

Department for Work and Pensions

DECISION MAKING AND APPEALS (PART OF LEGAL GROUP)

Decision Makers Guide

Volume 6 Amendment 45 – February 2016

1. This letter provides details on Amendment 45; the changes have already been incorporated in to the Intranet and Internet versions of the DMG.
2. PDF amendment packages are also available. These can be printed with the amended pages being reproduced in full. Each page will contain the amendment number in the footer

PDF amendment packages can be found on the **Intranet** at:

<http://intranet/1/lg/acileeds/guidance/decision%20makers%20guide/index.asp>

or on the **Internet** at the 'Amdt Packages' tab on the following link:

<http://www.dwp.gov.uk/publications/specialist-guides/decision-makers-guide/>

Note: When printing PDF packages set the print properties to Duplex/Long Edge in order to produce double sided prints.

3. Amendment 45 affects Abbs, SI's & Statutes and chapters 34 . The changes amend
 - DMG Chapter 34 – minor amendments.
4. The last two amendment packages amending Volume 6 were
Amendment 44 [October 2015]
Amendment 43 [June 2015]
5. **For reference purposes Decision Makers may find it useful to retain deleted pages for a short period after the introduction of this package.**
6. If using a PDF amendment package remove the sheets as stated in the left hand column of the Remove and Insert table below and insert the new sheets as stated in the right hand column (note the record of amendments at the back of the Volume).

The content of the examples in this document (including use of imagery) is for illustrative purposes only

**Remove
Chapter 34**

Abbreviations

RA-YT (2 pages)

Statutes

NHS Act77 – WC Act 25 (1 pages)

Statutory Instruments

SS Ben (PA) Regs - SS (IB) (Trans) Regs
(1 page)

Chapter 34

34011 – 34030 (1 page)

34091 – 34099 (1 page)

34200 – 34220 (1 page)

34225 – 34530 (29 pages)

34721 – 34747 (2 pages)

34835 – 34851 (2 pages)

34869 – 34873 (1 page)

34941 – 34954 (1 page)

**Insert
Chapter 34**

Abbreviations

RA-YT (2 pages)

Statutes

NHS Act77 – WC Act 25 (1 pages)

Statutory Instruments

SS Ben (PA) Regs - SS (IB) (Trans) Regs
(1 page)

Chapter 34

34011 – 34030 (1 page)

34091 – 34099 (1 page)

34200 – 34220 (1 page)

34225 – 34530 (29 pages)

34721 – 34747 (2 pages)

34835 – 34851 (2 pages)

34869 – 34873 (1 page)

34941 – 34954 (1 page)

RA	Retirement Allowance
RBD	Reduced Benefit Direction
RCH	Residential Care Home
REA	Reduced Earnings Allowance
Reg(s)	Regulation(s)
Res A	Residential Allowance
RISWR	Redundant Iron and Steel Employees re-adaptation scheme
RMPS	Redundant Mineworkers Payment scheme
RP	Retirement Pension
RQC	Relevant Qualifying Condition
RVU	Relationship Validation Unit
S	Section (of an Act)
S2P	State Second Pension
SAP	Shared Additional Pension
SAYE	Save As You Earn
SB	Sickness Benefit
SC	Savings Credit
Sch	Schedule (as in an Act)
SCT	Savings Credit Threshold
SDA	Severe Disablement Allowance
SDM	Sector Decision Maker
SDP	Severe Disability Premium
S/E	Self-Employed
Sec	Section (of an Act)
SED	Scottish Education Department
SERPS	State Earnings Related Pension Scheme
Sev DP	Severely Disabled Person
SF	Social Fund
SFFP	Social Fund Funeral Payment(s)
SFO	Social Fund Officer
SHA	Special Hardship Allowance
SI	Statutory Instrument
SIR	Standard Interest Rate
SJP	Supervised Jobsearch Pilot Scheme
SMG	Standard Minimum Guarantee
SMP	Statutory Maternity Pay
SP	State Pensions
SPC	State Pension Credit
SpTA	Special Transitional Addition
SPW	Supported Permitted Work
SRPS	Shipbuilding Redundancy Payment Scheme

SS	Social Security
SS benefits	Benefits payable under SS(CB) Act 92
SSMG	Sure Start Maternity Grant
SSP	Statutory Sick Pay
STCP	Skills Training Conditionality Pilot
Supp B	Supplementary Benefit
SVQ	Scottish Vocational Qualification
TA	Transitional Addition
TAW	Temporary Allowance for Widow(ers)
TBI	Total Benefit Income
TD	Trade Dispute
TE	Transitional Element
TEC	Training and Enterprise Council
TFEU	Treaty on the Functioning of the European Union
TS	Tribunals Service
TU	Trade Union
UB	Unemployment Benefit
UC	Universal Credit
UCP	Urgent Case Payment
UEL	Upper Earnings Limit
UK	United Kingdom
US	Unemployability Supplement
UT	Upper Tribunal
VAT	Value Added Tax
VSO	Voluntary Sector Option of New Deal for young people
WA	Widow's Allowance
WB	Widow's Benefit
WBLA	Work Based Learning for Adults
WBLfYP	Work Based Learning for Young People
WBTfA	Work Based Training for Adults
WBTfYP	Work Based Training for Young People
WC	Workmen's Compensation
WC(S)	The Workmen's Compensation (Supplementation) Scheme
WC (Supp)	Workmen's Compensation (supplementation) scheme
WCA	Work capability assessment
WDisP	War Disablement Pension
WFHRA	Work focused health related assessment
Wfi	Work-focused Interview

WFP	Winter Fuel Payment
WFTC	Working Families Tax Credit
WMA	Widowed Mother's Allowance
WMA(C)	WMA payable where late husband entitled to Cat C retirement pension
WP	Widow's Pension
Wp	Work programme
WPA	Widowed Parent's Allowance
WP(C)	Widow's Pension payable where late husband entitled to Cat C retirement Pension
WPT	Widow's Payment
WRAC	Work-related activity component
WRAG	Work-related activity group
WTB	Work and training beneficiary(ies)
WTC	Working Tax Credit
WtWB	Welfare to Work Beneficiary
WWP	War Widow's Pension/War Widower's Pension
YT	Youth Training

National Health Service Act 1977	NHS Act 77
National Health Service Act 1990	NHS Act 90
National Health Service and Community Care Act 1990	NHS & CC Act 90
National Insurance Act 1965	NI Act 65
National Insurance (Industrial Injuries) Act 1965	NI (II) Act 65
National Insurance contributions Act 2008	NIC Act 08
National Minimum Wage Act 1998	NMW Act 98
Pensions Act 2007	Pensions Act 07
Pensions Act 2008	Pensions Act 08
Pensions Act 2014	Pensions Act14
Pension Schemes Act 1993	PS Act 93
Registered Homes (Amendment) Act 1991	RH (Amdt) Act 91
Registered Homes Act 1984	RH Act 84
Rehabilitation of Offenders Act 1974	ROO Act 74
Social Security Act 1975	SS Act 75
Social Security Act 1985	SS Act 85
Social Security Act 1986	SS Act 86
Social Security Act 1988	SS Act 88
Social Security Act 1989	SS Act 89
Social Security Act 1990	SS Act 90
Social Security Administration Act 1992	SS A Act 92

Social Security Contributions and Benefits Act 1992	SS CB Act 92
Social Security Contributions (Transfer of Functions, etc) Act 1999	SSC (ToF) Act 99
Social Security Fraud Act 2001	SS Fraud Act 01
Social Security (Incapacity for Work) Act 1994	SS (IfW) Act 94
Social Work (Scotland) Act 1968	SW (Scot) Act 68
State Pension Credit Act 2002	SPC Act 02
Supervised Jobsearch Pilot Scheme (Designation of Employment Officers) Order 2014	SJP Scheme (Designation of Emp. O) Order 2014
Tax Credit Act 2002	TC Act 02
Tribunals, Courts and Enforcement Act 2007	TCE Act 07
Teaching and Higher Education Act 1998	T & HE Act 98
Trade Union and Labour Relations (Consolidation) Act 1992	TULR (C) Act 92
Trade Union Reform and Employment Rights Act 1993	TURER Act 93
Welfare Reform Act 2007	WR Act 07
Welfare Reform Act 2009	WR Act 09
Welfare Reform and Pensions Act 1999	WRP Act 99
Workmen's Compensation Act 1925	WC Act 25

Statutory Instruments

The Social Security Benefit (Persons Abroad) Regulations 1975 No. 563	SS Ben (PA) Regs
The Social Security (Civil Penalties) Regulations 2012	SS (CPen) Regs
The Social Security (Computation of Earnings) Regulations 1978 No. 1698	SS (C of E) Regs
The Social Security (Claims and Information) Regulations 2007 No. 2911	SS (C&I) Regs
The Social Security Class 3A Contributions (Units of Additional Pension) Regulations 2014 SI 2014 No. 3240	SS Class 3A Conts (UAP) Regs
The Social Security (Child Maintenance Bonus) Regulations 1996 No. 3195	SS (CMB) Regs
The Social Security (Claims and Payments) Regulations 1979 No. 628	SS (C&P) Regs 79
The Social Security (Claims and Payments) Regulations 1987 No. 1968	SS (C&P) Regs
The Social Security Commissioners (Procedure) Regulations 1999 No. 1495	SS Commissioners Procedure Regs
The Social Security (Contributions) Regulations 1979 No. 591	SS (Conts) Regs
The Social Security (Contributions) Regulations 2001 No. 1004	SS (Conts) Regs 01
Social Security (Contribution Credits for Parents and Carers) Regulations 2010 No. 19	SS (CC P & C) Regs
The Social Security (Credits) Regulations 1975 No. 556	SS (Credits) Regs
The Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001 No. 769	SS (Crediting etc) Regs
The Social Security and Child Support (Decisions and Appeals) Regulations 1999 No. 991	SS CS (D&A) Regs
The Social Security and Child Support (Jobseeker's Allowance) (Miscellaneous Amendment) Regulations 1996 No. 2538	SS & CS (JSA) (Misc Amdt) Regs

Statutory Instruments

The Social Security (Deferral of Retirement Pensions) Regulations 2005 No. 453	SS (Def RP) Regs
The Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005 No. 2677	SS (Def RP, SAP & GRB) (Misc Provs) Regs
The Social Security (Disability Living Allowance) Regulations 1991 No. 2890	SS (DLA) Regs
The Social Security (Introduction of Disability Living Allowance) Regulations 1991 No. 2891	SS (Introduction of DLA) Regs
The Social Security and Family Allowances (Polygamous Marriages) Regulations 1975 No. 561	SS & FA (Poly Marr) Regs
The Social Security (General Benefit) Regulations 1982 No. 1408	SS (Gen Ben) Regs
The Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978 No. 393	SS (GRB) (No. 2) Regs
The Social Security (Graduated Retirement Benefit) Regulations 2005 No. 454	SS (GRB) Regs
The Social Security (Habitual Residence) Amendment Regulations 2004 No. 1232	SS Hab Res Regs
The Social Security (Hospital In-Patients) Regulations 1975 No. 555	SS (HIP) Regs
The Social Security (Hospital In-Patients) Regulations 2005 No. 3360	SS (HIP) Regs 05
The Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 No. 636	SS (I&A) Cql Amdts Regs
The Social Security (Incapacity Benefit) Regulations 1994 No. 2946	SS (IB) Regs
The Social Security (Incapacity Benefit - Increases for Dependents) Regulations 1994 No. 2945	SS (IB for D) Regs
The Social Security (Incapacity Benefit) (Transitional) Regulations 1995 No. 310	SS (IB) (Trans) Regs

Definitions

Claimant

34011 Throughout this Chapter the term claimant refers to a claimant or member of a joint claim couple who has claimed JSA unless otherwise stated.

