable and the necessary safeguarding steps have been taken to ensure the claimant knows what is expected of them and what the consequences for non-compliance are, the DM should accept that information when considering a sanction.

Sanction reasons

51. A sanction can only be considered for JSA where the claimant has failed to participate without good reason in the SAPOE scheme. Please see DMG 34792 et seq.
52. For ESA claimants, there is also only one sanction reason for claimants on the Work Programme; failure to undertake work-related activity which is required under regulation 3 of the Employment Support Allowance (Work-Related Activity) Regulations 2011 and notified to the claimant in a written action plan.

DM consideration

53. Upon receipt of the completed WP08 and any supporting evidence, the DM should consider whether the referral contains all of the information required to enable a decision to be made (excluding a 'good reason' determination). If not, the DM should contact the provider for clarification or further information.
54. For ESA claimants only, the DM should also decide whether the activity they were mandated to undertake was reasonable in the claimant's circumstances. (There is no requirement in the SAPOE regulations for a JSA claimant's activities to be reasonable).
55. As the provider is not required to supply one, a copy of the MAN/action plan will not usually be included as part of the sanction referral. Each provider's MANs/action plans have been quality assured and approved by Work Programmes Division and fully meets all legislative requirements.
56. An assumption should therefore be made that the claimant was correctly notified of the activity they were required to undertake. Therefore, the absence of a copy of the MAN/action plan must not prevent the DM from making a sanction determination unless the claimant raises the issue of non-receipt of the notification as a reason for non-participation in the scheme. The DM should not request a copy of the MAN from the provider.
57. If the claimant cites non-receipt of the notification as a reason for non-participation in the scheme, the DM will need to investigate further before making their determination. 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 eg giro, advisory interview appointments, letters etc
 - Do they have an otherwise good history of participation?

58. This list is not exhaustive and the DM will need to use their judgement in making a decision based on the balance of probability as to whether it is likely that the claimant did or did not receive the notification.
59. After considering the above, the only decision for the DM to make is to determine whether the JSA claimant has good reason for failing to participate in a Scheme for Assisting Persons to Obtain Employment, or whether the ESA claimant has good reason for failing to undertake work-related activity (and whether the claimant is now in the support group or has been awarded a carer premium).
60. The claimant's reasons for their failure must always be established and considered. If the information on WP08 shows that the claimant does have a good reason for their failure, the DM can decide to allow the case without further reference to the claimant.
61. To speed up the decision making process, the DM can telephone the claimant in an attempt to establish good reason. If telephone contact fails, a letter (WP12 for JSA or WP13 for ESA claimants) must be sent to the claimant on the same day using first class post inviting them to provide their reasons for failing to participate.
62. From the 22nd October 2012, for JSA claims, there is no longer any specified time limit in which the claimant has to show good reason for their failure to participate. DM's should give the claimant sufficient time to comment and to provide evidence appropriate to the particular circumstances of the failure, act or omission. Please see DMG Memo 37/12 for further information.
63. Cases where providers only state that the claimant has to "attend the centre" (or similar) with no specific address mentioned should not be allowed automatically. It may be reasonable to assume that the claimant may also have had a letter or action plan or had attended the site previously. The provider should be asked to provide details of previous claimant attendance (and location) to help inform the decision. Unless the claimant states that they did not know where they had to go, (in which case they should be asked why they did not raise a query with the provider), the DM should assume that they did know where they had to go.
64. DMs can use details provided on the WP08 as evidence to be considered but must always issue a notification of failure to participate (WP12 or WP13) and request evidence for good reason in all cases where the application of a sanction is being considered.

Illness (JSA only)

65. DMs should not just accept the word "illness/ sick" on the WP08 form completed by the provider. This does not comply with legislation which states that the claimant has to be notified of their 'failure to participate' and provide evidence of good reason to someone acting on behalf of the Secretary of State.
66. Things for the DM to consider and possibly question the claimant further about may include (but not exhaustive):
 - Did the claimant sign on as normal for the period in question and was a JSA28 completed? If no JSA28, why?
 - Did the claimant contact the provider to advise them of their illness and to re-arrange appointment or timing of activity?

