

UCDMA 001B Sanctions
Workbook
Topic 03 – Failure to take up
paid work or apply for a vacancy

April 2016

Timing

It will take approximately 25 minutes to complete this topic.

Learning Objectives

When you complete this topic you will be able to:

- explain what failure to take up paid work or apply for a vacancy is
- state what level of sanction it incurs
- state which work-related group it applies to
- explain evidence requirements
- give examples of cases when good reason has been shown and cases where it has not; and
- explain the onus of proof

Learning Points

This topic covers the following areas:

- failure to take up paid work or apply for a vacancy

Failure to take up paid work or apply for a vacancy



Any reference in this topic to paid work includes more paid work, or better paid work.

Introduction

If a claimant fails to take up paid work or apply for a vacancy, which has been specified by the Secretary of State, a sanction may be imposed on their Universal Credit payments.

This attracts a higher level sanction. Only claimants who are subject to all work-related requirements will have a sanction imposed for this failure.

A sanction can only be imposed if:

- the claimant is entitled to Universal Credit, and
- failed to take up paid work or apply for a vacancy specified by the Secretary of State without good reason

Claimant fails to take up paid work before claiming Universal Credit

A sanction will not be imposed if the claimant fails to take up paid work and the sanction period is shorter than the period between the date of the sanctionable failure and the date of claim.

For example, a 91 day sanction is appropriate, but the period between the date of the sanctionable failure and the date of claim is 95 days.

However, any period between the date of the sanctionable failure and the date of claim will be deducted from the sanction period.



Sanction periods will be covered in more detail in UC DMA002 Sanction Length Workbook.

A sanction will not be imposed if the claimant failed to take up paid work more than six months before the date of their Universal Credit claim.

However, the sanction period will be reduced by the length of time between the failure and the date of claim.

A sanction will not be imposed if the claimant fails to take up paid work up and the sanction period is shorter than the period between the date of the sanctionable failure and the date of claim.

For example, a 182 day sanction is appropriate, but the period between the date of the sanctionable failure and the date of claim is 205 days.

A sanction will not be imposed if the claimant failed to take up paid work or apply for a vacancy and the job was vacant because of a stoppage of work due to a Trade Dispute.



More information on Reasons for Sanctions can be found in UCDMA001 Part A Topic 04.

Proof

It is for you, as the DM, to show that the claimant failed to take up paid work or apply for a vacancy. If the claimant can show good reason, then a sanction will not be imposed.

Notification of the vacancy to the claimant

The claimant may be notified:

- face to face, or
- by letter, or
- by telephone, or
- electronically

There may be occasions when a claimant will not get a notification sent by post. For example, they may have changed address and the Jobcentre is unaware of the change.

In these cases you should decide that the claimant was notified on the day on which the notification would have been delivered to their old address in the normal course of post.

However, when deciding good reason, you should also take into account the fact that the claimant has not received the notification and the reasons why.

Claimant given incorrect details of employment

Claimants may refuse or fail to apply for or accept a vacancy, and it may later be found that they have been given incorrect details about the vacancy.

You should impose a sanction if the claimant cannot show good reason for refusing a job on the terms wrongly notified **and** the actual terms of the job would have been more favourable.

However, you should not impose a sanction if the claimant can show good reason for refusing a job on the terms they were wrongly notified. You do not need to consider whether the claimant could have shown good reason for refusing the job had the actual terms been known.

Claimant's actions and behaviour

There may be occasions where a claimant will take steps to find paid work or apply for a vacancy but their actions or behaviour result in them not being offered the job.

For example, they may:

- not arrive on time for interview or go to the wrong place through their own negligence, or
- impose unreasonable conditions, so that the employer withdraws the job offer, or
- make statements which, although reasonable in themselves, are intended to put the prospective employer off

These actions will amount to failures unless the claimant can show good reason for their actions or behaviour.