Note: From 13.3.14 couple means two people who are married to, or civil partners of, each other and are members of the same household **or** two people who are not married to, or civil partners of, each other but are LTAMC¹.

1 JS Act 95, s 35(1);

Sanction or reduction period

34012 Sanction and reduction period have the same meaning in JSA. It is a period where JSA is reduced for a failure to comply with prescribed requirements¹.

Note: In order for any sanction to be applied there has to be an award of JSA.

1 JS Act 95, s 19, 19A & 19B

Meaning of week

34013 For the purposes of sanctions a week means any period of 7 consecutive days¹.

1 JSA Regs, reg 75(3)

Meaning of benefit week

34014 Throughout this Chapter, wherever the phrase “benefit week” is used it means¹ a period of seven days ending with the day determined by the last two digits of the claimant’s NINO as is shown in the following table unless the Secretary of State arranges otherwise

NI No.	Day
00 - 19	Monday
20 - 39	Tuesday
40 - 59	Wednesday
60 - 79	Thursday
80 - 99	Friday

1 JSA Regs, reg 1(3)

Meaning of employment officer

34015 An employment officer (Emp O) means

1. an officer of the Secretary of State **or**
2. such other person as may be designated for that purpose by an order made by the Secretary of State¹.

Note 1: Appendix 2 gives details of the people authorised as Emp Os in relation to sanctions.

Note 2: Other than with the Wp and CwP (see DMG 34879 et seq) contracting out provisions for prescribed work schemes do not give providers Emp O status. See further guidance at DMG 34776 and DMG 34868.

1 JS Act 95, s 35

Meaning of employment

34016 Other than if the conditions at DMG 34072 apply employment means employed earner's employment other than such employment in which a person is employed whilst participating in an employment programme¹.

Note: For full guidance on employed earners employment see DMG Chapter 26.

1 JSA Regs, reg 75(4A)

34017 – 34020

Meaning of current sanctionable failure

34021 Throughout this Chapter wherever the term 'current sanctionable failure' is used it means¹ a failure which is sanctionable under relevant legislation² in relation to which the DM has not yet determined whether the amount of an award of JSA is to be reduced.

1 JSA Regs, reg 75(5); 2 JS Act 95, s 19, 19A & 19B

Meaning of sanctionable failure

34022 Throughout this Chapter wherever the term 'sanctionable failure' is used it means¹ a failure which is sanctionable under relevant legislation².

Note: Sanctionable failures can result in a reduction of JSA at the higher, intermediate or lower-level (see guidance at DMG 34091 et seq).

1 JSA Regs, reg 75(5); 2 JS Act 95 s 19, 19A & 19B

34023 – 34030

Higher-level sanctions

34091 Legislation¹ sets out the sanctions periods for a higher-level sanction which apply to failures to comply with requirements in relation to

1. employment **or**
2. specified mandatory employment schemes for assisting claimants to obtain employment².

Note: The MWA scheme³ is a specified mandatory employment scheme for the purposes of higher-level sanctions (see further guidance on the MWA scheme at DMG 34762). For guidance on sanctions for other prescribed schemes see DMG 34846.

1 JSA Regs, reg 69; JS Act 95, s 19(2); 2 s 17A; 3 JSA Regs, reg 70B

34092 The amount of JSA will be reduced for a fixed period¹ dependant upon previous failures (see DMG 34041) in the event of a failure to comply where the claimant

1. loses employment as an employed earner through misconduct (see DMG 34531 et seq)
2. without good reason
 - 2.1 voluntarily leaves employed earners employment (see DMG 34651 et seq)
 - 2.2 refuses or fails to apply for or accept if offered a situation in any employment which an Emp O (see DMG 34096) has informed the claimant is vacant or about to become vacant (see DMG 34721 et seq)
 - 2.3 neglects to avail himself of a reasonable opportunity of employment (see DMG 34751 et seq) **or**
 - 2.4 fails to participate in the MWA scheme (see DMG 34762 et seq).

Note 1: For the meaning of Emp O see the definition at DMG 34015.

Note 2: For the meaning of good reason see further guidance at DMG 34200 et seq.

1 JS Act 95, s 19

34093 – 34096

Sanction period

34097 The higher-level sanctions period¹ will be a reduction in benefit for

1. 13 weeks where there is no previous failure **or**
2. 26 weeks for a subsequent failure occurring within 52 weeks, but not within 2 weeks, of a previous failure **or**

3. 156 weeks where there have been two or more previous failures and the most recent failure occurred within 52 weeks, but not within 2 weeks, and the most recent failure
 - 3.1 resulted in a 26 week or 156 week sanction **or**
 - 3.2 would have resulted in a 26 week or 156 week sanction but for the provisions in relevant legislation² (see DMG 34101).

Note 1: All higher-level sanctions are for a fixed reduction period. There are no discretionary length sanctions.

Note 2: The 52 weeks refers to the time elapsed between failures and not failure determinations or the beginning or ending dates of a sanction period. See DMG 34041 for the meaning of 'previous failure' and DMG 34043 for further guidance where sanctions are within 2 weeks of a previous sanctionable failure.

1 JSA Regs, reg 69(1); 2 reg 69(4)

Example 1

Les is a JSA claimant whose benefit week ends on a Tuesday. He is paid fortnightly in arrears. On 29.10.12 Les fails to commence his MWA placement. On Monday 5.11.12 the DM determines that JSA is not payable because Les did not participate without good reason in the MWA scheme. As this is Les' first higher-level failure the sanction is for 13 weeks.

On 7.5.13 Les fails to apply for a job. On 23.5.13 the DM makes another determination that JSA is not payable because of a failure without good reason to apply for an advertised vacancy. As this is the second higher-level failure and no more than 52 weeks but more than 2 weeks have elapsed since the date of the previous higher-level failure the duration of the sanction is 26 weeks.

Example 2

On Thursday 22 8.13 the DM makes a determination that JSA is not payable to Wendy as she has refused without good reason to apply for a job in a shop that was notified to her by her advisor. Wendy states she does not want to apply for jobs in shops as she wants to work outside and use her trained skills as a gardener. The date of the failure is 8.8.13. This is Wendy's third higher-level failure within 52 weeks. Previous failures on 20.12.12 and 1.5.13 resulted in a 13 week and 26 week sanction being imposed. As this is Wendy's third higher-level failure within 52 weeks of the previous failure and the most recent failure resulted in a 26 week sanction being imposed the sanction will be for 156 weeks.

34098 - 34099

Good reason

Introduction

34200 From 22.10.12 all references to claimants having to show 'just' or 'good cause' for a failure, act or omission which leads to a sanction being considered become considerations for good reason instead¹. For guidance on good cause or just cause for any sanctions before 22.10.12 contact DMA Leeds.

34201 For JSA intermediate sanctions there is no 'good reason' for the DM to consider before imposing a reduction¹. The DM is considering whether entitlement has ended on a previous occasion due to the claimant not being available and/or ASE (see guidance at DMG 34121 et seq).

1 JS Act 95, s 19B

34202 For sanctionable failures due to misconduct the claimant will not have an opportunity to show good reason for the failure but will be given the opportunity to provide facts and evidence for consideration by the DM (see guidance on Misconduct at DMG 34531).

Meaning of good reason

34203 Good reason is not defined in legislation. DMs should take into account all relevant information about the claimant's circumstances and their reasons for their actions or omissions.

34204 The concepts of 'good cause' and 'just cause' were considered in case law. It includes facts which would probably have caused a reasonable person to act as the claimant did¹. This principle is equally applicable to good reason.

1 R(SB) 6/83

34205 Claimants will be given the opportunity to explain why they have not complied with requirements and it will remain the responsibility of the claimant to show good reason for the failure and provide information and evidence as appropriate to explain why they have not complied. It is the reasonableness of the claimant's actions and behaviours that is being considered (see DMG 34221).

34206 The following guidance is to provide a framework for DMs to use when considering whether or not good reason is demonstrated and is not an exhaustive list of individual circumstances. In every case the DM should take into account all the individual facts and circumstances and consider the case on its own merits.

34207 - 34210

Time to show good reason

34211 The time a claimant will have to contact JCP where there is a failure to participate in an interview at JCP is 5 working days (see further guidance at DMG 34831). For all other sanctions in JSA there are no specified time constraints for a claimant to show good reason.

34212 In most cases the benchmark should continue to be

1. 5 days, where the information is to be obtained by post (see note 1) **or**
2. depending on the individual circumstances of the case, less than 5 days where
 - 2.1 the DM can contact the claimant by phone or face to face (and the DM is satisfied that the claimant is clear about what they are being asked to provide and do not need to collate and provide evidence) **or**
 - 2.2 where the claimant has agreed the preferred method of contact is by electronic means such as by text or email **or**
3. longer than 5 days where the claimant
 - 3.1 needs to seek information or evidence from a third party **or**
 - 3.2 has an agent or representative **or**
 - 3.3 has a health condition or other temporary circumstances that prevents them from replying (e.g. a pre existing health condition that is relevant or existing caring or parental responsibilities that may be relevant).

Note 1: Reference to days is working days excluding Saturdays, Sundays and bank holidays. Allowance must be made for posting where a notification is made by post¹. Where the information is to be obtained by post the adviser should normally make some attempt to contact the claimant by telephone or face to face to inform that a letter they should respond to is on its way to them.

Note 2: If the claimant agrees to provide evidence face to face, by telephone or by electronic means the claimant must be informed of the consequences of not providing good reason by a certain time.

1 Inte Act 78, sec 7

34213 The DM will then consider whether the evidence constitutes good reason taking into consideration all the facts and evidence particular to the individual circumstances and make rational decisions when considering sanctions which are responsive to both the individual's circumstances and the changing labour market. If the claimant can show good reason a sanction will not be imposed.

34214 - 34220

is important to bear in mind that a claimant's circumstances may fluctuate frequently and vary significantly but the DM may want to see further evidence to support the claimant's reasons (see DMG 34225).

- 34225 The DM should not automatically accept good reason even if the reasons given for the failure would in isolation normally support good reason if there is evidence of previous non-compliance. When considering previous failures to comply the DM should be satisfied that the good reason is valid by seeking supporting evidence, especially where there is compelling or contradictory evidence that may require further enquiry. 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 (also see further guidance at DMG 34286 where the claimant has a temporary change of circumstances).

Example 1

The DM receives a sanction referral from the MWA provider. Person A has failed to start his placement on the scheme. The evidence shows that this is the fourth consecutive failure by Person A to engage in the MWA scheme. Previous failures are documented as allowances for a period of sickness, a period of sickness of his elderly mother and a period of sickness of his daughter.

On this occasion he states he felt too ill to attend on the start date. The DM asks Person A to provide written medical evidence to support his illness. He replies saying he did not seek medical attention and did not visit his doctor on this occasion. He says it was a migraine and he went back to bed to sleep it off. There is no evidence of a known underlying physical or mental health condition.

The DM decides that it is inherently improbable that on four consecutive occasions Person A cannot start his MWA placement on the required day due to illness of either himself or a close relative and he can provide no written evidence.

The DM considers that it was reasonable in the circumstances to have expected Person A to contact the provider on that morning and rearrange the start date for the following day.

The DM determines Person A failed to participate without good reason in the MWA scheme and imposes a 13 week sanction for a first higher-level failure.