67. If the claimant gives their reason for failing to participate as illness, the Jobcentre must be advised in every case. This is so that the claimant's record can be noted with their history of illnesses to enable their availability to be considered if appropriate.

WP Sanctions

68. **For sanctions where the date of non-compliance is on or after 22nd October 2012, please see 'JSA sanctions from 22 October 2012 and ESA sanctions from 3rd December 2012'**
69. For JSA claimants, a sanction of 2 weeks should be imposed the first time a SAPOE Scheme sanction is applied.
70. A 4 week sanction should be imposed if a second SAPOE Scheme sanction is applicable and, at the time that the DM makes their decision, no more than 12 months have elapsed since the start date of the previous SAPOE Scheme sanction.
71. A 26 week sanction should be imposed if the claimant has been sanctioned on two or more previous occasions because they failed without good reason to participate in the SAPOE scheme and, at the time that the DM makes their decision, no more than 12 months have elapsed since the start date of the previous SAPOE Scheme sanction.
72. Any further sanctions will also be of 26 weeks duration provided that they are within 12 months of the start of the previous sanction.
73. For ESA claimants, an indefinite sanction is applied with the claimant's benefit being reduced by 100% of the personal allowance of ESA.- until:
- the claimant engages with the provider and agrees to undertake or undertakes activity as agreed; or
 - the claimant is no longer required to undertake the activity; or
 - their benefit claim ends.
- Note : Personal allowance means that the reduction is 100% of the amount prescribed for a single person.**
74. ESA sanctions are applied from the first day of the benefit week in which the DM makes their decision. The sanction consists of an open-ended period followed by a fixed term period. However if the claimant has been paid benefit since the determination is made, the deduction will be applied from the first day of the benefit week after the claimant was last paid.
75. For ESA claims the LMDM must record the decision on DMAS, notifying Benefit Processing on the DMAS notification of the decision, the date of failure and the length of the fixed term penalty to be applied upon re-compliance.
76. Sanctions on JSA claimants who are paid fortnightly in arrears are applied from the first day of the benefit week following the date in which the DM makes their decision.
77. The AR code for JSA WP sanctions is JSA/101WP. For ESA, the AR code is ESA/101WP
78. Please see DMG, Chapter 34, paragraphs 34820 – 824 for further information on JSA sanctions and DMG Chapter 53 for ESA sanctions.

Claimant re-engages with the WP

79. **From 22 October 2012, JSA claimants must serve the full period of their sanction. The sanction cannot be reduced even if the claimant fully complies with the activity for which they have been sanctioned.**
80. Following the imposition of a sanction, a claimant may decide to re-engage with the WP. They may re-engage by:
- undertaking the activity for which they were previously sanctioned;
 - undertaking an alternative activity;
 - the provider considers that it is no longer appropriate for the claimant to undertake that activity (ESA claimants only)
81. It will be solely for the provider to determine whether the claimant has now fully participated with the mandated activity. If they decide that they have, the provider will request that the sanction be lifted by completing and sending a WP09 form to the DM.
82. If the provider considers that the claimant has fully participated, the DM should accept the providers' opinion and review and lift the original sanction decision. This will apply only to any ESA sanction applied.
83. The open period of the sanction for ESA cases is lifted from the start of the benefit week in which they comply, and the fixed term period is applied immediately thereafter. The fixed term period is either 1,2 or 4 weeks after the open period ends, and should have been determined, recorded and communicated to the CSO CM team when the original decision to sanction was made. For further detail re ESA sanctions see Chapter 4.
84. Please see DMG paragraph 34825 for further information on JSA cases and 04704 for ESA cases.