However, if any statement was reasonable in the circumstances, and was not made only to put the employer off, the claimant has not failed to accept the vacancy. Also, claimants will have failed to accept a vacancy if they accept a job when it is offered, but then fail to start it.

Example 1

John is looking for work as supervisor in a bank, and has been getting Universal Credit for six months. He is offered a job as a bank clerk at an interview. He tells the person interviewing him that he will take the job, but will only stay until he finds a job as a supervisor. The employer decides not to give him the job. The DM decides that John has not failed to apply for the vacancy.

Example 2

Paul is offered a job. He says that he wants three weeks holiday within a month of starting. The employer withdraws the offer of a job.

In this case his attitude is unreasonable, and Paul has failed to take up an offer of a job without good reason.

Example 3

George refuses to complete a form before he is interviewed for a vacancy. Because of this, the employer will not interview him. George has failed to apply for a vacancy without good reason.

Claimant changes their mind

Claimants who have refused or failed to apply for or accept a vacancy may change their minds and apply for or accept it:

- before it has been filled, and
- before the job was due to start, and
- their application is accepted for consideration by the employer

In such cases claimants have not failed to apply.

If a claimant changes their mind, as above, and a sanction has been imposed without you being aware that they have changed their mind, you should consider revising or superseding the original decision in the claimant's favour.

Good Reason

Where necessary you should seek further evidence in order to clarify reasons, or as sufficient proof to justify good reason. This could involve writing to, or telephoning the claimant, or obtaining evidence from a Work Coach.

You should not automatically accept good reason even if the reasons given for the failure would, on their own, give the claimant good reason.

It would be reasonable to ask a claimant to provide written evidence to support their reasons for a failure. For example, asking the claimant to provide medical evidence from a doctor or an appointment letter as evidence of another appointment.



More information on Good Reason can be found in UCDMA 001 Part A Topic 05.

Previous paid employment

A claimant who has previously carried out work of a particular nature or paid at a particular level can have their work-search requirement and work availability requirement limited to work of that nature or level of pay.

If the Work Coach is satisfied that the claimant has reasonable prospects of getting paid work within these limitations, they will apply for a maximum period of three months from the date of claim.

In the normal course of events, Work Coaches should not refer cases to you where a claimant has failed to take up paid work or apply for a vacancy within these agreed limitations. However, if a referral is made, you need not consider good reason and should allow the case.

Caring Responsibilities

A claimant, who is a responsible carer or a relevant carer, may not be able to either attend a job interview or to take up paid work immediately because of their caring responsibilities.

A responsible carer is either:

- the sole carer for a child, or
- in the case of a couple, the claimant who is nominated as the responsible carer for all the children in the household

A relevant carer is a:

- parent of a child who is not the responsible carer, but has caring responsibilities for the child; or
- person who has caring responsibilities for a person who has a physical or mental impairment

If the Work Coach is satisfied that the claimant needs more time taking into account alternative care arrangements, they may be given up to 48 hours to attend an interview, or up to one month to take up paid work.

This will only apply providing that the claimant is able and willing to attend an interview or take up paid work, on being given notice for that period.

Voluntary work

If the claimant is doing voluntary work, they may not be able to either attend a job interview or to take up paid work immediately because of their voluntary work.

If the Work Coach is satisfied that the claimant needs more time taking into account their voluntary work, they may be given up to 48 hours to attend an interview, or up to one week to take up paid work.

This will only apply providing that the claimant is able and willing to attend an interview or take up paid work, on being given notice for that period.



Voluntary work is work for an organisation whose activities are not carried out for profit or work for which the claimant gets no payment or a payment only for expenses that were reasonable in doing the voluntary work. However, it cannot be for a member of the claimant's family.

Claimants who work and have to give notice

If a claimant is required to give notice to terminate their employment either contractually or by employment legislation, they may not be able to immediately attend either a job interview or to take up paid work.

The claimant will have good reason if they are able and willing to attend an interview on being given 48 hours notice or take up paid work once the notice period has expired.