Example 2

The DM receives a sanction referral from the JCP advisor. Person B has failed to attend her normal fortnightly job search review. The evidence shows that this is the fifth time Person B has failed to 'sign on' at the appointed time. Previous failures are documented as two periods of sickness, attending a family funeral, she was late due to roadworks and looking after her elderly sick mother.

Person B fails to attend her interview on 7.1.15 and later in the day telephones to say that she could not travel to the appointment due to the bad weather. On the day of the interview there are light snow flurries and a severe frost.

Person B states she was involved in a road traffic accident 2 years ago on her way home from work when her car spun off the road in icy conditions. She fractured her collar bone, right arm and right leg and is now fully recovered from her physical injuries. However, since the accident Person B states she suffers from mild depression and anxiety which is exacerbated when she has to travel in adverse weather conditions.

She says she had a panic attack about travelling to the appointment on 7.1.15 when she saw the snow and ice. She was too anxious and distressed to drive her car. When asked if she could have arranged for a taxi, or a lift or to get a bus instead she said she just wasn't thinking straight, she saw the snow and panicked. She lives with her elderly mother who doesn't drive and who in any event would not be a suitable companion to travel with in adverse weather conditions due to her age and frailty. Person B says she does take a mild medication for her anxiety and her doctor could confirm this if required. On the morning of the appointment she had taken her medication to calm down and then had telephoned in the afternoon when she felt better.

The DM asks Person B to provide the relevant medical evidence and her doctor provides a letter confirming the above.

On the day of the appointment Person B's mental health state contributed to her reasons for not attending her appointment. She was temporarily distressed by particular circumstances, i.e. the bad weather, which was reasonable in her circumstances, she had telephoned the office to explain why at her earliest opportunity and provided medical evidence to support her reasons. Person B had demonstrated good reason for the failure on this occasion.

Also see guidance at DMG 34236 et seq when considering the effect of mental health conditions on a claimant's reasons for failing to comply.

What constitutes good reason

34226 Examples of a claimant's circumstances which should be treated as contributing to good reason for an action or failure include those who

1. are victims of domestic violence (see DMG 34231)
2. have mental health conditions or disorders (see DMG 34236)
3. are victims of bullying or harassment (see DMG 34246)
4. are homeless (see DMG 34251) **or**

5. lose or leave a work experience opportunity or placement other than for reasons of gross misconduct (see DMG 34954)

Note 1: Advisors can highlight cases during the claims process where a claimant's personal circumstances may have influenced their behaviour and the relevant evidence the DM should consider (for example: mental health or domestic violence, homelessness etc). This may not be sufficient proof in itself of good reason but would serve as an indicator to the DM to investigate supporting evidence to justify a determination.

Note 2: This is not an exhaustive list or specific criteria that mean a claimant would have automatic good reason but examples of what may contribute to a claimants actions when considering what may be reasonable in light of all the individual facts and circumstances.

- 34227 The list in DMG 34226 is in addition to the range of easements prescribed in regulations¹ for the circumstances in which a claimant can be treated as being available for and ASE (see DMG Chapter 21 for further guidance). If one of the easements apply then the DM will not consider good reason.

1 JSA Regs, reg 14, 14A & 19(1)(x)

34228 – 34230

Victims of domestic violence

- 34231 Claimants who have been a victim of threatened or actual domestic violence are treated as available and ASE for up to 13 weeks¹ (see guidance in DMG Chapter 21).

Note: For the definition of domestic violence see DMG Chapter 21.

1 JSA (Domestic Violence) (Amdt) Regs

- 34232 Similarly claimants who are forced to leave, or refuse employment because of threatened or actual domestic violence from an estranged family member are to be treated as having good reason for so doing. This would be where the claimant notifies JCP or the DM that keeping or taking up a position would represent a risk to their safety because, for example:

1. the estranged spouse, partner, or family member would know where they work and could inflict harm on them **or**
2. taking up or retaining a job would be likely to expose the claimant to the area or place their estranged family member
 - 2.1 resides
 - 2.2 works **or**
habitually travels to or visits

3. with the risk that harm could be inflicted on the claimant.

Note: This list is not exhaustive. Other conditions might also apply that would put the claimant at risk. The DM should consider each case on the individual facts and circumstances.

34233 In the same way a claimant is to be treated as available and ASE, a claimant would qualify as having good reason if

1. they are not living with the family member who inflicted or threatened violence
2. the threatened or actual domestic violence falls within the definition in DMG 21371
3. the person threatening or inflicting that violence or abuse is a family member (see guidance at DMG 21372 for definition of family member)
4. the claimant can provide evidence, or consents to validation, that they have reported the threat or actual violence to the police, healthcare professional, social worker or other official (see guidance at DMG 21373 – 21376 for relevant definitions).

Example

Rebecca has made a claim for JSA from 19.11.12. She has recently left the marital home following the breakdown of her marriage. Rebecca left her husband after a period of emotional abuse which culminated in her leaving on 15.11.12. Rebecca notifies the Jobcentre on 22.11.12 that she has been a victim of domestic abuse. The DM treats Rebecca as being available for work for four weeks beginning on 22.11.12.

On 23.1.13 Rebecca fails to apply for a job vacancy notified to her by JCP. She says she refused to apply for the vacancy as it is on the same industrial estate where her ex husband works and she is afraid she may bump into him if she was to work there. The DM determines that Rebecca has good reason for not applying for the vacancy as it could result in a risk to her safety.

34234 - 34235

Mental health

34236 Claimants may have good reason if they lose or leave work or fail to carry out tasks or participate in relevant activities if they were experiencing poor mental health which meant that

1. they were not able to comply with a reasonable request **or**
2. complying with the request in question would put their mental health at risk **or**
3. complying with the request would have put the health of other people at risk.

Note: The consideration at **3.** would apply to any situation where the claimant was involved with others, for example their mental health may involve unprovoked violent episodes or may mean they cannot concentrate fully and so could not drive or operate machinery around others or their mental state may be such that spending time with them could result in others feeling stressed.

34237 The DM should consider each individual case on its own merits taking into consideration all the facts and evidence and whether the claimant understood what was required of them and their reasons for the failure taking into account in particular their mental health and how it affected them at the relevant time.

34238 As well as giving consideration to those claimants who have a clinically diagnosable mental health condition the DM should consider whether a claimant who has no diagnosed condition may be temporarily distressed by particular circumstances that could worsen or precipitate mental ill health, in particular where a claimant has no previous history of mental ill health, and seek supporting medical evidence or other information suggests that continuing in a particular work environment was prejudicial to that individual's mental health or to participate in a certain activity would exacerbate a mental health condition.

Example

Person A is required to attend a 3 days training course with a manufacturing company starting on 28.7.15 at 9am. He fails to attend.

On 7.8.15 Person A provides his good reasons and explains that on the day he was due to attend the training course he slept in. He goes on to say that at the time of the training course he was prescribed anti-depressants and sleeping pills from his GP as he is very anxious and stressed and not sleeping well at night as he is going through a difficult court case and if convicted could face going to prison. The day before the training course he had been in court all day and was very stressed and couldn't sleep so he took a sleeping pill in the early hours of the morning and as a result did not wake up until 2pm. He phoned the manufacturing company immediately and re arranged the training course for the following week and has since attended and completed the 3 day course successfully.

The DM considers Person A has good reason for the failure. His mental health state and circumstances had contributed to his failure. He could provide evidence he was taking medication prescribed by his GP for his anxiety state. He had acted reasonably in the circumstances by immediately contacting the training provider and re arranging the course.

Also see Example 2 at DMG 34225.

34239 Where the DM is satisfied that the claimant

1. left a job voluntarily **or**

2. engaged in alleged misconduct

which was a product of their poor mental health they should not impose a sanction.

34240 Although some claimants may have an existing mental health condition others may not but their actions may represent the onset of a mental health issue which may be a temporary response associated with a particular problem in a specific type of workplace. It is for the DM to determine whether the claimant's mental state is the genuine reason for leaving or losing work as distinguished from those that result from dissatisfaction or genuine misconduct.

Note: Relevant information may include for example deterioration in a previously satisfactory work attendance record, more frequent medical consultations (not restricted to mental health issues) and uncharacteristic behaviour in the workplace.

Example 1

Helen is a 32 year old lady who was previously working at a large department store had felt her work situation was intolerable so left several weeks ago. She makes a claim to JSA.

At her job search interview Helen provides details of her previous employment. She was employed as a stock clerk, did her job well and had an excellent attendance record. Seven months ago, she was asked to fill in temporarily for a colleague at the Customer Service desk for 4 weeks but was kept in that role until her resignation. She had always been a slightly nervous person, but noticed that with the hectic pace of her new role and being bombarded with requests and at times even harsh words from customers, she was struggling to cope. She asked her manager on more than 5 occasions to reassign her to her previous role, but she was told they were short of staff. Her situation worsened, she started missing work regularly and saw her GP four times for insomnia, headaches and 'nerves'. During the Christmas sales period things became even more hectic and her manager told her there was no way she could be re-assigned. While she was well at home, she was becoming increasingly frightened to go to work and spent increasing amounts of time crying in the bathroom at work. She finally could not cope anymore and decided to leave.

Helen provides her sick leave record and a letter from her GP to support her condition and her prescription for sleep aids and headache medication. Further evidence sought from her employer confirms the reasons for her leaving. The DM determines Helen has good reason for leaving her employment.

Example 2

George who is 59 years old leaves his job as an engineering manager of 30 years and makes a claim to JSA. On his claim form and at his advisor interview George states he could no longer cope with the stress of the job and the increased hours and pressures as the company had suffered staff cuts and he was doing more duties than normal.

Over the last year he had been asked to do more and more and the pressure was causing him health concerns. He says during this period he also had several short periods of sick absence for minor ailments which he says in past years would not have resulted in an absence from work. He says he had discussed his concerns with his doctor over the past 6 months who had not diagnosed a specific mental health condition but it was noted on each visit his blood pressure was slightly raised, he was irritable, he was suffering from a lack of sleep and that he felt stressed.

He was taking medication to help him sleep. On the day he decided to leave there had been an accident where a colleague had been seriously injured and the extra stress the resulting paperwork caused him and his distress for his colleague had caused a panic attack and this triggered his decision to leave. George provides a letter from his doctor supporting his health condition, details of his sleeping medication and further evidence of his sick record. The doctor provides an opinion that if George was to continue in that stressful environment it could precipitate mental ill health. The DM determines George has good reason for leaving his employment.

34241 - 34245

Victims of harassment and bullying

34246 Similar to cases of mental health disorders, those claimants who leave or lose employment because they are a victim of bullying or harassment should not face benefit sanctions. Where a person is an injured party of others' actions further support for treating these victims as having good reason for leaving or losing work is provided by the recognition that bullying and harassment undermine a victim's physical and mental health, causing a range of symptoms such as

1. sleeplessness
2. loss of confidence
3. loss of appetite
4. self-doubt
5. hypervigilance
6. excessive double-checking of all actions
7. inability to relax.

34247 Bullying and harassment can be defined as any unwanted behaviour that makes someone feel intimidated, degraded, humiliated or offended. This may happen in the workplace between two individuals or involve groups of people and may be obvious or subtle. It may be persistent or an isolated incident that can occur in written communications, by phone or through email or text, as well as face-to-face. The method of bullying or harassment are manifold, and could include for example

1. spreading malicious rumours, or insulting someone
2. exclusion or victimisation
3. unfair treatment
4. deliberately undermining a competent worker by constant criticism.

