Understanding, avoiding and challenging sanctions

Adviser guide
Introduction

This Understanding, Avoiding & Challenging Sanctions Guide is designed to assist frontline generalist advisers in their work in supporting benefit claimants who are at risk of being sanctioned or who have been sanctioned. This Guide is intended to help you inform and advise your clients, with the view to avoiding claimants being sanctioned.

Claimants who do not meet benefit conditions without a good reason can be sanctioned. A sanction is a decrease or loss of benefit payments. Sanctions have been part of the social security system for many years. To date, however, sanctions have been limited to out-of-work benefits: primarily Jobseekers Allowance but also Employment and Support Allowance and Income Support. Rates of sanctioning in Northern Ireland have historically been lower than in Great Britain. However, with the introduction of Universal Credit (UC) in Northern Ireland, the sanction regime is intensifying. In parallel, the scope and severity of sanctions attached to other (“legacy”) benefits is also increasing. The effect of these changes is that more claimants risk being sanctioned.

Sanctions can cause significant distress, financial hardship for the claimant and family members. Sanctions can be stressful and may compound poor mental or physical health. Sanctions also impact on wider society, with foodbanks and other sources of support experiencing an increased demand for assistance.

A thorough understanding of sanctions will help advisers and their clients better understand, avoid and, where necessary, challenge sanctions.

About this guide

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PART A: Universal Credit

The Universal Credit sanction process can be summarised as follows. Each term in bold is explained in further detail in the following pages.

The design of Universal Credit places a greater focus on conditionality: receiving an award of Universal Credit is conditional on the claimant behaving in a certain way.

All Universal Credit claimants are placed into one of four Work Requirement groups depending on their individual circumstances. A claimant can be moved from one group to another. The amount of conditionality is directly linked to which work requirement group the claimant is in.

All Universal Credit claimants are required to complete and adhere to a Claimant Commitment. This Claimant Commitment sets out the requirements i.e. what the claimant is expected to do. The amount of requirements reflects which Work Requirement group the claimant is in.

Depending on the claimant’s individual circumstances, an easement (also known as a ‘switching off’ of the work requirements) can be applied. Essentially, this provides the claimant with protection against a sanction for a specified period of time.

If the claimant fails to comply with a requirement outlined in their Claimant Commitment, the UC Work Coach will invite her/him to provide a good reason. If the claimant does not provide good reason or does not engage, the case will be passed to a Decision Maker. The Decision Maker will make three further attempts to contact the claimant and, for vulnerable claimants, an outreach visit should be arranged. If the claimant provides good reason, no sanction will be applied. An easement should be considered which protects the claimant in the immediate future from further sanctions.

If the claimant does not provide good reason or does not engage, the Decision Maker may decide to apply a sanction. The claimant will be informed of the sanction by way of a sanction notification letter.

The claimant may challenge the decision to apply a sanction.

As claimants may suffer financial hardship as a result of a sanction, advisers should consider signposting to financial support in order to help claimants meet their essential living needs during the sanctionable period.
Universal Credit Sanction process

1. **UC claimant signs Claimant Commitment**

2. If claimant does not comply with a particular requirement
   - Work coach asks claimant to provide good reason

3. If claimant does not provide good reason or does not engage
   - Work Coach notifies Decision Maker
     - Decision Maker makes three attempts to obtain good reason and refers to Welfare Changes Helpline. If the claimant is vulnerable (e.g. mental health), the Department should arrange an outreach visit to ensure the claimant understands the process.

4. If claimant does not provide good reason or does not engage
   - Decision Maker applies sanction and issues a sanction notification letter

5. Claimant may challenge sanction
Sanction process

Work Requirement groups

All Universal Credit claimants are placed into one of four Work Requirement groups depending on their individual circumstances. The amount of conditionality is directly linked to which work requirement group the claimant is in. The four work requirements groups are:

- No work related requirements
- Work focussed interview requirement only
- Work focussed interview and work preparation requirements only
- All work related requirements

The risk of sanctions increases with each group. Advisers should be familiar with the Work Requirement groups.

Key points/to note:

- Does your client know which Work Requirement group she has been placed in?
- Is it the appropriate Work Requirement group? Does it reflect your client’s circumstances? If not, request that Claimant Commitment is reviewed.
- Is the UC Work Coach aware of any circumstances that make it difficult for the claimant to comply with the work requirements e.g. your client lives in a rural location with limited access to public transport.
- If your client’s circumstances change significantly, it might be necessary that she is placed in a different Work Requirement group.
## Work Requirement groups

<table>
<thead>
<tr>
<th>Requirement groups</th>
<th>What is required</th>
<th>Categories of people</th>
</tr>
</thead>
</table>
| **No Work-Related Requirements** | Claimants are not required to undertake any particular activity. | This group includes the following claimants:  
  - Limited capability for work and work-related activity  
  - Carer with regular and substantial caring responsibilities for a severely disabled person (>35 hours a week)  
  - Responsible carer /foster parent for child <1 year  
  - Reached state pension credit qualifying age  
  - Pregnant claimant (11 weeks before birth and 15 weeks after birth)  
  - Student without parental support  
  - Parent who adopted a child in last 12 months  
  - Victim of domestic violence (subject to conditions)  
  - Claimant whose earnings are equal to or exceed their ‘individual UC threshold’. |
| **Work-focused Interview Requirement only** | Claimants are required to attend interviews and assessments e.g. assessments to identify: the claimant’s prospects for obtaining paid work; or to identify suitable training, educational, or rehabilitation opportunities for the claimant; or to assess whether a claimant is in gainful self employment, etc. | This group includes:  
  - Claimant who is the responsible carer /parent for a child aged 1 year  
  - Foster carer for child under 16 years (or 18 if with special needs) |
| **Work-focused Interview and Work Preparation Requirements only** | All the above requirements plus preparing for work e.g. attending a skills assessment, improving personal presentation, participating in training or work placements or employability programmes, etc. Claimants with limited capability for work can be required to attend a health related assessment. | This group includes:  
  - Claimant with limited capability for work.  
  - Claimant who is the responsible carer/ parent for a child aged 2 years |
| **All Work-Related Requirements** | All the above requirements plus being able and willing to take up paid work immediately (or more paid work or better paid work). The claimant may be required to accept a job offer, attend a job interview, etc. | This group includes:  
  - Claimant who does not fall into other work requirement groups.  
  - This includes parents/carers for a child aged 3+ years |
Note on All Work Related requirements group