ESA Claimant no longer subject to requirement

85. An ESA claimant may have their sanction lifted if they cease to be subject to the requirement to undertake WRA as defined by regulation 3 of the ESA(WRA) Regulations, for instance if they:
- become a member of the support group;
 - become a lone parent responsible for and in the same household as a child under 5;
 - become entitled to a carers allowance or carers premium
 - are no longer required to take part in a work focused interview.
 - Complete the Work Programme (as they are no longer subject to any requirement imposed by the Work Programme provider).
86. This is a different scenario to where a claimant has their sanction ended following re-compliance.
87. Where the claimants' sanction is to end because they are no longer subject to the requirement there is no fixed penalty element to the sanction, and the sanction should be lifted from the start of the benefit week in which the claimant re-complied.
88. Once the sanction decision has been revised, please ensure that a copy of the DMAS notification is sent to the WP Provider. Where rolled-out, the notification can be sent by unencrypted email.
89. In cases of disputed re-engagement, where the claimant considers that they have re-engaged but the provider does not, the DM will be called

upon to arbitrate and reconsider the original sanction decision. The extra information which the DM will require will be included on the WP09.

Reconsiderations

90. A claimant may request that the decision to sanction their claim for failing to participate in the Work Programme is reconsidered. The business as usual process for actioning reconsiderations should be followed but in addition, and depending on the reason for the reconsideration, the DM may need to check with the provider to ascertain whether the claimant has now complied with the activity for which they were sanctioned.
91. If the claimant has now complied, the provider should be asked to urgently send form WP09 to the DM.
92. The result of the reconsideration should be notified to the provider by sending them a copy of the DMAS decision notification (this can be emailed where the unencrypted email process is in operation).

Reconsideration of action plan

93. ESA (WRA) regulations allow for the claimant to request that the Secretary of State undertakes a reconsideration of their action plan. This function has been contracted out to providers and is not for DMs to perform. Reconsideration of a sanction decision, however, will be for the DM as per current instructions.

Sending and receiving un-encrypted e-mails

94. We are currently undertaking a number of activities to address the current challenges we face with the operational process difficulties and volumes of referrals that are coming into our Labour Market Decision Making (LMDM) teams from Work Programme providers.
95. The current process is based on a clerical referral from the provider to the LMDM team. The process incurs significant costs in terms of postage for both parties. It also slows down the process in terms of our LMDM teams being able to action referrals from providers quickly.
96. We have explored the use of PGP (Pretty Good Privacy) encryption for providers to email compliance doubt referrals to Decision Makers (DM's) and for DM's to notify the outcome back. However, this was decided to be unsuitable for our purposes.
97. As a result, Change Sponsor investigated with Departmental security colleagues to understand if we could run a trial from nominated email 'in boxes' between work programme providers and the LMDM teams without the need for encryption. The clearance was given in August 2012 to run a trial operating within certain security parameters and specific instructions from DWP Security as detailed in the security section below. See Appendix 1 – Security Exemption
98. The trial has proven to be a success and the use of un-encrypted email as detailed below will be rolled out nationally from 8 April 2013.

Who will be permitted to use this process?

99. Work Programme Providers and Labour Market Decision Makers (DM's) in Benefit Centres for the purposes of the LMDM activity only as each site officially rolls out.

What personal data items are to be sent, and in what format?

100. Work Programme Providers will send the following data items to DM's on an electronic WP08/ WP09 referral form:
- Claimant's Name;
 - NINO;
 - D.O.B;
 - Phone number;
 - Address details; and
 - Details about the doubt raised.
101. Decision Makers will send decisions back to the Work Programme providers on a Decision Notice including the following data items:
- Claimant's Name;
 - Last three characters of Claimant's NINO;
 - Decision details; and
 - The decision notice will also include the Decision Maker's name.
102. The DM's are expected to make decisions based on the information contained within the WP08/ WP09 forms. However, in the event that the DM requires any additional information to help them make a decision, the existing clerical/ telephone process must be followed.

To whom is this data to be sent?

103. Work Programme Providers will send the referral on an electronic WP08/ WP09 form to DWP Labour Market Decision Makers into centrally managed inboxes.
104. It is possible that some providers may route their referrals into DWP via their supply chain, i.e. Sub-Contractors may send their referrals via their Prime Contractor.
105. DM's will send the decision on a DMAS (Decision Making and Appeals System) generated decision notice back to the Work Programme Provider where the original referral came from i.e. to the nominated email address to the Prime Provider or a Sub-Contractor within the supply chain. This will be to the nominated email address specified on the WP08/ WP09 form.