34248 The key, as with cases of mental ill health, will be in advisors identifying those who may have left or lost work as a result of harassment and or bullying. This will likely be through their discussions with the claimant and from the individual's statement on their claim form. Alternatively, it may transpire later, after enquiries have been made with the former employer, that the claimant could be a victim of harassment or bullying. In either case, supporting evidence will be required for DMs to be able to reach their decision. This might be from, for example,

1. staff or trade union representatives
2. a legal representative
3. employment adviser **or**
4. witnesses.

Example

Jayne makes a claim for JSA. On her claim form Jayne indicates that she left her last employment due to being bullied by her supervisor. On investigation it is confirmed that Jayne suffered bullying at her last employment. She provides a witness statement as evidence from a colleague and a letter from her trade union representative whom she had reported the bullying to. The DM determines that Jayne left her employment voluntarily due to bullying and so no sanction is imposed.

34249 – 34250

Homelessness

34251 Being homeless can reasonably influence a claimant's ability to maintain their performance in a job at a sufficient level to warrant keeping that place prior to claiming JSA in the same way as it can contribute to them ASE (see guidance in DMG Chapter 21)

Note: Each case should be considered on the individual merits and circumstances. There are certain conditionality easements for rough-sleepers and those in direct access hostels and advisers should have taken account of any restrictions or individual circumstances when drafting the JSAG.

34252 A claimant is treated as homeless if an advisor considers the accommodation status impacts the claimant's capacity to retain or find work or comply with any reasonable work search requirement. This includes

1. sleeping rough

2. sleeping in friends' homes **or**
3. staying in temporary accommodation.

34253 An adviser may consider the claimant can be treated as dealing with a domestic emergency when they are homeless if the advisor considers the accommodation status impacts the claimant's capacity to retain or find work. However the DM may have to consider good reason in any circumstances where a sanction could be considered for a failure to comply or where an easement does not or no longer applies. See DMG 34254 if the claimant has lost or left paid work due to being homeless).

Example

Person A claimed JSA on 20.8.15.

He was required to attend an interview at the Jobcentre on 14.9.15.

On 22.9.15 Person A phones to say he did actually attend the outlet on that day but he was 5 minutes late arriving due to him not catching his regular bus from home and not realising how long he needed to allow for the journey from his mate's house as he is currently sleeping on his mate's settee. He had a row with his stepdad who threw him out. He waited for 20 minutes at the Jobcentre and he was not called for interview. He approached the security guard to let him know he was waiting but was advised to leave as his appointment time had been missed and phone up. He could not phone at the time as he had no use of a phone due to being made homeless and had no credit on his mobile phone.

Records show Person A has no previous non-compliance and normally attends his interviews at the right time and place.

The DM considers Person A has good reason as his homelessness has impacted on his actions on 14.9.15 and contributed to the failure and it was reasonable in the circumstances. He had made every effort to attend but had arrived late and been unable to use his phone.

The DM should advise that the work coach should now consider an easement due to the claimant's homelessness.

34254 Being homeless can contribute to a claimant having good reason for leaving or losing a job or lost pay when they

1. were dismissed or had their hours or rate of pay reduced by their employer who states because of their accommodation status means it was impossible for the claimant to perform their job role satisfactorily **or**
2. left work or had reduced hours or rates of pay voluntarily giving the reasons as due to their accommodation status and can provide evidence of why the job was unsustainable.

34255 When asked to show good reason the claimant will need to provide evidence to show why they were unable to sustain work and bring any relevant circumstances to the attention of the DM. For example evidence that verifies the claimants address as a hostel or bed and breakfast or other temporary accommodation. The claimant may also need to show evidence of

1. a lack of hygiene facilities
2. time required to seek housing
3. a link to other influences that are reasons for the behaviour such as being a victim of harassment, bullying or domestic violence.

Note: It will be for the DM to consider all the facts and evidence in an individuals circumstances but good reason may not apply if a claimant is homeless but lost work because of other reasons such as misconduct.

Example 1

Garreth makes a claim to JSA. He has left his job in a bar and states on his claim form that he had to leave his job as he could not attend work at the hours required as he is homeless and sleeping at a friend's house where there is no public transport to get him to the job. He was having to walk to and from work as he cannot afford a taxi as his friends house is over a hour away from his employer and he was constantly arriving late. Because of the long and awkward working hours, starting at 11am and often not finishing until 1 or 2 am he has no time to look for alternative housing and his friend had only offered him his couch on a temporary basis and was putting pressure on him to leave. He states he is homeless because he had suffered physical abuse from his alcoholic father and he had left the parental home for his own safety after a row when his father had beaten him and he suffered a fractured jaw. His parents address was near his place of work and he was constantly worried he would encounter his father whilst on his way to or from work.

Garreth provides written confirmation of his temporary address from his friend and confirmation from the hospital of his broken jaw. The DM can ascertain from local knowledge from the temporary address the problems the claimant would have with transport to the place of work. The DM determines that it was due to his homelessness that Garreth had left his job and does not impose a sanction.

Example 2

Asha makes a claim to JSA. On her claim form she states she is living in a hostel and has lost her job because she is homeless and has a drug problem. On further investigation her employer confirms she was dismissed for misconduct. She was caught stealing money from another employee. Although Asha is homeless she was dismissed from her current job due to misconduct and not due to being homeless. The DM should then go onto consider the misconduct, for example any other issues

such as mental health issues and her drug addiction when considering whether to impose a sanction (for further guidance on Misconduct see DMG 34531 et seq).

34256 - 34258

Work experience

34259 Claimants who leave or lose a place on a work experience opportunity or placement will be treated as having good reason unless they lose the place through gross misconduct.

Note: For further guidance on Work experience and what constitutes Gross Misconduct see DMG 34954.

34260

Travelling time

34261 Claimants will not be able to show good reason¹ because of the time it would normally take for them to travel from their homes to the

1. place mentioned in a JSD and back **or**
2. location of a notified vacancy and back **or**
3. location of where there is a reasonable opportunity of employment which they have neglected to avail themselves of and back

where that time is normally less than one hour and thirty minutes either way by a route and means appropriate to their circumstances unless this is unreasonable in view of the claimant's health or caring responsibilities¹.

1 JSA Regs, reg 72

34262 Where a claimant cannot show good reason for such refusals or failures then their JSA will be sanctioned¹.

1 JS Act 95, s 19(1)

Example

Olu is in receipt of JSA. The Emp O notifies Olu of an employment vacancy which is about 75 minutes away from Olu's home by bus. Olu refuses to apply for the vacancy on the grounds that he does not want to travel for more than an hour by public transport. The DM determines that Olu does not have good reason for refusing to apply for the vacancy on the grounds of how long it takes to travel to get there.

Exceptions

34263 A claimant may have good reason if any of the following circumstances apply, and the DM must take them into account¹

1. the travelling time is normally one and a half hours or more each way by a route and means of travel which is appropriate to the claimant's circumstances or to the circumstances of the employment or JSD **or**
2. the travelling time is unreasonable because of
 - 2.1 the claimant's health **or**
 - 2.2 any caring responsibilities the claimant has (see DMG Chapter 21).

1 JSA Regs, reg 72

Example 1

Sean is in receipt of JSA. The Emp O notifies Sean of an employment vacancy which is located 95 minutes away by public transport. Sean does not drive and has to rely on the bus service. Sean refuses to apply for the vacancy on the grounds that he would be spending over 3 hours a day travelling to and from the job if he successfully applied for it. The DM must take this into account when deciding if Sean has good reason for failing to apply for the vacancy.

Example 2

Penelope is in receipt of JSA. She is also a wheelchair user. The Emp O notifies Penelope of a vacancy which is located about 30 minutes from home. Penelope refuses to apply for the vacancy on the grounds that she lives in a rural area, does not have a car and the local bus service is not suitable for wheelchair users. The DM must take this into account when deciding if Penelope has good reason for failing to apply for the vacancy.

- 34264 The circumstances at DMG 34265 does **not** mean that where normal travelling time from home to work and back would exceed an hour and a half each way, the claimant **will** have good reason. However the DM should accept that the claimant has good reason in such circumstances, unless it would be reasonable to expect the claimant to undertake a journey of more than an hour and a half either way¹. The DM must take into account all of the facts. Some examples of where it may be reasonable for the claimant to travel for more than an hour and a half either way include where the claimant
1. is restricting availability to the type of employment offered, although other types of employment are available nearer home
 2. previously had regular employment which involved travelling for more than an hour and a half either way, and there is no evidence that the claimant found this unreasonable
 3. lives in a remote location in which people usually have long journeys to work
 4. is in the process of moving home to within an hour and a half's travelling distance of the employment, so the longer journey would be for a short time only

5. would have to make a journey which takes less than an hour and a half in one direction, and only slightly more than an hour and a half in the other direction.

Note: Unless the legislation explicitly says they should not, DMs must consider any other reason the claimant puts forward as good reason for refusing or failing to act in line with the guidance at DMG 34200 et seq. The travelling time alone may not provide good reason but may when considered with other factors in the overall picture of the claimant's circumstances.

1 JSA Regs, reg 72

34265 – 34270

Domestic situations

34271 Where crises arise unexpectedly which limit a claimant's ability to meet their requirements the DM should give careful consideration when deciding whether a claimant can show good reason and take into account in particular the nature of the crises and what is reasonable in the individual's circumstances. For example

1. a break up of the family
2. short notice caring commitments of the elderly, sick or young children
3. a domestic emergency
4. a family bereavement
5. homelessness (see DMG 34251)

Note 1: This list is not exhaustive. The DM should consider each case on the individual facts and circumstances of the case.

Note 2: The DM should in particular consider what is reasonable behaviour expected by a reasonable person in a working situation, for example; how would someone working react in a similar situation, e.g. would they be expected to attend work or is it reasonable they would need time off to deal with the emergency.

34272 The DM should consider

1. the nature of the emergency **and**
2. when the emergency arose **and**
3. any alternative arrangements the claimant has made **and**
4. any alternative arrangements the claimant could reasonably have made.

Note: There is no automatic good reason, the DM should consider all cases on the individual merits and circumstances of the case applying the 'reasonableness' test (see DMG 34221).

34273 – 34275

Disability

34276 Disability in itself should not be a factor that should be deemed as good reason for failing to carry out requirements but related factors should be considered, for example;

1. the level of support available to the claimant should be considered in the claimant's ability to meet the requirements, e.g. a single disabled claimant living alone may find meeting their obligations harder than those with support from others such as other members of their household **or**
2. some reasonable adjustments may be needed when a claimant is newly disabled in helping them to come to terms with their disability

Note: Advisers should have taken account of any disability or impairment when drafting the JSAg (see DMG Chapter 21).

Learning difficulties, poor literacy or numeracy

34277 Good reason would not be likely to apply if the claimant's failure was because they did not take action to address a basic skill requirement that could assist them into the job market. However consideration of the claimant's

1. ability to understand what requirements are expected of them **and**
2. ability to be able to perform those tasks **and**
3. any distress or anxiety or other mental health issues suffered as a consequence

should be born in mind when deciding good reason for any failure, act or omission.

Example

Bindu is a kitchen porter whose job is washing up and getting things out for the cooks. One day he is asked to clean an oven and flips and walks out. Bindu has significant learning difficulties, can only read a little and can only understand limited English.

Bindu had a very simple contract of employment which specified his duties very closely but this was different from the version the employer had produced which included 'any other reasonable instruction'.

He had been very distressed at being asked to do something he had never done before, he did not know how to do and that he could not understand or read the instructions how to do it.

The DM determines Bindu had good reason for leaving his job and no sanction is imposed.

34278 DMs are not judging the claimants capacity to learn, simply whether they performed the required task to their capability. Any task should be reasonable in the claimant's individual circumstances and they should be capable of performing it.