A claimant placed in this group faces the maximum amount of conditionality. This can include:

- Spending up to 35 hours per week searching for and preparing for work carrying out agreed steps including: applying for any recommended vacancies; attending and taking part in job interviews; taking up any reasonable offer of employment; and

- Being available for work:
  - Up to 48 hours per week on any day and at any time
  - Within 90 minutes travel time from home
  - At minimum wage

Being in the All Work Related Requirements group does not necessarily mean that the claimant will be subject to the full work availability/search requirement. For example, a claimant may be able to reduce her availability for work for the first 3 months of a claim if she has a good work history and the Work Coach accepts that she has a reasonable chance of getting a preferred type of work. Availability may also be reduced if the claimant has a temporary health problem or caring responsibilities for a child aged 3-13 or for an ill/disabled person. For example, a claimant may request that their work availability is compatible with a school run.

Claimant Commitment

A basic entitlement of UC is that the claimant accepts a Claimant Commitment. An award of UC cannot be made to a claimant who will not sign a Claimant Commitment. There are only a small number of cases where a Claimant Commitment is not required e.g. where the claimant lacks capacity to agree it. In the case of a joint claim, both people must accept individual claimant commitments.

The Claimant Commitment is an agreement between the claimant and the UC Work Coach in a meeting after the claim is made and contains:

- The relevant Work Requirements Group and what the claimant agrees to do in order to receive benefit
- Details of sanctions that will be applied if the person does not meet the requirements
- Instructions on how the claimant should report changes of circumstances and the consequences of failing to do so
- Information on the right to challenge a sanction decision and how to do so.
Fig. 1. Example of a Claimant Commitment

The UC Work Coach may request that a claimant accepts the Claimant Commitment electronically, by telephone or in writing.

The Claimant Commitment must be accepted within the first assessment period in order for payment to be made. No payment will be made if the Claimant Commitment is not signed. If a claimant refuses to accept a Claimant Commitment, she will be offered a cooling off period of up to 7 days to reconsider.
Challenging the terms of a Claimant Commitment

A Claimant Commitment is not an appealable decision. However, as it forms the basis on which sanctions can be made, claimants should consider challenging any requirements that the claimant cannot meet. There are different ways of doing this.

A. Asking for a review before accepting the Claimant Commitment

If a claimant is unhappy with the proposed terms of the Claimant Commitment, she can ask for it to be reviewed before agreeing to accept it. This review is conducted by a second person i.e. not the same Work Coach. However, unless the Department agrees that the request is reasonable, the person will not be entitled to UC until the day that she accepts the claimant commitment. Therefore, requesting a review at this stage could lead to a delay in receiving the benefit. Failure to accept a Claimant Commitment throughout the life of a UC claim will result in the UC claim being terminated as one of the basic conditions of entitlement is not satisfied. A claimant can appeal any ‘not entitled’ decision.

B. Asking for a review after signing the Claimant Commitment

A claimant can accept the Claimant Commitment and then ask for it to be reviewed. In these circumstances, the person will be paid UC. However, she will have to comply with the terms of the claimant commitment while the review is being carried out. If the claimant does not meet the terms of the Claimant Commitment during the review, her UC may be sanctioned.

C. Ongoing review of Claimant Commitment

The claimant commitment can be regularly reviewed and updated. In order to remain entitled to UC, the claimant must agree to any updated versions. If a claimant’s circumstances change – e.g. becomes unwell or gains part time employment - she should notify the Department as soon as possible and the Claimant Commitment should be amended to reflect the new circumstances.

Key points/to note:

- Make sure your client is aware that the Claimant Commitment should accurately reflect their circumstances at all times.
- Claimants can ask their UC Work Coach to review their Claimant Commitment.
- Make sure your client is aware that both members of a couple must sign the Claimant Commitment or both risk being sanctioned.
Easements (‘switching off’ requirements)

Depending on the claimant’s circumstances, the UC Work Coach may agree to apply an easement which is effectively a ‘switching off’ of the requirements for a temporary period of time. For example, if a person in the All Work Related Requirement Group experiences a crisis situation – such as a house fire – the UC Work Coach may apply an easement which effectively suspends their job availability/search requirements for a temporary period while the claimant makes new housing arrangements.

Jury service is another example where an easement should be applied. While an easement is place, the claimant is effectively exempted from the requirements.

Easements can be statutory or discretionary. A statutory easement is where departmental guidance requires the Decision Maker to apply an easement. Specified circumstances include: where the claimant has experienced domestic violence, is a prisoner, is receiving medical treatment abroad, is completing jury service, etc. A discretionary easement occurs when the Work Coach decides to apply an easement. Further information is found in the Decision Makers’ Guidance.¹

Key points/to note:

- The UC Work Coach can apply an easement at any time. Clients should proactively request easements where applicable e.g. following a bereavement.

Failure to comply with a requirement

If the claimant does not fulfil a particular requirement (such as attending a job interview), the UC Work Coach will contact the claimant by telephone, online journal or, for legacy benefits, by letter. The Work Coach will explain that the claimant failed to comply with a particular requirement and will invite the claimant to provide good reason. No sanction will be applied at this time.