Special Customer Records (SCR)

106. Please note that existing clerical process is to be followed for all SCR (Special Customer Records) and MAPPA (Multi Agency Public Protection Arrangement) customers. There is no change to the process for these customers and DMA referrals for these customers will be dealt with by the existing BDC's under the current arrangements.

What is the maximum number of records proposed?

107. Each case is emailed on an individual claimant basis from the provider to the DM and from the DM back to the provider.
108. The email must **never** contain more than one client record per email. This is to minimise the security risk in the event of an email going to the wrong place.

Security and compliance

109. A security exemption has been cleared with Departmental Security to run the un-encrypted email solution nationally.

110. Emails should always be sent to the pre-populated email address from the sender's list of addresses i.e. the sender should never have to type the address in, as there is a potential to type the address incorrectly.
111. Only the agreed Standard wording is to be displayed in the email 'Subject Box'. See Appendix 2 – Standard email content
112. As the exemption has only been authorised for transferring claimant information via the WP08 and WP09 forms, in the event that DWP employees deliberately fail to comply with the guidance, normal security breach actions will apply.
113. In the event of an email being sent inappropriately or to the wrong email address, these must be immediately reported to the local site manager. **See link to Security Notice 01/11 - Sending claimant/ employee, personal information by e-mail.**
http://intranet/1/corp/sites/dsg/security_notices/DWP_T568390.asp
114. All non-compliance/ security breaches will be dealt with locally and attempts will be made to resolve these issues locally in the first instance.
115. DWP and the Work Programme Providers should advise each other of the relevant contact details of the appropriate manager to whom such issues should be reported.
116. If local managers fail to resolve the security issue, the incident escalation route will be followed.
- For DWP, escalation is to the DWP Account Executive for relevant provider.
 - For the providers, escalation is to the DWP Group Manager.
117. Managers should implement adequate system checks to assure themselves that only appropriate data is being sent and received and that correct procedures are being followed.

Email Block

118. When sending emails outside of the GSI network, DWP staff must remove the EMAIL BLOCK before sending the email.
119. Any attempts to send emails outside of the GSI network without removing the EMAIL BLOCK will bounce back informing the sender that the email has not been sent.
120. Removing the EMAIL BLOCK when sending emails outside of the GSI network does not generate any security reports/ issues as long as the email is sent to the correct email address.

DWP data handling and storage

121. Protocol for storage and decision notification:
- Decisions will not be copied to the Jobcentre. Jobcentre staff will find the information they need in LMS;
 - Detailed information on the decision made should be held in DMAS. If other decision paperwork is held clerically then it will be stored in the Benefit Centre site for 6 weeks to enable work on reconsiderations and appeals to happen without the need to retrieve paperwork from another site;
 - After 6 weeks the paperwork should be sent to FARIO or follow your local procedures for storage of paperwork;
 - As a result of the email process there should be a reduction in paperwork which will have a knock on effect on reducing your storage requirement.

122. Options for local storage of incoming emails within DWP - Under the email process, the information from the WP08 is recorded in DMAS and emails deleted, therefore there is no need for emails to be stored.
123. Do not print out emailed documents unless absolutely necessary.

Contingency and ongoing management

124. Business continuity plan within sites - in the event there is a disruption to the email process, the default postal process will be implemented.