Note: Advisers should have taken account of any restrictions when setting any work search requirement on the JSAG (see DMG Chapter 21). This includes taking account of what literacy, numeracy and language skills the claimant has and what opportunities may or may not be available to improve learning new skills. For example: using digital technology and the access to a computer may well be restricted for some claimants and should be born in mind.

34279 – 34280

Substance abuse

34281 If a claimant failed to meet a requirement because they were under the influence of drugs or alcohol then this would not amount to good reason for a failure. However other circumstances, e.g. medical issues, might contribute to the failure and the DM should consider all the facts and circumstances of the individual case when deciding whether a claimant had good reason for a failure.

34282 If a claimant was sacked from their job for being under the influence of drugs or alcohol then a sanction should normally apply. If however they lost their job because they were in treatment, the DM would normally consider this to be good reason and a sanction should not apply.

Note: Each case would have to be judged separately on its own merits.

Example

See example 2 at DMG 34254. On further investigation the DM establishes that Asha has a severe addiction problem and stole money to pay for drugs. She is now being referred to a rehabilitation programme. The DM does not impose a sanction for her misconduct (see DMG 34531 for further guidance on Misconduct).

Legal constraints

34283 Any legal constraints that prevent a claimant

1. taking-up **or**
2. retaining work

may well give the claimant good reason for a failure. For example where they fail CRB checks or are listed on the sex offenders register. It will be up to the DM to consider all the facts and circumstances of the individual case.

Note 1: Where a claimant has a driving ban alternative travel arrangements could be made and this in itself would not constitute good reason for a failure.

Note 2: Advisers should have taken account of any restrictions when matching a claimant to suitable job vacancies.

34284 – 34285

Temporary changes in circumstances

34286 It is unreasonable for a claimant to be expected to comply with a work search opportunity if the reason for doing so was that the claimant was

1. attending court as a witness, juror or party to any proceedings **or**
2. arranging or attending the funeral of a close relative or close friend
3. crewing or launching a lifeboat **or**
4. on duty as a P/T member of a fire brigade.

Note: DMs should give careful consideration when deciding whether a claimant can show good reason and take into account in particular the nature of the change, how long it is going to last and what is reasonable in the individual's circumstances.

34287 – 34290

16/17 year olds

Good reason for training schemes

34291 In addition to the reasons in DMG 34226 - 34286, 16/17 year olds also have good reason for

1. giving up a place on a training scheme¹ **and**
2. failing to attend a place on a training scheme² **and**
3. refusing a place on a training scheme³ **and**
4. neglecting a reasonable opportunity of a place on a training scheme⁴

if the conditions in DMG 34292 are met⁵.

Note 1: See DMG 34186 for the definition of young person.

Note 2: See DMG 34164 for the definition of training scheme.

1 JS Act 95, s 19A(2)(d); 2 s 19A(2)(f); 3 s 19A(2)(e); 4 s 19A(2)(d); 5 JSA Regs, reg 67(1)

34292 The conditions are that¹

1. this is the first time that the young person has, without good reason, committed one of the sanctionable offences listed at 34291 **1. to 4. and**
2. the young person has not
 - 2.1 failed to complete a course of training, without a certificate being issued² **or**
 - 2.2 whilst claiming JSA and having a severe hardship direction in force
 - 2.2.a failed to pursue an opportunity of getting training without good reason **or**
 - 2.2.b rejected an offer of training without good reason **and**
3. at the time the young person
 - 3.1 acted as in 34859 **2., 3. or 4.** the young person was a new jobseeker **or**
 - 3.2 first attended the scheme, if a place on a training scheme was given up without good reason, the young person was a new jobseeker.

1 JSA Regs, reg 67(1); 2 JS Act 95, s 17(4)

Example

Matthew refuses to go on a training scheme and gives no reason for his refusal. He previously left a scheme where he was training to be a hairdresser because the shampoos and perm solutions made his eczema worse, and his GP advised him to leave. The DM decided that he had good reason because of the GP's advice. Matthew satisfies all the conditions **1. to 3.** so has good reason for refusing to go on the training scheme.

Meaning of new jobseeker

34293 New jobseeker means¹ a young person (16/17 year old) who has not, since first leaving FTE

1. been employed or S/E for 16 or more hours per week **or**
2. completed a course of training **or**
3. if a severe hardship direction is in force, failed to complete a course of training, without a certificate being issued² **or**
4. given up a place on a training scheme without good reason³ **or**
5. lost a place on a training scheme through misconduct⁴.

1 JSA Regs, reg 67(3); 2 JS Act 95, s 17(4); 3 s 19A(2)(f); 4 s 19A(2)(g)

Good reason for refusing employment or neglecting a reasonable opportunity of employment

34294 16/17 year olds also have good reason for

1. refusing employment¹ **and**
2. neglecting to avail themselves of employment²

if the conditions given in DMG 34295 are met³.

1 JS Act 95, s 19(6)(c) and 20A(2)(f); 2 s 19(6)(d) and 20A(2)(g); 3 JSA Regs, reg 67(2)

34295 The conditions are that¹

1. the employer did not offer suitable training **and**
2. the young person is not laid off or on short time and is available as in DMG Chapter 21² **and**
3. the young person has not accepted a firm offer of enlistment in the Armed Services to start within 8 weeks as in DMG Chapter 30³ **and**
4. the young person's JSA has not been reduced by a severe hardship direction⁴ or because of a sanction⁵ because the young person has
 - 4.1 given up a place on a training scheme without good reason⁶ **or**
 - 4.2 failed to attend a place on a training scheme without good reason⁷ **or**
 - 4.3 refused a place on a training scheme without good reason⁸ **or**
 - 4.4 neglected a reasonable opportunity of a place on a training scheme without good reason⁹ **or**
 - 4.5 lost a place on a training scheme through misconduct¹⁰ **or**
 - 4.6 refused employment without good reason¹¹ **or**
 - 4.7 neglected a reasonable opportunity of employment without good reason¹² **and**
5. the young person has not been sanctioned for
 - 5.1 leaving employment voluntarily without good reason¹³ **or**
 - 5.2 losing employment through misconduct¹⁴.

*1 JSA Regs, reg 67(2); 2 reg 61(1)(a); 3 reg 61(1)(f); 4 reg 63; 5 reg 68;
6 JS Act 95, s 19(5)(b)(iii) and 20A(2)(b)(iii); 7 s 19(5)(b)(iv) and 20A(2)(b)(iv);
8 s 19(5)(b)(ii) and 20A(2)(b)(ii); 9 s 19(5)(b)(i) and 20A(2)(b)(i); 10 s 19(5)(c) and 20A(2)(c);
11 s 19(6)(c) and 20A(2)(f); 12 s 19(6)(d) and 20A(2)(g); 13 s 19(6)(b) and 20A(2)(e);
14 s 19(6)(a) and 20A(2)(d)*

Meaning of suitable training

34296 Suitable training is¹ training that is suitable for the particular young people, taking into account

1. their personal capacity, for example, to learn, to concentrate
2. their ability or potential to acquire particular skills
3. their preference
4. the preference of the training provider
5. the level of approved qualification aimed for
6. the duration of the training
7. how near the training is to their home
8. whether the training can be made available to the claimant quickly.

1 JSA Regs, reg 57(1)

34297 – 34300

Examples of what may be good reason in specific circumstances

34301 There are certain examples of what **may** be good reason in specific circumstances based on case law and employment regulations where a claimant has

1. failed to comply with a requirement to take up or apply for paid work **or**
2. left work or loses pay voluntarily.

Note: From 22.10.12 there are no discretionary length sanctions. All sanctions are for a fixed period therefore some of the case law for the previous sanctions regime, which was actually based on the old unemployment benefit regime, may not apply. It is for the DM to consider all the individual facts and circumstances of the case when considering whether the claimant can show good reason having regard to previous case law and whether it can apply to a specific case.

Significant harm to health or unreasonable physical or mental stress

34302 The DM can take into account when deciding good reason any condition or personal circumstance of the claimant which shows that a particular employment would be likely to cause

1. significant harm to the claimant's health **or**
2. the claimant unreasonable physical or mental stress (also see DMG 34236).

Significant harm to health

34303 The best evidence is confirmation from the claimant's doctor that the employment is likely to cause significant harm to the claimant's health. The DM should check any

medical evidence provided to make sure that it is relevant to the type of employment in question.

34304 If medical evidence is not available, the facts may still allow the DM to decide that the claimant had good reason. The DM can accept that there is good reason, without requesting medical evidence, where they are satisfied that medical evidence is not necessary to establish that

1. the work itself **or**
2. the place the claimant works in would make the medical condition worse.

For example, a claimant with asthma, is offered employment working in a dusty atmosphere.

34305 The DM should never decide to impose a sanction based on medical evidence which could not be shown to the FtT because the claimant does not agree to it being shown.

34306 Claimants who suffer from pneumoconiosis or pneumoconiosis and tuberculosis may hold a

1. certificate of suspension (issued before 27.11.74) **or**
2. letter of advice.

These documents are issued by a PMB. A certificate of suspension tells the person to give up employment in a stated industry, and not to take employment in certain occupations. A letter of advice advises the person whether it is safe to work in a particular occupation.

34307 The DM should accept that the claimant has good reason if the claimant

1. holds a certificate or letter **and**
2. refuses employment of a type listed in the certificate or letter.

If the claimant refuses employment of another type, and the DM is not sure whether it would harm the claimant's health, a medical adviser should be asked whether the claimant's health would be at risk if the claimant accepted the employment.

34308 The employment must be **likely** to cause significant harm to the claimant's health.

Example

Guy refuses to apply for a job in a firework factory because there has recently been an explosion there. There is no evidence to suggest accidents are likely to happen frequently or in the future. Guy does not have good reason¹.

Unreasonable physical or mental stress

34309 Sometimes a particular employment would be likely to cause unreasonable stress without being likely to cause actual significant harm but the claimant perceives it will. For example, claimants may be likely to suffer unreasonable

1. physical stress if they
 - 1.1 are disabled and take employment which is physically hard **or**
 - 1.2 take employment which means they have to work at night, but they find it difficult to sleep during the day **or**
2. mental stress if they work somewhere they dread, for example an abattoir or an undertaker's **or**
3. distress because a certain type of work exacerbates experiences of anxiety or mental distress, for example a person with social anxiety or a history of agoraphobia who is expected to deal with large numbers of people.

Note: Often this is a very individual and personal thing and may not have been identified as a restriction with their advisor. What one person can cope with will not be the same for another person and the DM should consider each case on its individual merits and circumstances and what is reasonable in the individual's case.

34310 Where the claimant genuinely believes that a particular employment is likely to cause

1. significant harm to the claimant's health **or**
2. the claimant unreasonable physical or mental stress

the DM should take this into account when deciding whether or not the claimant has good reason (see also DMG 34236).

34311 – 34312

Consideration of claimant's health where claimant has left employment

34313 The best evidence is confirmation from the claimant's doctor that

1. the work was harmful to the claimant's health **or**
2. the doctor advised the claimant to leave.

The DM should check any medical evidence to make sure that it is relevant to the claimant's capacity to do the job in question but also see DMG 34314.

34314 If medical evidence is not available, the facts may still allow the DM to decide that the claimant had good reason for leaving. The DM can accept that there is good reason, without requesting medical evidence, where

1. the work itself **or**
2. the place the claimant works in

made the medical condition worse

Note: Consideration should also be given to the guidance in DMG 34236 and DMG 34246 if the reasons for leaving were due to mental health issues, harassment or bullying.