Claimants should respond quickly. Departmental guidance outlines the general timeframes for providing evidence of good reason.

¹ ADM Chapter J3 Work Related Requirements, Imposition of work-related requirements J3180-J3231
Amount of time to provide good reason | Circumstances
---|---
Less than 5 days | Where a Decision Maker can contact the claimant by phone or face-to-face or where the claimant has agreed to electronic means (text, email or UC account) as preferred method of contact
5 working days | Where the information is to be obtained by post
Longer than 5 days | Where the claimant needs to seek information or evidence from a third party, or has a representative, or has a health condition/temporary circumstances that prevents them from replying.

**Good reason**

There is no definitive list of what constitutes good reason; each claim depends on the individual circumstances. Examples include: difficulties with transport (e.g. bus service is cancelled due to adverse weather), unexpected caring responsibilities (e.g. sick child), etc.

The type of evidence that will be required varies depending on individual circumstances. The relationship between the claimant and UC Work Coach is likely to be important: if the claimant has established a good relationship - e.g. by engaging fully in the UC process, using the online journal, etc. – it is perhaps more likely that the UC Work Coach will accept the claimant’s account of a particular situation. If no such relationship has been established, the UC Work Coach may well request corroborating evidence e.g. in the event of a bereavement, a copy of a death notice/certificate.

**Key points/to note:**

- Check how long a client has to show good reason.
- Consider what evidence your client might provide to show good reason.
- The relationship between claimant and UC Work Coach is important; good communication is key.
Using departmental guidance

Departmental guidance provides detailed information about what may constitute good reason in different circumstances. The guidance is not exhaustive but covers many different circumstances. It outlines whether statutory / discretionary easements may apply and also indicates what type of evidence might be required.

This guidance is available online.²

Key points/to note:

- Advisers are strongly recommended to familiarise themselves with departmental sanction guidance ADM Chapter K2 (Good Reason) and the relevant legislation Universal Credit Regulations (Northern Ireland) 2016.

Fig. 2. Extract of departmental guidance on good reason

Chapter K2 – Good reason

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<td>K2061</td>
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² Note that UC guidance is referred to as Advice for Decision Makers Guide (rather that Decision Makers’ Guidance) See here: www.communities-ni.gov.uk/publications/advice-decision-making-k-universal-credit
The following table illustrates the types of situations and relevant good reason outlined in the ‘Advice for Decision Makers’ departmental guidance.

<table>
<thead>
<tr>
<th>Claimant cannot comply with requirement due to</th>
<th>Easement / good reason / considerations</th>
<th>ADM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attending a medical or dental appointments</td>
<td>A medical appointment may constitute good reason however the DM will also consider whether the claimant could reasonably have notified the UC Work Coach in advance.</td>
<td>K2351</td>
</tr>
<tr>
<td>Caring responsibilities for a child in school</td>
<td>A claimant who is the responsible carer of a child aged 5-13 years may have good reason not to accept a job that is not compatible with the child’s normal school hours or for leaving paid work or losing pay because working hours are incompatible with caring responsibilities. Outside of normal school hours, the claimant must show that there no reasonable alternatives e.g. assistance from family members.</td>
<td>K2142 +</td>
</tr>
<tr>
<td>Certain temporary circumstances</td>
<td>Good reason can include where a claimant attends court as a witness/juror/party to the proceedings; attends a funeral of a close relative/friend, etc.</td>
<td>K2146</td>
</tr>
<tr>
<td>Child affected by death or violence</td>
<td>Work requirements should normally be lifted in cases where a parent or close relative of a child has died or the child has witnessed an incident of violence.</td>
<td>K2065</td>
</tr>
<tr>
<td>Complex needs i.e. difficult life event / personal circumstances</td>
<td>Easements can be applied where claimants have complex needs i.e. difficult life event / personal circumstances. E.g. a sudden illness, emergency/necessary care for a dependent child, temporary homelessness, a break up of the family, a victim of harassment or bullying, substance or alcohol addiction, mental health issues, care leavers, language or cultural barriers, bereavement, violence, ex offenders or criminals, declaration of suicide attempt or self harm.</td>
<td>K2056</td>
</tr>
<tr>
<td>Complying would result in significant harm to health.</td>
<td>A claimant can show good reason e.g. if she suffers from asthma and refuses to work in a dusty factory</td>
<td>K2117</td>
</tr>
<tr>
<td>Complying would result in unreasonable physical or mental stress</td>
<td>A claimant may show good reason if she perceives / genuinely believes that complying with a work requirement will cause physical or mental stress. E.g. a claimant with difficulty sleeping might be worried about the health impact of working night shifts.</td>
<td>K2123</td>
</tr>
<tr>
<td>Disability</td>
<td>Disability in itself is not sufficient to show good reason, however, the DM should consider related factors outlined in manual</td>
<td>K2101</td>
</tr>
<tr>
<td>Domestic emergencies</td>
<td>A discretionary temporary easement can be applied where crises arise unexpectedly which limit a claimant’s ability to meet their work-related requirements. E.g. a family break up, short-notice caring commitments of the elderly, sick or young people, a domestic emergency, a family bereavement, homelessness. The DM is required to consider the nature and time of the emergency and any alternative arrangements that could reasonably have made.</td>
<td>K2112</td>
</tr>
<tr>
<td>Domestic violence</td>
<td>A statutory easement of 13 weeks should be applied to persons who are threatened with or experience actual domestic violence. After 13 weeks, the Decision Maker may apply a discretionary easement.</td>
<td>K2061</td>
</tr>
<tr>
<td>Homelessness</td>
<td>An easement can be applied to claimants who are homeless / facing homelessness.</td>
<td>K2091</td>
</tr>
<tr>
<td>Learning Difficulties</td>
<td>DM must consider whether the claimant’s ability to understand requirements and ability to perform tasks and any distress/anxiety suffered as a consequence.</td>
<td>K2013</td>
</tr>
<tr>
<td>Long /awkward hours &amp; travel times</td>
<td>The DM must consider any transport difficulties due to rural areas / limited public transport.</td>
<td>K2288-9</td>
</tr>
<tr>
<td>Mental health conditions or disorders</td>
<td>The DM should give consideration to a claimant with a clinically diagnosable condition and a claimant with no diagnosed condition but who may be temporarily distressed by particular circumstances that could precipitate mental ill health.</td>
<td>K2071</td>
</tr>
<tr>
<td>Not applying for / accepting a zero hours contract</td>
<td>A claimant can show good reason for not accepting a zero hours contract that has an exclusivity clause.</td>
<td>K2301</td>
</tr>
<tr>
<td>Refusing work that does not pay NMW</td>
<td>A claimant can show good reason for refusing employment if the employer does not pay the National Minimum Wage</td>
<td>K2213</td>
</tr>
<tr>
<td>Sincere religious or conscientious objection</td>
<td>A claimant may show good reason if a sincerely held religious or conscientious belief conflicts with a work requirement. For example, an objection on religious grounds to handling alcohol, cigarettes, tobacco or certain food products, etc.</td>
<td>K2131</td>
</tr>
<tr>
<td>Transport difficulties at the time of interview/appointment</td>
<td>Transport difficulties may constitute good reason however the DM will also consider whether the claimant could reasonably have notified the UC Work Coach in advance</td>
<td>K2351</td>
</tr>
<tr>
<td>Victims of harassment or bullying</td>
<td>Claimants who leave or lose employment because they are a victim of harassment or bullying should not face benefit sanctions.</td>
<td>K2081</td>
</tr>
<tr>
<td>Work expenses are an unreasonably high proportion of expected pay</td>
<td>The DM must consider if work expenses – including travel - are unreasonably high.</td>
<td>K2465</td>
</tr>
</tbody>
</table>
**Imposing a sanction**