Mandatory Work Activity

125. Participation in Mandatory Work Activity (MWA) is limited to JSA claimants only.
126. MWA participation becomes mandatory when the provider issues the claimant with details of their placement. It is not mandatory at the point when the customer is referred to the provider. Therefore, if the customer does not attend the initial interview with the provider, a sanction under MWA cannot be considered.
127. Referral to a MWA provider is made under the Jobseeker's Allowance (Mandatory Work Activity) Regulations 2011. Claimants are notified of the requirement to participate by–
- the issue of a letter to the claimant by the JCP advisor at the point of referral to the MWA scheme (MWA 05) and
 - a notification from JCP or the provider to tell the claimant what specific activity they are actually being mandated to do (MAN).
128. The MWA05 is similar to the Work Programme WP05 letter except that it contains an additional notification that participation on MWA will be for four weeks. Please see DMG 34765 for more information.
129. Sanction doubts are referred to DMs directly by the MWA provider on form MWA1.
130. It is a failure to participate without good reason that gives the DM the power to apply a sanction. When considering whether a claimant has failed to participate in the MWA scheme, the DM should also consider as a failure:
- a failure to attend the first day. AR code - JSA/713MWA; or
 - losing a place on an MWA placement through misconduct. AR code - JSA/714MWA; or
 - failure to attend or participate in any meeting or activity, having been notified of such a requirement. AR code - JSA/717MWA.
131. Action to contact the claimant to provide good reason for their failure and subsequent consideration is the same as for the Work Programme except that form MWA12 or a telephone call should be used to invite the claimant to provide good reason.
132. A claimant who fails to participate without good reason, will be sanctioned for 13 weeks. A 26 week sanction should be imposed if a second (or more) MWA Scheme sanction is applicable and, at the time that the DM makes their decision, no more than 12 months have elapsed since the start date of the previous MWA Scheme sanction. **For sanctions where the date of non-participation is on or after 22 October 2012, please see 'JSA sanctions from 22 October 2012 and ESA sanctions from 3rd December 2012'**

133. The guidance at DMG Chapter 34, paragraphs 34817-819 and 34831 - 836 should be followed when considering a JSA sanction doubt.
134. Sanctions imposed will continue to apply regardless of whether the claimant re-engages with the provision.
135. If two or more sanctions have been imposed of 13 and 26 weeks and a successful reconsideration (or appeal) is made which allows the 13 week sanction, the 26 week sanction must also be reconsidered and the period reduced to 13 weeks as that is now classed as the being first sanction.

Work Experience Opportunities

136. **Note: It is important to note that there are two similarly named but different work experience initiatives:**
- **Work experience opportunities; and**
 - **sbwa Work Experience Placements**
137. **both of which are part of the package of Get Britain Working measures that can be used by Jobcentre Plus to help individuals into work.**
138. Work experience is a scheme which is primarily aimed at younger JSA claimants aged 18 to 24 from week 13 of their claim up to referral to the Work Programme.
139. Participation is entirely voluntary for all participants. Sanctions will not be applied for any reason except where a participant has been dismissed by the host employer for reasons of gross misconduct. Therefore, sanctions will not apply in circumstances where a claimant fails to take up, attend or leaves the work experience scheme. The claimant has a right to leave the work experience opportunity if they feel that it is not suitable for their skill development.
140. Consideration of good reason will not apply but the claimant should be given the chance to comment on the allegations made against them. If the JSA claimant is dismissed due to gross misconduct, the employer should complete Work Experience DMA4 and send it to the Jobcentre. On receipt, the Jobcentre will complete a Work Experience DMA5 and refer to the Labour Market Decision Maker to consider DMA action.
141. The AR codes are:
- JSA/714Work Experience - Lost a place on Work Experience through misconduct
142. Examples of what constitutes gross misconduct can be found in the ACAS Guide - Discipline and Grievances at Work and is set out in DMG Memo 28/12 and also below at paragraph 148.

sector-based work academies (sbwa)

143. sbwa (sector-based work academies) are part of the package of Get Britain Working measures that can be used by Jobcentre Plus to help individuals into work.
144. Referral to sbwa opportunities is made under the SAPOE regulations.
145. sbwa are designed to support JSA (including JSA joint claimants) and ESA Work Related Activity Group (WRAG) claimants who are close to the labour market but who have been unable to find work or move into

sustained employment in a demand sector. It also aims to support employers in those sectors to fill their vacancies more efficiently.

146. Detailed design of sbwa will not be prescribed from the centre but the provision is for a maximum of six weeks duration per claimant and will consist of three elements:

- Pre-employment training (PET);
- Work Experience Placement (WEP); and
- Guaranteed Job Interview (GJI) with an employer in the sector.