34315 Where a claimant

1. was suffering from pneumoconiosis on its own or with tuberculosis **and**
2. had a
 - 2.1 certificate of suspension **or**
 - 2.2 letter of advice

issued by a PMB, the DM should follow the guidance at DMG 34307 to decide whether the claimant has good reason for leaving employment.

34316 – 34320

Sincere religious or conscientious objection

34321 If a claimant refuses to comply with a requirement because of any religious or conscientious objection, which the claimant sincerely holds, the DM should take this into account when deciding good reason. Claimants cannot show good reason just by saying, for example, that they conscientiously object to doing a certain employment. They must

1. show that one or more of the terms and conditions of the employment conflicts with the principles of their religion or belief **and**
2. give enough evidence to satisfy the DM that their religious or conscientious objection is sincerely held **and**
3. show that the conflict between the principles of their religion or belief are reasonably unavoidable.

Note: The degree to which the claimant's beliefs are commonly held or considered reasonable by others is immaterial. The belief held must be in respect of a weighty and substantial matter.

34322 The following are examples of religious or conscientious objections which may provide good reason

1. an objection to employment that involves the handling or supply of alcohol, cigarettes or tobacco
2. a religious objection to being in employment on a particular day each week
3. an objection to employment with something which may be used to destroy life, whether human or animal
4. a religious objection to being in employment with members of the opposite sex.

34323 A principled objection is not the same as a conscientious objection. The terms and conditions of the employment must require the claimant to act in a way which is contrary to their ethical or moral principles¹.

1 R(JSA) 7/03

Example 1

Aabish is a practising Muslim. Her religion permits her from working in a place that sells intoxicants. Aabish has good reason for not applying for a vacancy in an off-license.

Example 2

Yuraj refuses to apply for a vacancy at a building site as he will be required to wear a hard hat at all times for his own health and safety. Yuraj is a Sikh and his beliefs require him to wear a turban which means he cannot meet the requirement to wear a hard hat. Yuraj would have good reason not to apply for the vacancy.

Example 3

Billy is offered a job as a waiter in a restaurant at a casino. He states he has an objection to gambling, it is against his moral principles. Billy's opinion of gambling is irrelevant to the people gambling. His duties as a waiter in the restaurant will not require him to act in a way which is contrary to his beliefs with regard to gambling and therefore he would not be able to show good reason for refusing the job on that basis.

Example 4

Akinta is referred to a MWA scheme placement for 4 weeks. At the end of the third week he asks if he can be excused the morning off his placement on Friday to attend prayers to participate in Eid. Akinta is a practicing Muslim and Eid is one of the most important religious festivals for the Islamic faith. The DM considers Akinta would have good reason to be allowed 'time off' his placement to attend the religious festival Eid.

34324 - 34325

Other terms and conditions which affect a claimant's personal freedom and beliefs

34326 Claimants will have good reason for leaving paid work if the employer ordered them to do something that conflicted with their sincerely held religious or conscientious principles (see DMG 34321).

Example

Sophia claims JSA. She left her job as a midwife as she was ordered to have direct involvement with abortion procedures which she morally objected to. Sophia has good reason for leaving her job on moral grounds. However see the guidance at DMG 34436 et seq, Sophia should have raised the issue through the normal grievance procedures before leaving her job but full consideration should be given to all the facts and evidence in the individual circumstances.

34327 DMG 34326 may also apply where claimants left employment because they

1. objected to medical examinations or injections **or**
2. were genuinely afraid that the examinations or injections would cause them harm.

34328 But if the

1. requirement to have a medical examination or injection was reasonable **and**
2. claimant's reasons for refusing were only dislike or some irrational excuse

then the claimant does not have good reason¹.

Note: Consideration should also be given to the guidance in DMG 34236 and DMG 34246 if the reasons for leaving were due to mental health issues, harassment or bullying.

1 R(U) 16/52

34329 - 34330

Caring responsibilities

34331 If a claimant is the responsible carer of a child aged 5 – 13 they have good reason

1. not to accept a job that is not compatible with the child's normal school hours, including the time it takes the child to travel to and from school
2. for leaving employment because working hours are incompatible with caring responsibilities

Note: Advisers should have identified any reasonable constraints when setting activities in the JSAG (see DMG Chapter 21).

34332 However where DMG 34331 does not apply, the claimant's caring responsibilities must make it **unreasonable** to take the employment. A claimant should do all that is reasonably possible to fit in responsibilities with the employment on offer. But the claimant is not expected to take employment where the hours are so long or inconvenient that the claimant could not carry out the caring responsibilities. For example where the claimant has caring responsibilities for a teenager with health problems.

Note: Each case should be considered on its own merits taking all the individual circumstances into consideration. Advisers should normally have taken all the claimant's circumstances into account when setting the JSAg, see DMG Chapter 21 and it is only where any easements do not apply that the DM will be considering good reason.

34333 If claimants are responsible for children, they cannot show good reason for a failure because they have to supervise them at certain times **unless** they can show that there is no reasonable alternative. The DM should ensure that claimants have taken reasonable steps to secure appropriate and affordable child care. For example options such as

1. day nurseries
2. breakfast and after school clubs
3. child care schemes
4. registered childminders
5. the help of friends or relatives (see note)

should be considered and reasons given if claimants state they are not suitable. This list is not exhaustive.

Note: There is no requirement that friends and family are asked to provide informal childcare in order for a claimant to show good reason only that it is reasonable that they are considered.

Example:

Georgina is a LP with one son, aged 14, who has special needs. She has been offered paid work for 30 hours per week. She will need after school care for 2 hours each day. The Adviser has referred her to the Children's Information Services to obtain details of the child care schemes available in the area and has explained the financial help available with child care costs. Georgina refuses the job as she states that the childminders in the area have no vacancies for the times she needs, the after school club is full and there are no friends or family who can look after her son. The DM considers that Georgina has good reason for refusing the job.

34334 Good reason may be shown where the claimant refuses employment which would involve, for example

1. employment at night **or**
2. a very early start or late finish to the employment, or other unsocial hours **or**
3. overnight stays away from home **and**

it would not be practicable for anyone else to take over the claimant's caring responsibilities at these times¹.

Note: Advisers should normally have taken all the claimant's circumstances into account when setting the JSAg.

1 R(U) 20/60

Employee Shareholder Contracts

34335 Employee Shareholder Contracts were introduced from 1.9.13. An employee shareholder will be given an equity share of the company and have different employment rights to an employee or a worker. Employee Shareholder Contract jobs are entirely voluntary and JSA claimants must not be mandated to apply for such vacancies. Therefore sanction referrals for RE should not be made.

34336 It may not be obvious from the details available whether the vacancy is actually an Employee Shareholder job or not. It will be dependent on the employer stating this when they advertise the vacancy, so may only become apparent during the interview stage, or when the individual and employer are discussing the terms and conditions of the job. If it later becomes apparent that the vacancy is an Employee Shareholder job, and the claimant no longer wishes to pursue the vacancy, then Refusal of Employment sanction action must not be taken.

34337 If a claimant voluntarily takes up an Employee Shareholder job on the full understanding and acceptance of the associated terms and conditions, and then leaves voluntarily or is dismissed, Leaving Voluntarily and Misconduct should be considered in the normal way. As part of this consideration claimants would have good reason for leaving voluntarily if

1. they had not fully understood the financial implications associated with an Employee Shareholder contract. Employee Shareholders may be liable for upfront Income Tax and National Insurance Contributions charges on any share value received and these expenses could be a source of financial difficulties **or**
2. some aspects of the Employee Shareholder terms and conditions only became apparent after their employment had started.

34338 If an existing employee is made redundant or is forced to leave their job because they refused to accept a move to an Employee Shareholder contract, then a claimant would have good reason and a sanction would not be appropriate.

34339

Circumstances that may show good reason for a refusal or failure to apply for or accept if offered a job vacancy

34340 Other circumstances the DM may take into account when determining the doubt relating to a refusal or failure to apply for or a failure to accept if offered a job vacancy which an Emp O has notified is vacant or is about to become vacant includes

1. any restrictions the claimant has been allowed to place on their work search, having regard to any discrepancy between these and the requirements of the job, although minor differences may not count (see DMG 34341)
2. expenses unavoidably incurred (e.g. childcare and travelling expenses), or that the claimant had to or would have had to, incur if they had taken the job, if they amounted ,or would have amounted, to an unreasonably high proportion of the income they would have received. The proportion that is considered reasonable increases the more they are paid (see DMG 34346 et seq)
3. any other factor that appears relevant (see DMG 34416).

Note: For guidance on what constitutes a refusal or failure see DMG 34721 et seq. Also see guidance at DMG 34928 where the refusal or failure is to carry out a JSD which relates to an employment vacancy.

Restrictions on work search

34341 It is extremely important for advisers to ensure that any job vacancy is weighted to the specific claimant and their personal circumstances and any limitations or restrictions identified in the JSAg taken into consideration.

34342 The JSAg sets the context of the claimant's jobsearch. Types of jobs recorded on the JSAg as the types of jobs the claimant is looking for are not necessarily restrictions. Jobs identified are the best prospects at the time the JSAg is signed and that may change with time, however, the advisor should update and amend the JSAg at the regular job search fortnightly review.

Example:

Samara has been claiming JSA for 3 months. She agreed on her JSAg that the type of work she was looking for was office work, receptionist or bank clerk. Samara is notified by her advisor of a vacancy for a retail job at a local supermarket and she

fails to apply for the job stating it is not the type of job she is looking for. The DM considers Samara does not have good reason for failing to apply for the vacancy.

34343 - 34345

Employment expenses

34346 The DM should take into account when deciding good reason any expenses which

1. claimants have to meet only for the purpose of the employment **and**
2. would be an unreasonably high proportion of the expected pay from the employment.

34347 Expenses which can be taken into account include

1. travelling expenses to and from the place of employment by a route and means appropriate to the claimant's circumstances
2. the cost of tools or equipment which the claimant has to provide
3. the cost of essential protective clothing, not provided by the employer
4. the cost of a criminal record check (known as a disclosure).

34348 Deductions from wages of tax, NI and occupational pension contributions cannot be taken into account. This is because they are not expenses incurred for the purposes of the employment.

34349 – 34350

Child care expenses

34351 The DM should take into account when deciding good reason any child care expenses which

1. are or would be necessarily incurred as a result of the claimant being in the employment **and**
2. did or would represent an unreasonably high proportion of the remuneration which it is reasonable to expect that he would receive from the employment.

34352 There are no rules for deciding whether expenses would be an unreasonably high proportion of remuneration. Each case must be decided on its own facts. But the greater the level of remuneration is, the more reasonable it is for the expenses to be a higher proportion of it. The DM should also consider support available towards childcare from UC or other sources.

34353 The DM should consider employment expenses as in DMG 34346 and child care expenses as in DMG 34351 separately. They should not be aggregated when considering good reason.

34354 – 34359

Unreasonably high proportion of pay

34360 The expenses must be an unreasonably high proportion of the **expected pay** for good reason to apply. Other issues about the level of pay or the claimant's income or outgoings cannot be taken into account. For example, the claimant cannot show good reason by arguing that the expenses are unreasonable because the claimant's

1. wages would have been the only income the household has **or**
2. household expenses are particularly high.

34361 There are no rules for deciding whether expenses would be an unreasonably high proportion of pay. Each case must be decided on its own facts. But the greater the level of pay is, the more reasonable it is for the expenses to be a higher proportion of it.

34362 If the claimant would have an expense

1. for only a short time, for example where the claimant would have to pay for transport to work initially, but then works transport would be provided after a time **or**
2. as a "one-off", for example cost of tools

It would be reasonable for the claimant to spend more to meet such an expense than would be the case if the expense would last as long as the employment. The DM should also take into account that the claimant may be able to meet such expenses through the Flexible Support Fund.