If the claimant does not provide good reason to the UC Work Coach, the Work Coach will report this non compliance to the Decision Maker.

The Decision Maker will make three further attempts to contact the claimant and to identify good reason. An outreach visit should be arranged for vulnerable claimants. If the claimant does not engage or does not provide satisfactory evidence, the Decision Maker proceeds with applying a sanction.

The Decision Maker issues a Sanction Notification Letter, which states:

- The reason for a sanction
- When the sanction will start
- The amount of money that will be sanctioned
- The sanctionable period i.e. the duration of the sanction
- Information about the Independent Welfare Changes Helpline

**Key points / to note**

- The Sanction Notification Letter is very important and advisers should request a copy.
- Only a Decision Maker can impose a sanction. The UC Work Coach (or Work & Health Programme Provider) imposes requirements and reports non compliance to the Decision Maker.

**Level of sanction and sanctionable period**

A Universal Credit award is made up of a number of different elements:

- Standard Allowance
- Child Element
- Childcare Element
- Limited Capability for Work and Limited Capability for Work Related Activity Element
- Carer’s Element
- Housing Element
Only the Standard Allowance can be sanctioned. If one member of a couple is sanctioned, only up to 50% of the Standard Allowance can be sanctioned.

The amount of sanction depends on:

- which level of sanction is applied; and
- whether this is the first or subsequent occurrence of non compliance; and
- the age of the claimant, as 16 and 17 year old claimants receive lesser sanctions.

Note that if a benefit is not in payment as a result of a sanction, or if there is insufficient amount in payment, no deductions – e.g. for a benefit advance – can be made that week.

Claimants in the All Work Related Requirement Group are at greatest risk of being sanctioned as outlined below:

<table>
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<th>Lower level sanction</th>
<th>Medium level sanction</th>
<th>Higher level sanction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Without good reason a claimant:</td>
<td>Without good reason a claimant:</td>
<td>Without good reason a claimant:</td>
</tr>
<tr>
<td>• Does not undertake any other work related requirements included in the Claimant Commitment e.g. updating CV</td>
<td>• Is not available to start work immediately</td>
<td>• Does not take up a work placement</td>
</tr>
<tr>
<td>• Does not report change of circumstances, provide information or attend an interview</td>
<td>• Is not doing enough to find work</td>
<td>• Does not apply for a particular job</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Does not take up a job offer</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Gives up a job or loses pay voluntarily because of misconduct</td>
</tr>
</tbody>
</table>

Claimants in the other Work Requirement groups may also be sanctioned if they do not do something that is set out in the Claimant Commitment.

The sanctionable period for claimants aged 18+ years is set out in the following table. Claimants aged < 18 years are subject to a lesser sanction regime. The maximum higher level sanction for 16-17 years claimants is 14 days (28 days if reoccurs).
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**Level of sanction**

<table>
<thead>
<tr>
<th>1st occurrence</th>
<th>2nd occurrence</th>
<th>3rd occurrence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lowest</td>
<td>Lasts until the claimant attends their Work-Focussed Interview</td>
<td></td>
</tr>
<tr>
<td>Low</td>
<td>Lasts until claimant complies plus 1 week (7 days)</td>
<td>2 weeks (2 weeks)</td>
</tr>
<tr>
<td>Medium</td>
<td>1 month</td>
<td>3 months</td>
</tr>
<tr>
<td>Higher</td>
<td>3 months</td>
<td>6 months</td>
</tr>
</tbody>
</table>

#### Key points/to note:

- The sanctionable periods are shorter in Northern Ireland than in Great Britain. Advisers should bear this in mind when consulting GB materials.
- Even if a person’s UC award is reduced to nil due to a sanction, the person remains entitled to UC and so conditionality will continue to apply throughout the period for which no payment is made.