147. The decision for a claimant to participate in a sbwa is a voluntary one but once a JSA claimant has agreed to participate and has been issued with a formal notification letter to attend the sbwa, participation in PET and GJI becomes mandatory and subject to sanctions for non-participation without good reason

148. JSA claimants will be told that they can be sanctioned if they fail to maintain basic standards of good behaviour at any time during their participation in sbwa, including the work experience element, and cannot show good reason. It has been agreed with Ministers that, in respect of the WEP, it is only if the claimant loses the placement due to his/her gross misconduct that a sanction may be imposed. See guidance in DMG Memo 28/12.

149. Once an ESA (WRAG) claimant has been referred to sbwa, participation in the PET becomes mandatory and subject to sanctions for non-participation. For ESA (WRAG) claimants, participation in the WEP and GJI is voluntary. ESA (WRAG) claimants who are in receipt of National Insurance Credits only, lone parents responsible for a child under 5 and not yet at school or full-time carers cannot be mandated work-related activity. All three elements of sbwa must remain on a voluntary basis for these claimants.

Claimant does not start/complete PET – JSA and ESA (WRAG)

150. Once the claimant agrees to participate in sbwa and receives a written notice detailing what is required of them by way of participation in the sbwa, PET becomes mandatory. The Jobcentre will:

- obtain written notification from the provider using sbwaPETDMA4;
- issue sbwa03FTP(JSA) / sbwa04FTP (ESA) to claimant to give them the opportunity to show good reason for FTP;
- if the Jobcentre do not consider that the claimant has shown good reason, they will refer the case (JSA & ESA) to the decision maker on form sbwaDMA5

JSA Claimant does not complete WEP

151. Participation in WEP is voluntary for all claimants. However, a sanction must be considered if the claimant has been dismissed due to gross misconduct.

152. Gross misconduct for these purposes is conduct that is so serious that only one instance of such behaviour will warrant the employer's immediate termination of the work experience placement.

153. The following are examples of gross misconduct (as defined by ACAS) which would normally justify the imposition of a sanction but this list is not exhaustive:
- dishonesty, fraud or theft from the employer, customers or co-workers;
 - physical violence or bullying;
 - abusive behaviour towards co-workers or customers;
 - deliberately damaging property;
 - causing loss, damage or injury through serious negligence;
 - serious act of insubordination towards a person in a position of authority in the workplace;
 - serious breach of health and safety rules;
 - serious incapability through the use of alcohol or illegal drugs;
 - serious misuse of an organisation's property or name;
 - deliberately accessing internet sites containing pornographic, offensive or obscene material;
 - unlawful discrimination or harassment;
 - bringing the organisation into serious disrepute;
 - serious breach of confidence.
154. Repeated instances of minor misconduct such as lack of punctuality or carelessness in performing tasks will **not** amount to gross misconduct. DMs should follow the guidance in DMG memo 28/12.
155. If the claimant is dismissed due to gross misconduct, the Jobcentre will:
- obtain written notification from the employer using sbwaWEPGJIDMA4;
 - issue sbwa03FTP(JSA) to claimant to give them the opportunity to show good reason;
 - On reply from the claimant, refer to the decision maker to consider a sanction on sbwaDMA5.
156. The DM will need to determine that:
- the claimant is no longer on the placement;
 - that the reason for termination was due to gross misconduct;
 - that the claimant has no good reason for their behaviour; and if all of the above apply,
 - the length of the sanction to be applied.
157. See also DMG paras 34075-6

JSA Claimant does not attend Guaranteed Interview (GJI)

158. Once a JSA claimant agrees to participation in sbwa, attendance at GJI becomes mandatory. The only exceptions to this are if the employer withdraws the GJI or if it is for a self-employed vacancy.
159. GJI is not mandatory for ESA (WRAG) claimants
160. If the JSA claimant fails to attend GJI (and this is not because the employer states the claimant is no longer suitable), the Jobcentre will:
- obtain verbal confirmation from the employer;
 - issue sbwa03FTP(JSA) to claimant to give them the opportunity to show good reason for their failure;
 - on reply from the claimant, consider their reasons for non-attendance. The claim can be treated as straightforward without

referral to a decision maker provided the claimant can show good reason for non-participation;

- if they do not consider the claimant's reasons can be treated as straightforward, the case will be referred to the DM on sbwaDMA5.