Note: The Flexible Support Fund comprises of resources available to Jobcentre Plus Managers to cater for a variety of local needs for claimants.

34363 - 34365

Employment of less than 24 hours a week

34366 If a claimant refused to apply for or accept a job involving fewer than 24 hours work a week they may be able to show good reason (see DMG 34368).

Note 1: Claimants are not automatically allowed good reason and the DM should consider each case on its individual merits where the claimant raises the hours issue as the reason for not applying for a vacancy.

Note 2: This does not apply if the claimant refuses or fails to carry out a JSD although a claimant may be able to challenge the direction as unreasonable (see DMG 34908)

34367 This guidance also applies when considering whether employment is for less than 16 hours a week. If

1. it has been agreed that the claimant can restrict their hours of availability to less than 24 hours in a benefit week, for example because of caring responsibilities **and**

2. the employment on offer is for less than 16 hours a week

the claimant may have good reason for refusing or failing to apply for or accept that employment.

34368 Claimants should not be mandated to vacancies of

1. less than 24 hours where that is not appropriate **or**
2. where a claimant has a pattern of availability of less than 24 hours, to vacancies where the hours are less than 16 hours a week.

If the number of hours are not shown on the advertised vacancy and the claimant has raised the hours as the reason for not applying for the vacancy then the JCP adviser or member of staff in the Jobcentre must seek to establish the hours before the referral to the DM is made.

34369 The DM **must** only then consider hours on the basis of good reason as a fact of the case rather than an automatic allowance, bearing in mind that the hours alone may not in itself count as good reason. The DM should consider all the available evidence and information the claimant presents covering the reasons for their actions and the circumstances in which they were in. The number of hours is just one factor the DM should consider in the overall picture of the claimant's circumstances.

Note: This also applies to vacancies advertised in UJ – see further guidance at DMG 34911.

Example 1

Alexander is notified of a job vacancy. At his next fortnightly job-search review he confirms he did not apply for the vacancy because he couldn't be bothered. He didn't think he'd like the job. The DM considers Alexander did not have good reason for the failure to apply for the vacancy.

Example 2

Sergei fails to apply for a notified job vacancy and states that when he checked out the details of the vacancy with the employer it was for 10 hours a week and his JSAg shows he has a pattern of availability of over 24 hours a week. The advisor has confirmed with the employer that the vacancy was for 10 hours. The claimant has good reason for not applying for the vacancy.

Example 3

Remi has an agreed limitation of looking for work for up to 20 hours per week on his JSAg. He fails to apply for a notified job vacancy which is for 20 hours a week. He can show no good reason for the failure. He states his reason was he forgot about

the vacancy and when he remembered the deadline date to apply had passed. The DM considers Remi does not have a good reason for failing to apply for the vacancy.

Example 4

Francis fails to apply for a vacancy. He says the reason he didn't apply for the vacancy was the travelling distance which is 80 minutes each way from his home and he cannot afford the costs of the travel. He does not mention the hours. In consideration of good reason the DM considers the travelling time in itself does not provide good reason as it is less than 90 minutes (see DMG 34261). In consideration of good reason the DM thinks the hours may be a relevant factor and asks the jobcentre to contact the employer for the number of hours involved. On checking, it is confirmed the vacancy is only for 20 hours per week - 4 hours per day over 5 days. The DM decides that we would not reasonably expect a claimant to travel 80 minutes to work for 4 hours a day followed by a return journey of 80 minutes and taking into account the travel costs in comparison to possible earnings. Francis is looking for full time work and it is not practicable or reasonable in the circumstances. The DM considers in this case Francis has good reason for not applying for the vacancy.

Shifts or rota systems

34370 If the employment on offer requires work on a shift or rota system where the claimant would have to work for 24 or more hours in some weeks, and less than 24 hours in others, the hours should be averaged. A claimant who refused or failed to apply for or accept employment averaging less than 24 hours a week may have good reason, and the DM should not impose a sanction.

34371 - 34375

Other circumstances that may amount to good reason

34376 The DM should

1. consider all matters put forward by the claimant **and**
2. decide whether or not to take them into account when deciding good reason.

34377 Account should also be taken of any other factor that appears relevant. In particular when the terms of a job on offer break the laws on

1. minimum working conditions **or**
2. they knowingly connive with an employer or agency in a
 - 2.1 tax avoidance scheme **or**

Attitude of claimant's trade union

34378 The fact that

1. the prospective employer is on the "black list" of the claimant's trade union¹
or
2. the claimant refused the employment on union instructions or advice²

does not, **of itself**, provide good reason.

1 R(U) 1/52; 2 R(U) 9/64

Possible return to previous employment

34379 The fact that a claimant

1. has a previous employment that has not ended **and**
2. may at some time return to it

does not **of itself** provide good reason for refusing other employment¹.

1 R(U) 1/52

Laid off and short time workers

34380 If claimants

1. are laid off **and**
2. are being allowed to and do in fact restrict the employment they are willing to take to
 - 2.1 the job they are laid off from **or**
 - 2.2 casual employment within daily travelling distance of home **and**
3. refuse or fail to apply for or accept employment because it does not meet any of the restrictions claimants imposed within **2.1 to 2.2**.

they will be considered to have good reason. The DM should not impose a sanction.

34381 If the claimants are

1. on short time **and**
2. are being allowed to and do in fact restrict the employment they are willing to take to
 - 2.1 the job they are on short time in **or**
 - 2.2 casual employment within daily travelling distance of home for the hours they are not working in their short time employment **and**
3. refuse or fail to apply for or accept employment because it does not meet any restrictions claimants impose within **2.1 to 2.2**

Decision of Employment Tribunal pending

- 34382 The fact that a claimant is waiting for the result of an Employment Tribunal hearing on unfair dismissal does not **of itself** provide good reason for refusing other employment.

Claimant already working

- 34383 A claimant who is working and is still entitled to UC does not have good reason for refusing other employment just because the claimant would have had to give up their existing job. But see DMG 34384 if the claimant's reason for refusing other employment was that notice had to be given to end the current job.
- 34384 If the other employment offered would only have lasted for a short period, and the claimant would then have been unable to return to the previous work, the claimant may have good reason. It is for the DM to consider all the facts and circumstances of the individual case on its merits.

Example

Jack, who is working 10 hours a week at NMW rate is offered four weeks employment of 39 hours a week in the same type of employment, with a different employer. He is not sure that his current employer will take him back on when the new employment ends. Jack has good reason for failing to apply for the vacancy¹.

1 R(U) 34/56

Temporary employment

- 34385 Subject to DMG 34384 the fact that the employment offered is only temporary does not of itself provide good reason¹. It is for the DM to consider all the facts of the individual case on its merits and apply a common sense approach in the individual's circumstances and apply the reasonableness test in consideration of good reason. Temporary employment can assist the claimant by

1. updating existing skills
2. learning new skills
3. becoming more confident
4. improving their CV
5. showing employers they can keep regular hours and stay committed to a task
6. meeting people who can help them find work
7. giving them something to talk about in a job interview **and**
8. gaining references to improve their prospects of further employment.

Note: For the purposes of a failure to apply for or accept if offered, any employment opportunity, regardless of the duration of the employment, the sanction duration is for a fixed period. The failure is not a failure prescribed for in relevant legislation² which allows for the sanction to be reduced (see DMG 34097 et seq).

1 R(U) 35/52; 2 JSA Regs, reg 69(3)

Definite chance of other employment

34386 If the claimant has a definite chance of other employment that

1. will start in the very near future **and**
2. is likely to last at least as long as the employment offered **and**
3. will be lost if the claimant accepts the employment offered

this will be good reason. Whether a chance is definite must be decided on the individual facts of the case.

Personal preference

34387 Claimants do not have good reason for refusing employment because they

1. would prefer another type of work¹ **or**
2. wish to find employment for themselves without the help of Jobcentre Plus².

1 CU 3/48(KL); 2 R(U) 29/53

Other more suitable people unemployed

34388 A claimant does not have good reason for refusing employment just because there are other unemployed people who are more suited to the vacancy. The question is whether the **claimant** has good reason for refusing it taking into account all the individual circumstances of the case.

Job vacant because of a trade dispute stoppage

34389 Claimants cannot be sanctioned just because they refuse or fail to apply for or accept a job that is vacant because of a stoppage of work due to a TD. This applies even if the fact is not known at the date of refusal, but comes to light later. If a sanction has already been imposed, the adviser should let the DM know of the change so that he can consider revising or superseding the decision.

34390 For the job to be vacant because of the TD stoppage

1. the **stoppage** must exist at the time the vacancy is notified or offered. It is not enough that there is a TD, or that a stoppage seems imminent **and**

2. the vacancy must have been caused by the stoppage. This will not be the case if the vacancy
 - 2.1 was caused by the illness of an employee, even if there is a stoppage of work at the employer's premises **or**
 - 2.2 arose normally after the stoppage had ended and the places of the employees affected by the TD had been filled **or**
 - 2.3 arose because an employee left a job where there was no stoppage in order to take a job where there **was** a stoppage.

34391 – 34394

Employment which the claimant has previously left

34395 If the claimant has in the past left, or been dismissed from

1. the same employment **and**
2. employment with the same employer

that fact is not **in itself** good reason but the circumstances in which the previous employment ended may give the claimant good reason for refusing re-employment (for example consideration should be given to any mental or physical health issues or any of the circumstances in DMG 34236).

34396 Where the claimant refuses re-employment the DM should consider

1. all the circumstances surrounding the termination **and**
2. the effect of the termination on the relations between the claimant and the employer

Objection to employer or fellow employees

34397 A claimant may refuse employment because

1. the claimant objects to the employer or other employees **or**
2. it would mean working with a person whose conduct is known to be offensive.

34398 In extreme cases the claimant may be able to show that such employment would be likely to cause

1. unreasonable mental stress (see DMG 34309) **or**
2. be grounds for a sincere religious objection (see DMG 34321).

Otherwise, such an objection will only be good reason if it is so great that it would be unreasonable to expect the claimant to work in those conditions.

Example

Terry has previously left employment because of a personal disagreement with a colleague. She is offered a job by a different employer, but finds out that the colleague she had the disagreement with is now working there, and will be her supervisor. She is still on bad terms with the ex-colleague. She turns the job down. The DM considers that Terry has good reason.

- 34399 Unless there are exceptional circumstances, an objection to an employer because that employer has previously sacked the claimant does not provide good reason if there are no other reasons to consider.

Claimant does not have necessary equipment

- 34400 Claimants sometimes say that they are available for a particular type of employment where it is customary for employees to have their own tools, special clothes etc. If claimants do not have such tools, clothes etc, this will not generally be good reason. But in some cases there may be special reasons which will be good reason. For example, a claimant's tools are accidentally destroyed or stolen, and the claimant cannot replace them at once. But the DM should also take into account that the claimant may be able to buy such tools and equipment with help from the Flexible Support Fund.

- 34401 It is important to remember that health and safety is the responsibility of employers (class 1 employment) and that the provision of suitable protective equipment lies with the employer¹. Any available information concerning provision of equipment or tools should be used to decide whether a jobseeker has good reason for refusing vacancies offered.

1 Personal Protective Equipment at Work Regulations 1992

34402 - 34405

Seafarers

- 34406 Seafarers may refuse an opportunity to go back to sea because they want to
1. change their occupation **or**
 2. take shore leave which they are due, and by the time the leave is finished the chance of employment is lost, for example because the ship has sailed.
- 34407 It is difficult for seafarers who want to change their occupation, particularly if they are abroad or at sea, to find alternative employment to start as soon as their contract ends. If they
1. have taken whatever steps they could **and**
 2. seem to have reasonable prospects of finding other employment fairly quickly
- the DM should accept that they have good reason.