### Challenging sanctions

Sanction decisions can be challenged. The first step is to request a Mandatory Reconsideration using the online journal. A request for a Mandatory Reconsideration should be submitted within 1 month of receiving the sanction notification letter.

If the Department refuses to change their decision then the next step is to appeal this decision. The claimant should complete and send appeal form NOAI(SS) to The Appeals Service (‘TAS’ ☎️ 028 9054 4000) within 1 month of receiving the reconsidered decision. In the ‘grounds of appeal’ section of the appeal form, the claimant should clearly specify what aspect of the sanction she disputes e.g.

- The wrong level of sanction was applied;

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3 This period can be extended to 13 months if ‘special circumstances’ apply.
4 The appeal form can be downloaded from NI Direct [www.nidirect.gov.uk/publications/appeal-form-noa1ss](http://www.nidirect.gov.uk/publications/appeal-form-noa1ss). Appeal deadlines can be extended in ‘special circumstances’ with an absolute deadline of 13 months. Note that all appeals must be sent directly to TAS – this is known as direct lodgement.
• The wrong amount was deducted;
• The wrong sanctionable period was applied;
• The claimant was able to show good reason.

Sanctions apply during the challenge process. If the claimant’s appeal is allowed, the claimant’s Universal Credit award will be increased to take into account the loss. If the appeal is disallowed, the sanctionable period continues.

GB statistics indicate that few UC claimants challenge a sanction decision: less than one fifth of claimants apply for a Mandatory Reconsideration and less than 1% of claimants appeal.  

When claimants do challenge a sanction decision:

• The large majority (72%) of Mandatory Reconsiderations result in the sanction decision being upheld (i.e. sanction continues to apply); however,

• Four out of five appeals (81%) are successful at appeal.

In light of these appeal outcomes, it is strongly recommended that claimants consider appealing even though the outcome at Mandatory Reconsideration is unlikely to be successful.

Key points/to note:

• Strict timeframes apply to appeals.
• Sanctions apply throughout the appeal process.
• Advisers are strongly recommended to seek advice before submitting the NOAI(SS) form.
• The majority of sanction appeals are successful for claimants.

Financial support

The claimant may need to consider applying for financial support in order to meet their essential living needs during the sanctionable period. Refer to Part C of this Adviser Guide.

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5 Universal Credit statistics August 2015-June 2017: of 832 appealed decisions, the sanction decision was upheld in 190 cases. stat-xplore.dwp.gov.uk
PART B: Legacy benefits

New sanction regime affecting legacy benefits

With the introduction of Universal Credit in Northern Ireland, the scope and severity of sanctions attached to other (“legacy”) benefits is also increasing. Therefore although sanctions have existed for legacy benefits for many years, the way they apply changed from 27 September 2017, which means more claimants risk being sanctioned.

The legacy benefits considered in this guide relate to:

- **Jobseekers Allowance (JSA)**
- **Income Support (IS)**
- **Employment and Support Allowance (ESA) (work related category only).**

The principles are similar to Universal Credit: the amount and duration of the sanction depends on the “level” of the sanction and on the occurrence of any past sanctions. Terminology is slightly different: the term “good cause” rather than “good reason” is used in legacy benefits.

Jobseekers Allowance Sanctions

JSA claimants are required to be available for work, capable of work and actively seeking work. A failure to meet these conditions can result in a sanction.

A single person’s sanction is all of the JSA personal allowance. If both members of a couple receive a sanction, the sanction is all of the couple’s personal allowance.

After making a claim for JSA, a claimant must attend an interview with a Jobs & Benefit Office Work Coach to agree the Jobseekers Agreement. This agreement includes the type of work the claimant will seek and the measures that she can reasonably be expected to take in order to have the best prospects of securing employment. Like the UC Claimant Commitment, it is important that the claimant is aware of all the requirements and should request that any particular circumstances are duly noted in the agreement.

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7 Claimants in receipt of the support component of ESA are not subject to sanctions.
Key points / to note:

- Advisers should be familiar with Decision Makers Guide Volume 6 Chapter 34 and Jobseekers (Northern Ireland) Order 1995
- If a JSA sanction results in the claimant losing their underlying benefit entitlement, this can result in the claimant having to apply for Universal Credit.

Sanction levels

There are three categories of JSA sanctions: low, intermediate and high level sanctions. The level of sanction can be escalated:

- If a claimant repeats a failure which is at the same level as the previous failure; and
- It is within 52 weeks of the previous failures occurrence; and
- It has not occurred within 2 weeks of the previous occurrence

Escalation levels are outlined under each level heading below. Any failure that occurred prior to the changes of 27 September 2017 are not included in any escalation process.

<table>
<thead>
<tr>
<th></th>
<th>1st failure</th>
<th>2 + failures</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Low-level sanction</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Where a claimant without good reason:</td>
<td>4 weeks</td>
<td>13 weeks within 52 weeks (but not within 2 weeks) of a previous High Level Failure</td>
</tr>
<tr>
<td>• fails to comply with instructions of an employment officer to participate in an interview at a JBO</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Fails to participate in a “work for your benefit” scheme e.g. Steps to Success</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Fails to carry out a reasonable jobseeker’s agreement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Refuses or fails to apply for, or accept if offered, a place on such a scheme or programme that is vacant or about to become vacant;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Gives up a place on such a scheme or programme or fails to attend such a scheme or programme having been given a place on it;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Through misconduct loses a place on such a scheme or programme.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Intermediate sanction

Where a client loses entitlement\(^8\) to Jobseekers Allowance as they have failed to:

- be available for employment
- actively seek employment

If the claimant subsequently reclaims JSA, a reduction applies to any future award. The Department refers to this as an intermediate-level sanction.