Although claimants who have caring responsibilities, do voluntary work or are required to give notice may have good reason for failing to attend a job interview or to take up paid work, you may need to consider if they are complying with their work availability requirement.

Specific examples which may be good reason

There is no exhaustive list as to what circumstances may amount to good reason. However, examples of a claimant's circumstances which may be treated as contributing to good reason for a failure include those who:

- are victims of domestic violence
- have mental health conditions or disorders
- are victims of bullying or harassment
- are disadvantaged
- have domestic emergencies
- have a sincere religious or conscientious objection
- have certain temporary circumstances
- have certain circumstances particular to a failure to comply with a requirement to take up or apply for paid work.



The following pathway leads to further information on good reason in Advice for Decision Making (ADM):

DWP Home Page >> A-Z >> A >> Advice for Decision Making >> Universal Credit (UC) Chapters >> K - Universal Credit: Sanctions >> K2: Good Reason

Claimants who might not have good reason

A claimant may not have good reason for failing to take up paid work or apply for a vacancy because:

- of the rate of pay offered, unless it is below the National Minimum Wage
- of their income or outgoings or those of any member of their household
- they argue they need a high wage because they have a large mortgage or an expensive lifestyle



Claimants will have good reason failing to take up paid work or apply for a vacancy if they do so because the National Minimum Wage applies to them and the employment does not pay at least that wage.

Outgoings excludes any expenses (for example, childcare) that taken into account, and which would be an unreasonably high proportion of the claimant's income.

Travelling Time

A work search requirement and a work availability requirement must be limited to work that is in a location which would normally take the claimant a maximum of 90 minutes each way to travel from home to the location and location to the home.



Travelling time includes the time spent waiting for transport connections once the journey has started.

Claimant attended the interview or applied for the job

If the claimant has evidence that they did apply and/or attend an interview, such as a letter telling them that they had been unsuccessful, no further action is required.

If the Jobcentre sent the application form on the claimant's behalf and the employer states it was not received, no further action is required.

If the claimant maintains that they did attend the interview or apply for the job, but has no proof, contact the employer to check. If the employer agrees, no further action is necessary.



On no account should the claimant be instructed to approach the employer.

Claimant changes their mind

A claimant may refuse or fail to apply for, or accept a vacancy and then subsequently change their mind and apply for or accept it. In this instance the claimant has not refused or failed to apply for or accept the vacancy providing that:

- they do so before it has been filled, and
- before the job was due to start, and
- their application is accepted for consideration by the employer

To make a decision the Jobcentre should provide you with:

- details of the vacancy, including weekly hours, issued to the claimant
- full vacancy details held on the Labour Market System (LMS) or Work Services Platform (WSP) or Universal Jobmatch
- date and how offer was made or refused
- details of start/finish times, rates of pay and expected duration; and
- a copy of the Claimant Commitment current when the failure to take up or apply for paid work happened

This is not an exclusive list, and information should be included as necessary to reflect particular aspects of individual cases.

Zero Hours Contract

A claimant should not be sanctioned for any failure where they fail or refuse to apply for, or accept a zero hours contract vacancy with an exclusivity clause.

The onus is on the claimant to provide evidence of an exclusivity clause. You will not normally investigate contract terms in each case involving a zero hours contract.

Outside of these circumstances, the claimant can still be sanctioned for:

- failing or refusing to apply for a zero hours contract vacancy
- leaving a zero hours contract job voluntarily
- losing a zero hours contract job through misconduct

As normal, good reason should be considered before any sanction is imposed including the suitability of the job for the claimant given their particular circumstances and capability.

Summary

In this topic you have learned about:

- what failure to take up paid work or apply for a vacancy is
- the level of sanction it incurs
- the work-related groups it applies to
- the required evidence requirements
- examples of cases when good reason has been shown and cases where it has not
- onus of proof

End of Topic