

# Spotlight on: failure to participate or comply

## Introduction

This spotlight details the types of mandatory provision and circumstances in which a referral to a Decision Maker for fail to participate or comply maybe appropriate and the importance of case conferencing.

Failure to participate or comply should be considered where a claimant:

- fails to attend a mandatory meeting with a programme or provider
- does not complete a specific work related activity set by a programme or provider
- does not participate in a mandatory meeting with a provider or work coach

The sanction decision will be recorded on the service removing the need to complete and upload an LT54.

In every case, we need to ensure the delivery of our work is based on principles of fairness, compassion, respect and dignity to ensure we are making informed and reasonable conclusions.

This is particularly relevant when considering sanction referrals and decisions.

At the same time, we need to acknowledge this is a considerable challenge, particularly where the signs of a customer's need are invisible or not always obvious.

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## Types of provision

These are examples of mandatory programmes or provisions arranged by the work coach that the claimant may attend:

- sector-based work academy programme (SWAP) (mandatory elements only)
- Work and Health Programme (WHP)

Failing to participate or comply with any of these could result in a referral to a Decision Maker (DM).

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## Examples of failure to participate or comply

A failure to participate or comply is where a claimant fails to meet any specified work-related or connected requirement without good reason, such as failure to:

- take part in an interview
- be involved and engaged in the meeting or workshop
- behave appropriately whilst on a provision or during an interview, for example, abusive or uncooperative

- prepare an action plan
  - write a CV
  - take part in skills training
  - attend a skills assessment
  - take part in workshops
  - take part in an employment scheme or training programme
  - attend a meeting or workshop
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### **Referrals to a Decision Maker**

You should consider if a case conference is necessary before making a referral to the Decision Maker.

### **Work and Health Programme**

WHP referrals are sent to a specialist team who attach the UC193 form to a 'check provider' to-do.

This is allocated to the owning work coach, who should follow the 'check provider referral' ALP which may lead them to create the 'Refer to Decision Maker (failure to participate or comply)' to-do.

### **Other**

A claimant's actions with a provider may result in them making a referral

The provider will notify the department if a claimant fails to participate or comply in:

- the provision
- an appointment arranged by the provider

If a referral is needed, the work coach will need to create the 'Refer to Decision Maker (failure to participate or comply)' to-do.

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### **Case conferencing**

A case conference should take place when the claimant:

- has complex needs
- is vulnerable; or
- has multiple sanctions applied in the past 12 months.

A case conference takes place between a work coach and their team leader before making a referral to Decision Maker.

Before making a decision, a case conference takes place between the Decision Maker and their team leader.

The requirement to undertake a case conference applies to all labour market sanction types.

A record of the case conference and the outcome must be recorded in 'History'.

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