The length of this sanction is reduced by the period of disallowance prior to a reclaim to benefit.

<table>
<thead>
<tr>
<th>Length</th>
<th>4 weeks</th>
<th>13 weeks within 52 weeks (but not within 2 weeks) of a previous High Level Failure</th>
</tr>
</thead>
</table>

### Higher-level sanction

A claimant can receive a higher level sanction if she:

- Loses employment through misconduct, or

If without good reason:

- Voluntarily leaves employment
- Refuses /fails to apply for/accept a job offer
- Neglects to avail of a reasonable opportunity of employment
- Fails to participates in a “work for your benefit” scheme

<table>
<thead>
<tr>
<th>Failure</th>
<th>13 weeks</th>
<th>2(^{nd}) failure</th>
<th>3(^{rd}) failure</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>26 weeks if occurred within 52 weeks (but not within 2 weeks) of a previous High Level Failure</td>
<td>78 weeks if occurred within 52 weeks (but not within 2 weeks) of a previous 26/78 week sanction</td>
</tr>
</tbody>
</table>

### Joint Claim Couples

If the failure only applies to one member the sanctionable reduction is as follows:

- If the member who has not committed the sanctionable failure is entitled to contribution based JSA, then s/he should receive their appropriate personal allowance rate;
- where the couple are a couple in hardship a rate equal to the amount calculated as the applicable amount for a joint claim couple in hardship;\(^9\)

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\(^8\) If the client fails in an initial claim to Jobseeker’s Allowance as it is deemed they have failed to be available for or actively seek employment then this sanction does not apply as they would not have been awarded JSA initially and therefore cannot lose entitlement.

\(^9\) See DMG Chapter 35 for detailed guidance on hardship and who has access to hardship when sanctioned. See also DMG 34185
• in the remaining cases, the single claimant rate for income based JSA.

In order for 100% of the sanction to apply to a couple, both members must have committed a sanctionable failure.

Where one member of a joint claim couple incurs a sanction, this can only subsequently be escalated if the same member incurs a further sanction at the same level. So if Partner B incurs a low level sanction within 52 weeks (but not 2 weeks) of Partner A’s previous low level sanction, this will not be escalated to a 13 week sanction.

**Under 18s claiming JSA**

High level sanctions such as leaving employment voluntarily or as a result of misconduct will normally be dealt with as outlined above. However, if a young person fails to apply or avail of an employment opportunity without good reason a lesser sanction of 2 weeks will apply.

**Employment and Support Allowance (ESA)**

ESA claimants can be required to attend work focused interviews and participate in work related activity. Partners of claimants of ESA may also be required to attend work focused interviews.

Claimants who receive the support component of ESA or who are lone parents of a child under 1 year do not have to attend work focused interviews and participate in work related activity.

A Work Focused Interview involves a discussion between the claimant and the JBO Adviser about how to improve employment prospects. An action plan involving work related activity is drawn up. This may require that the claimant attends courses in confidence building, basic skills, preparing a CV or exploring new ways of managing a health condition. The claimant cannot be mandated to undergo medical treatment.

If a claimant fails to participate in a work focussed interview or work related activity, the Work Coach will attempt to contact the claimant to request good cause. In the absence of the claimant providing an explanation, the Decision Maker issues a sanction notification letter. The claimant then has 5 days to provide good cause.

Sanctions are applied to a customer’s personal allowance for all ESA claims with or without work related activity component.
Reduction of ESA

<table>
<thead>
<tr>
<th></th>
<th>1st failure</th>
<th>2nd and subsequent failures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Without good cause a claimant fails to participate in:</td>
<td>50% of work related activity component for the first 4 weeks</td>
<td>100% of the work related component (£29.05) until the claimant:</td>
</tr>
<tr>
<td>• a work focussed interview</td>
<td></td>
<td>• participates in the work focused interview or completes the work related activity; or</td>
</tr>
<tr>
<td>• work related activity</td>
<td></td>
<td>• The claimant stops receiving the work related activity component; or</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• The claimant completes an alternative work related activity which is acceptable to the Personal Adviser; or</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• It is determined that it is no longer appropriate for the claimant to partake in work related activity.</td>
</tr>
</tbody>
</table>

Key points / to note

- The Department can arrange outreach visits to ESA claimants with mental health conditions to ensure that they understand benefit conditionality.
- Only ESA claimants in Work-Related Activity Group can be sanctioned (not those in support group).
- Other elements of ESA – e.g. housing costs or premiums – are not affected by sanctions.
- If a Decision Maker determines that a claimant failed to attend a work capability assessment, entitlement to ESA ceases.
Income Support as a Lone Parent

Claimants in receipt of Income Support on the basis of being a lone parent with a child over 1 year are required to take part in a work-focused interview. The first interview is compulsory and benefit will not be paid if the person does not attend.

Lone parents are required to prepare and update a work action plan as part of the work-focused interview. A JBO Adviser may require the claimant to attend additional interviews. Any failure to comply can result in a benefit sanction of 20% of the claimant’s Personal Allowance. With each subsequent failure the sanction can be increased to 100% of the Personal Allowance (i.e. £73.10 for a single adult 25+).

Lone parents whose youngest child is 3 or 4 will also have to participate in work related activity, otherwise they can face sanctions as outlined above. Participation in work related activity can be restricted to times where the child is in school or being cared for. The sanction will continue until the claimant complies with a work focused interview or work related activity and a fixed period of 1, 2 or 4 weeks will be applied dependent on the level of previous failures.