Application of sanctions for JSA claimants

161. **For sanctions where the date of non-participation is on or after 22 October 2012, please see 'JSA sanctions from 22 October 2012 and ESA sanctions from 3rd December 2012'**

162. A 2 week sanction will apply if the claimant:

- has not had sanctions applied in the previous 12 months, and
- good reason has not been shown.

163. A 4 week sanction will apply if:

- this is the claimant's second or subsequent sanction in a period of 12 months, and
- good reason has not been shown.

164. A 26 week sanction will apply if:

- the claimant has had two or more previous sanctions,
- good reason has not been shown, and
- a subsequent decision is made no more than 12 months after the date on which the reduced payments were made/applied/paid due to the last sanction.

165. Where a 26 week sanction applies and the claimant re-complies, the sanction will be:

- 4 weeks, or
- 4 weeks plus a period which ends with the last day of the benefit week in which the claimant re-complies, whichever is longer.

166. New AR Codes for DMAS:

- JSA/812 and ESAJSA/350

167. Please see DMG Memo 28/12 for further information.

Skills Conditionality

168. ESA WRAG claimants are expected to take reasonable steps to prepare for work. Any work-related activity must be reasonable in the individual's circumstances and take into account their health condition. Where it is considered appropriate for the individual, addressing the skills need is a Work Related Activity.

169. There is some variation from the Work Programme in that the Jobcentre will write out to the claimant to invite them to give 'good reason' for their failure to participate and the adviser will initially consider whether good reason has been shown. Unless 'exceptional circumstances' apply e.g. a proven family crisis, the case must be referred to the DM on form SC DMA5.

170. JSA claimants are required to participate in Skills Conditionality when they are issued with a written notice which must specify:

- that the claimant is required to participate in the Scheme;
- the day on which their participation will start;
- details of what they are required to do by way of participation;

- that they are required to participate until told otherwise or until their JSA terminates, whichever is earlier; and
 - the consequences of failing to participate.
171. The requirement to notify is met by the issue of a clerically produced letter to the claimant by the JCP advisor at the point of referral to the SAPOE scheme (eg Skills Conditionality referral notification letters SC02, SC04).
172. Please see DMG paragraph 34776 for further information.
173. Any changes to these requirements must be notified to the claimant in writing.
174. ESA claimants will be issued with a SC01/SC03 letters. Although an ESA claimant must be notified of the requirement to undertake a WRA in a written action plan and that the action plan must specify the WRA which the claimant is required to undertake, the SC02/SC03 is not a part of this process
175. It is good practice to record the issue of the Skills Conditionality referral notification letter in the conversations screen on LMS. However the lack of such evidence should not prevent the DM from making a sanction determination where the claimant does not raise the issue of non-receipt of the notification as a reason for non-participation in the scheme. An assumption can be made that the claimant was correctly notified; the DM does not require sight of the Skills Conditionality referral notification letter. Please also see DMG paragraph 34831.
176. ESA WRAG claimants are expected to take reasonable steps to prepare for work. Any work-related activity must be reasonable in the individual's circumstances and take into account their health condition. Where it is considered appropriate for the individual, addressing the skills need is a Work Related Activity.

Skills Provider raises doubt

177. Where a provider considers that a claimant has not fully participated, they will raise a doubt with Jobcentre Plus providing information on the Skills 11 or SL2 forms.

Sanctions

178. JSA claimants who refuse to participate may face benefit sanctions of:
- 2 weeks; followed by
 - 4 weeks for additional failure to comply with Skills Conditionality or any other previous SAPOE Scheme sanction (within 12 months of the start of the first sanction period); and
 - 26 weeks for further failure to comply with Skills Conditionality or any other previous SAPOE Scheme sanction (within 12 months of the start of the previous sanction period).
 - **For sanctions where the date of non-participation is on or after 22nd October 2012, please see 'JSA sanctions from 22 October 2012 and ESA sanctions from 3rd December 2012'**
179. ESA WRAG claimants who fail to participate in the provision to which they have been referred will lose:
- 100% of the personal allowance of ESA

Note : Personal allowance means that the reduction is 100% of the amount prescribed for a single person.