Key points / to note

- Advisers should be familiar with Decision Makers Guide Volume 6, Chapter 34 and the Income Support (Work-Related Activity) and Miscellaneous Amendments Regulations (Northern Ireland) 2017

- If a claimant loses 100% of their Personal Allowance due to sanctions, 10p will remain in payment to retain access to passported benefits such as free school meals.
Part C: Financial help during the sanction period

Claimants who have been sanctioned might find it difficult to meet their basic living needs (such as accommodation, heating, food, etc.). Advisers should:

- Consider conducting a benefit check to maximise income
- Encourage the client to apply for a hardship payment
- Consider requesting a benefit advance (if reapplying / new benefit)
- Consider applying for Discretionary Support although note restricted eligibility
- Refer to charitable support.

Benefit check to maximise income

Advisers should consider conducting a benefit check. Check to see if the claimant is entitled to any other benefit or payment e.g. Sure Start Maternity Grant.

If the claimant is in a couple, consider whether the partner can apply for benefits in their own right. It is important that the partner is clear with the benefit provider that their partner has been sanctioned.

Hardship payment

A hardship payment might be available for sanctioned claimants. The amount of hardship payment depends on circumstances but will always be less than the amount of the sanction and is likely to be about 60% of the sanctioned amount in the previous month. Universal Credit claimants have to repay the hardship payment; legacy benefit claimants do not.

Hardship payments only last temporarily: UC claimants may have to reapply after their UC assessment period ends whereas legacy claimants may have to reapply after a month.

To be eligible, a claimant must:

- Be 18+ years
- Be struggling to meet ‘basic needs’
- Be taking steps to reduce ‘non essential’ expenditure
- Have tried to increase income through other sources
- Have done all the required work-related activities in the 7 days before applying for a hardship payment.
A decision to refuse a hardship payment can be appealed after the Mandatory Reconsideration process.

To apply for a hardship payment, a Universal Credit claimant should speak to their Work Coach or contact the UC Service Centre ☎️ 0800 012 1331 (textphone: 0800 012 1441). Legacy benefit claimants should complete a hardship claimant application form, which is available at the JBO.

**Key points/to note:**

- UC claimants are required to repay all their hardship payments after the sanction has ceased. The payments will be deducted from future awards. It is important that the claimant negotiates an affordable repayment rate.
- Legacy benefit claimants do not have to repay hardship payments.
- Vulnerable claimants should get a hardship payment straight away; make sure the Decision Maker is aware of any vulnerabilities.

**Benefit advances**

If a sanctioned claimant has to reapply for the benefit or applies for a new benefit, she may request a benefit advance. The claimant will receive some of their benefit payment early. The amount of the advance is then deducted from future benefit payments – usually for a period of 12 weeks. To claim, contact Finance Support: ☎️ 0800 5872750.

**Discretionary Support**

Claimants in a financial crisis can usually apply for Discretionary Support via a freephone service. Contact Finance Support to claim: ☎️ 0800 5872750. Loans and grants are available. However, claimants who are subject to a sanction are not eligible for Discretionary Support unless the need arises as a consequence of a disaster.\(^1\) It is therefore unlikely that a claimant will be offered Discretionary Support. If a claimant is offered Discretionary Support, it is important that they understand the terms and conditions of any loans.

\(^{10}\) [www.nidirect.gov.uk/articles/finance-support](http://www.nidirect.gov.uk/articles/finance-support)

\(^{11}\) Discretionary Support Regulations (NI) 2016, Reg 14
Charitable support – foodbanks

Unfortunately, some claimants may have no option but to seek charitable support including foodbanks. There are many foodbanks operating in Northern Ireland covering all larger towns/cities and many rural areas. Some foodbanks can deliver. Many foodbanks can only be accessed with a referral e.g. from a charity, social worker or GP.

The following table provides the details of foodbanks linked to the Trussell Trust. However, there are many other smaller/independent foodbanks. The best way for a claimant to access them is via their local advice organisation / Citizens Advice. Some GP surgeries, churches and MLAs can also help.12

<table>
<thead>
<tr>
<th>Trussell Trust Foodbank</th>
<th>Contact details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bangor NI Foodbank</td>
<td>☎️ 07821 791 674&lt;br&gt;✉️ <a href="mailto:info@bangorni.foodbank.org.uk">info@bangorni.foodbank.org.uk</a></td>
</tr>
<tr>
<td>Carrickfergus Foodbank</td>
<td>☎️ 02893 438475&lt;br&gt;✉️ <a href="mailto:info@carrickfergus.foodbank.org.uk">info@carrickfergus.foodbank.org.uk</a></td>
</tr>
<tr>
<td>Dundonald Foodbank</td>
<td>☎️ 02895 435310 / 07514 213900&lt;br&gt;✉️ <a href="mailto:info@dundonald.foodbank.org.uk">info@dundonald.foodbank.org.uk</a></td>
</tr>
<tr>
<td>Larne Foodbank</td>
<td>☎️ 028 2827 7530&lt;br&gt;✉️ <a href="mailto:info@larne.foodbank.org.uk">info@larne.foodbank.org.uk</a></td>
</tr>
<tr>
<td>Lisburn Foodbank</td>
<td>☎️ 07756 965 868&lt;br&gt;✉️ <a href="mailto:team@lisburnfoodbank.org">team@lisburnfoodbank.org</a></td>
</tr>
<tr>
<td>Newtownards Foodbank</td>
<td>☎️ 028 91817487&lt;br&gt;✉️ <a href="mailto:info@newtownards.foodbank.org.uk">info@newtownards.foodbank.org.uk</a></td>
</tr>
<tr>
<td>North Belfast</td>
<td>☎️ 07902 099 840&lt;br&gt;✉️ <a href="mailto:info@northbelfast.foodbank.org.uk">info@northbelfast.foodbank.org.uk</a></td>
</tr>
<tr>
<td>South Belfast</td>
<td>☎️ 07743 332489&lt;br&gt;✉️ <a href="mailto:info@southbelfast.foodbank.org.uk">info@southbelfast.foodbank.org.uk</a></td>
</tr>
<tr>
<td>South West Belfast Foodbank</td>
<td>☎️ 07938706552&lt;br&gt;✉️ <a href="mailto:info@southwestbelfast.foodbank.org.uk">info@southwestbelfast.foodbank.org.uk</a></td>
</tr>
<tr>
<td>West Belfast Foodbank</td>
<td>☎️ 07802462836&lt;br&gt;✉️ <a href="mailto:info@westbelfast.foodbank.org.uk">info@westbelfast.foodbank.org.uk</a></td>
</tr>
</tbody>
</table>

12 [www.nidirect.gov.uk/articles/finance-support](http://www.nidirect.gov.uk/articles/finance-support)
Other support

Claimants who have been sanctioned may experience acute financial and emotional stress. The following table provides contact details of some organisations which may be able to provide further support. Other organisations that can provide support for mental ill health can be found at http://mentalhealthservices.nidirect.gov.uk

<table>
<thead>
<tr>
<th>Organisation</th>
<th>Topic</th>
<th>Contact</th>
</tr>
</thead>
<tbody>
<tr>
<td>Action Mental Health</td>
<td>Various support available for mental ill health</td>
<td>☎️ 028 9182 8494</td>
</tr>
<tr>
<td>Aware Defeat Depression</td>
<td>Various support available relating to depression</td>
<td>☎️ 0845 120 2961 / 028 9032 1734</td>
</tr>
<tr>
<td>CAUSE</td>
<td>Practical and emotional support for carers</td>
<td>☎️ 0845 6030 291 / 028 90650650</td>
</tr>
<tr>
<td>Childline</td>
<td>A helpline for children and young people</td>
<td>☎️ 0800 1111</td>
</tr>
<tr>
<td>Cruse Bereavement Care</td>
<td>Bereavement support</td>
<td>☎️ 028 90792419 / 0844 477 9400</td>
</tr>
<tr>
<td>Domestic Violence Helpline</td>
<td>Domestic violence</td>
<td>☎️ 0800 917 1414</td>
</tr>
<tr>
<td>Eating Disorders Association</td>
<td>Eating disorders</td>
<td>☎️ 028 9023 5959</td>
</tr>
<tr>
<td>LGBT Switchboard NI</td>
<td>Helpline for lesbian, gay, bisexual and trans people</td>
<td>☎️ 0808 800 0390</td>
</tr>
<tr>
<td>Lifeline</td>
<td>Helpline for persons experiencing distress or despair / suicide prevention</td>
<td>☎️ 0808 808 8000</td>
</tr>
<tr>
<td>National Drugs Helpline FRANK</td>
<td>Addictions</td>
<td>☎️ 0800 77 6600</td>
</tr>
<tr>
<td>NI Community Addiction Service</td>
<td>Addictions</td>
<td>☎️ 028 9066 4434</td>
</tr>
<tr>
<td>NIAMH</td>
<td>Various support available for mental ill health</td>
<td>☎️ 028 9032 8474</td>
</tr>
<tr>
<td>Samaritans</td>
<td>Helpline for persons experiencing distress or despair / suicide prevention</td>
<td>☎️ 028 9066 4422 / 116 123</td>
</tr>
<tr>
<td>GP out of hours service</td>
<td>The GP out of hours service is for people who need urgent medical treatment but cannot wait until their doctor's practice is open.</td>
<td>See telephone numbers on NI Direct[^13]</td>
</tr>
</tbody>
</table>

[^13]: [www.nidirect.gov.uk/out-of-hours](http://www.nidirect.gov.uk/out-of-hours)
Part D: Tips for claimants

Advisers may wish to photocopy this sheet for UC clients

Make sure you:

- Know which Work Requirement Group you are in.
- Fully understand what is expected from you (your “work requirements”)
- Are practically able to meet all the work requirements. If not, notify your UC Work Coach (e.g. I have caring commitments in the morning, there is no public transport before 10am, etc.)
- Notify your UC Work Coach immediately and ask that your requirements are “switched off” (this is called requesting an easement) if your circumstances change e.g. you suffer bereavement, experience a house fire, are required to do a jury service, etc.
- Keep good records to show how you are meeting any requirements. Use your online journal and keep copies of any job applications, etc.
- Notify your UC Work Coach immediately if you are not able to meet a particular requirement. Do not wait for a sanction notification letter.
- Make sure you tell your Work Coach within 5 days if you have a good reason for not doing something you agreed.
- Consider what evidence you can provide to show why you cannot meet a particular requirement e.g. a letter from your child’s school to say you had to collect your sick child from school.

If you are sanctioned:

- Seek advice immediately from the Independent Welfare Changes Helpline ☏ 0808 802 0020
- Check your sanction notification letter so you understand why you have been sanctioned, how much for and how long.
- If you want to challenge your sanction make sure you do so within the deadline.
- Seek advice on what financial support might be available. Also check to see if you are eligible for any other benefit(s)

Universal Credit Service Centre ☏ 0800 012 1331 / Textphone: 0800 012 1441

My UC Work Coach’s name is:

Contact details:
Final notes

We hope advisers find this guide useful. Remember that the Independent Welfare Changes Helpline can provide independent advice on any aspect of sanctions, including appeals 0808 802 0020

We would encourage advisers to consider sharing their experiences of sanctions with other advice sector organisations, community organisations (such as Participation and Practice of Rights) and also with MLAs and other political representatives with the view to secure a less punitive and more supportive social security system.

![Image of the Welfare Changes Advice Service]

Do you need Welfare Reform Advice?

Help is available through face to face advice or by telephone from your local Citizens Advice or Advice NI independent advice centre.

Call our free independent welfare changes helpline Monday - Friday 9am to 5pm.

0808 802 0020
welfarechanges@adviceni.net

[Image of the Welfare Changes Advice Service]