180. JSA claimants must serve the full period of their sanction. The sanction cannot be reduced even if the claimant fully complies with the activity for which they have been sanctioned.

Note: For JSA sanctions applied prior to 22nd October 2012, sanctions were able to be lifted from the first day of the following benefit week after they complied or after 4 weeks whichever was the latter.

181. ESA cases are lifted from the start of the benefit week in which they comply. Please see DMG paragraph 34825

182. For ESA, Skills Conditionality is treated the same as any other WRA

183. The AR code for JSA Skills Conditionality sanctions is JSA/811 and for ESA, ESAJSA/340 - SC Failed to Undertake WRA.

184. In England, Skills Conditionality applies to all referrals of JSA and ESA WRAG claimants to the following LMS opportunity types:

<u>Provision Type</u>	<u>LMS Opportunity</u>
The National Careers Service	Skills Health Check
Initial Provider Interviews	Skills Cond – Initial provider Intervw
Basic Skills	Skills Cond – Basic Skills Trng
English for Speakers of Other Languages (ESOL)	Skills Cond - ESOL
Occupational Training	Skills Cond – Occupational Training
Other Training	Skills Cond – Other Training

185. In Scotland Skills Conditionality applies to all referrals of JSA and ESA WRAG claimants to the following LMS opportunity types:

<u>Provision Type</u>	<u>LMS Opportunity</u>
Basic Skills	Skills Cond – Basic Skills Trng
English for Speakers of Other Languages (ESOL)	Skills Cond - ESOL
Occupational Training	Skills Cond – Occupational Training
Other Training	Skills Cond – Other Training

186. Skills Conditionality does not roll out in Wales until October 2012.

Appendices

Appendix 1 - Detail of security exemption

Who will be permitted to use this process?

Work Programme Providers and Labour Market Decision Makers (DMs) in DWP

What personal data items are to be sent, and in what form?

Work Programme Providers will send the following data items to DMs on an electronic WP08 and WP09 referral form.

Customer's Name, NINO, D.O.B, Phone number and address, together with details about the doubt raised.

Decision Makers will send decisions back to the Work Programme providers including the following data items: Customer's Name, NINO, and decision details. The decision notice will also include the Decision Maker's name.

No more than one case at a time is to be included in each email message.

To whom is this data to be sent?

Work Programme Providers will send the referral on an electronic WP08/WP09 form to DWP Labour Market Decision Makers into centrally managed inboxes – maximum of 50 inboxes nationally in DWP. It is possible that some providers will route their referrals into DWP via their supply chain.

DMs will send decisions on a decision notice (see attached) to the Work Programme Providers in 18 Contract Package Areas nationally. There are numerous providers - over 200 providers including Prime Providers and Sub-Contractors at various levels within the supply chain.

What is the maximum number of records proposed?

Each case is emailed on an individual basis from the provider to the DM and from the DM back to the provider.

The email will never contain more than one client record per email.

Appendix 2 - Standard Email Content

Agreed standard email content for initial WP08/ WP09 action sent by WP Provider to LMDMs

Standard wording to be displayed in email 'Subject Box'

- WP08 or WP09
- Claimant's surname
- NINO – only last 3 characters

Standard wording to be displayed in email 'Narrative Box'

- Sender contact details

Email attachment

- Completed WP08 form

If submitting Re-Engagement/ Re-compliance request

- WP09 form submitted to LMDMA team.
- Sender contact details

Agreed standard email content for outcome decision emails from LMDMs to WP Providers

Standard wording to be displayed in email 'Subject Box'

- WP08
- Claimant's surname
- NINO - only last 3 characters
- DECISION

Standard wording to be displayed in email 'Narrative Box'

- DM contact details.

Email attachment

Outcome Decision document