34408 The DM should take into account that seafarers are entitled to some leave after voyages. But this does not mean that they have good reason for refusing chances of employment during **any** period of leave, regardless of the circumstances. They must show that they have not acted unreasonably in relying on UC.

Working time regulations

34409 The Working Time Regulations 1998 provide that a worker's working time, including overtime, shall not exceed an average of 48 hours for each seven days (the average being calculated over a 17 week period) except where a worker has agreed with his employer in writing that this limit should not apply in his case.

34410 A jobseeker has good reason for refusing employment of over an average of 48 hours per week if he gives the number of hours as his reason for refusal, irrespective of whether he selected the vacancy himself, applied for the job or attended an interview being fully aware of the hours required.

Anti-social behaviour order, community order or community disposal

34411 Claimants may refuse employment because it would mean that they would break their anti social behaviour order, community order or community disposal taking into account any necessary travelling time. If claimants have tried unsuccessfully to get their order or disposal varied they would have good reason for refusing employment.

Claimant given incorrect details of employment

34412 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.

34413 The DM should impose a sanction if

1. the claimant **cannot** show good reason for refusing a job on the terms wrongly notified **and**
2. the **actual** terms of the job would have been more favourable¹.

1 R(U) 20/55

34414 The DM should not impose a sanction if the claimant can show good reason for refusing a job on the terms they were wrongly notified. The DM does not need to consider whether the claimant could have shown good reason for refusing the job had the actual terms been known.

Example

An adviser informs Dan about a vacancy as a packer in a local meat factory. He mistakenly tells Dan the rate of pay is £10 per hour. The actual rate is £12 per hour. Dan refuses to apply for the vacancy because in his last job, which ended two weeks ago, as he was paid more than £10 per hour as a packer. When considering good reason the DM treats the vacancy as if it was paying £10 per hour.

Zero hours contracts

- 34415 A claimant should never be mandated to apply for or accept a zero-hours contract but if the details of the zero-hours contract comes to light after the claimant starts work or during the application process then they will always have good reason for leaving voluntarily or due to misconduct, or for failing or refusing to accept the contract and a sanction should never apply.
- 34416 A zero-hour contract is a contract of employment used in the UK which is not defined in legislation and whilst meeting the terms of the relevant legislation¹ by providing a written statement of the terms and conditions of employment, contains provisions which create an "on call" arrangement between employer and employee. It does not oblige the employer to provide work for the employee. The employee agrees to be available for work as and when required, so that no particular number of hours or times of work are specified. The employee is expected to be on call and receives compensation only for hours worked.

1 Employment Rights Act 1996

- 34417 Zero-hour contracts may be ideal for some people such as retirees and students who want occasional earnings and are able to be entirely flexible about when they work, but people in the general working population, including those with mortgages and responsibility for supporting a family, run the risk of unpredictable hours and earnings. The possibility of the use of such contracts by management as a tool to reward or reprimand employees for any reason or no reason raises issues about how workers can adequately assert their employment rights or maintain decent employment relations. Therefore there can be no mandate to any zero hours contract (exclusive or not) and there can be no sanction imposed for Refusing Employment, Leaving Voluntary or losing work because of misconduct.

Employee Shareholder Contracts

- 34418 Employee Shareholder Contracts are entirely voluntary and JSA claimants must not be mandated to apply for such vacancies. For further guidance on Employee Shareholder Contracts see DMG 34335

Other reasons

- 34419 The reasons mentioned in this chapter are not exhaustive. The DM must consider any other reason the claimant puts forward for refusing or failing to apply for or

accept employment applying the test of reasonableness in consideration of all the facts and evidence in the individual case. The DM should not just consider one factor but should consider the overall picture of the claimant's individual circumstances.

Note: Where the claimant changes their mind or the vacancy is withdrawn there will be no refusal or failure and no need to consider good reason (see DMG 34723 and DMG 34724).

34420

Circumstances that do not show good reason

- 34421 A claimant cannot refuse to apply for a job because of the rate of pay offered, except where this is below the NMW, (see DMG 34423) or because
1. of their income or outgoings or those of any member of their household (either as they were or would be if they took the job or carried out the work-related requirement. 'Outgoings' excludes expenses (such as for childcare) taken into account that would be an unreasonably high proportion of the claimant's income
 2. they argue they need a high wage because they have a large mortgage or an expensive lifestyle.

34422 The DM must disregard anything relating to the level of pay in the employment in question when deciding whether the claimant has good reason. The fact that the pay offered was

1. lower than the pay the claimant had previously received **or**
2. not enough to cover the claimant's financial commitments **or**
3. lower than the pay received by most other employees in that occupation **or**
4. less than the claimant is getting in benefits

are all related to the level of pay, and must be disregarded.

National minimum wage

34423 Claimants have good reason for refusing employment if they do so because

1. the national minimum wage applies to them **and**
2. the employment does not pay at least the national minimum wage that applies to them.

34424 – 34425

Circumstances that may show good reason where a claimant leaves employment

General

- 34426 To have good reason for leaving a job the claimant must show
1. they acted reasonably in leaving **and**
 2. that their circumstances make it proper that public funds should support them.
- 34427 There are no hard and fast rules as to when claimants have shown good reason for leaving or losing employment, because the circumstances in which they leave or lose employment are so varied. The DM should consider as a whole all the circumstances in which the claimant left or lost the employment¹.

1 R(U) 20/64(T)

- 34428 Claimants cannot show good reason just because they acted reasonably in their own interests¹. The DM does not have to look at whether or not the claimant's leaving was in the **public** interest². It is the interests of other tax payers which should be taken into account³. The DM should decide whether the claimant has good reason for relying on JSA⁴.

Note: In all cases the DM should have regard to the guidance at DMG 34231 et seq when considering all the individual facts and circumstances of a case where the claimant has voluntarily left or loses paid work.

1 R(U) 20/64(T); 2 R(U) 3/81 Appendix; 3 R(U) 20/64(T); 4 R(U) 3/81 Appendix

34429 – 34430

Other circumstances that may show good reason

- 34431 The DM should have regard to the following when considering good reason that can apply to JSA claims for cases where a claimant leaves paid work or loses pay voluntarily:
1. any caring responsibilities which made it unreasonable for the claimant to stay in their job. In deciding whether it was unreasonable, the DM may look at whether childcare was (or could have been) reasonably available and, if it was (or would have been) unsuitable because of the claimant's or the child's, needs **and**
 2. any childcare expenses the claimant had to pay as a result of being in the job, (and sources available to meet those expenses), if they amounted to an unreasonably high proportion of the income the claimant received. The proportion that is considered reasonable increases the more is paid (see **Note**) **and**

3. whether, if possible, where the conditions of employment are poor, a claimant took reasonable steps to sort out any problems, e.g. by using any grievance procedure, and to look for another job seriously before giving one up (see DMG 34451).

Note: There are no rules for deciding whether child care expenses would be an unreasonably high proportion of the pay received from that employment. Each case must be decided on its own facts. But the greater the pay the more reasonable it is for the expenses to be a higher proportion of it.

34432 Good reason may be shown if;

1. the claimant's chances of getting paid work were good and, in addition, there were strong reasons for leaving their job and they acted reasonably in doing so (see DMG 34496)
2. the claimant genuinely did not know or were mistaken about the conditions of the job (eg, it was beyond their physical or mental capacity, or was harmful to their health), gave it a fair trial before leaving and it was reasonable for them to have left when they did (see DMG 34436 et seq)
3. the claimant left a job for personal or domestic reasons (eg, gave up work to look after a sick relative). The claimant has to justify leaving the job before looking for alternative employment or tried negotiating an arrangement with their employer to resolve a problem (see DMG 34473)
4. the claimant leaves to move with their partner who has taken a job elsewhere and can show they have good reason. The claimant may have to demonstrate how important it was to their partner's career to make the move and how good their chances are of finding work in the new area (see DMG 34474 et seq)
5. the claimant's employer changed the terms and conditions of employment that does not amount to the contract of employment ending. The claimant is expected to use any available grievance procedure first. DMs should not take account of any matter about the level of remuneration into account other than national minimum wage (see DMG 34446)
6. the claimant left their job because of a firm offer of alternative employment, but claimed JSA because the offer fell through, unless
 - 6.1 the offer was cancelled before they left their previous employment **or**
 - 6.2 they changed their mind and did not take the new job and could have stayed in their existing employment or did not ask their employer if they could stay (see DMG 34501).

Note: As in every case in the consideration of good reason for any of the reasons listed at 1.–6. the DM has to consider all the individual circumstances of the case on

its own merits taking into account in particular any mental health issues that may arise as a consequence and any of the circumstances listed at DMG 34226.

34433 – 34435

Terms and conditions of employment

34436 Claimants cannot show good reason for leaving employment because

1. they found it distasteful **or**
2. it was below their expectations.

34437 But claimants may have good reason¹ if

1. they genuinely did not know, or were mistaken, about the nature or conditions of the employment (other than pay) when they accepted it and left after a fair trial **or**
2. they tried a different kind of employment because there was no work in their own line and the new work did not suit them.

1 R(U) 3/73

Example

Stewart leaves his employment as a trainee office manager after six weeks of a probationary period of three months. He considers it is unfair to his employer to continue training when he believes that the work is too difficult for him and he would never be able to do the work and prior to leaving he has provided evidence that he has started to apply for other jobs. Stewart has acted responsibly and has good reason for leaving.

34438 Claimants will not have good reason for leaving if they

1. knew about the conditions that caused them to leave when they took the employment **and**
2. they took the employment in spite of those conditions.

The claimant is expected to give the job a fair trial to try to resolve the difficulties.

34439 A claimant may leave their employment because they were required to work more than 48 hours a week, in contravention of the EU Working Hours Directive. If they have taken no action to resolve their complaint with the employer, they cannot show good reason.

34440 A claimant cannot argue they had good reason simply because the conditions of employment were poor (other than for a breach in the law). They are expected if possible to take steps to sort out any problems, eg, by using any grievance procedure, and to look for another job seriously before giving one up¹.

1 R(U) 20/64(T)

34441 The terms and conditions of employment (other than the level of pay) must make the employment so unsuitable that the claimant could not reasonably have been expected to stay in the job any longer. If this is the case, the claimant has good reason even if there were no prospects of other employment (see DMG 34236 and DMG 34246 where a claimant leaves or loses employment because of mental health issues, harassment or bullying).

34442 A claimant may have good reason for leaving if

1. the employer did not comply with some part of the contract of employment
and
2. the claimant left shortly after the employment starts.

In such a case the DM should consider the terms of the contract of employment, both express and implied. The DM should always obtain a copy of the contract where there is a dispute about its terms.

34443 Claimants may have good reason for leaving if they suffered detriment under the national minimum wage legislation (see DMG 34423).

34444 – 34445

Employer changes terms and conditions

34446 If claimants left employment because they refused to accept a change to their terms and conditions, they may not have voluntarily left employment. If they have left voluntarily, the fact that new conditions were imposed may give them good reason for leaving. But if the only reason claimants left was that the change would have reduced their level of pay, they do not have good reason.

Example 1

Kevin, a piece worker, refuses to accept a change to the way his pay is calculated, that is paid for the amount of time he works rather than for each article completed, which his employer wants to impose at once. The change would mean a substantial drop in his wages. The drop in his wage is disregarded when the DM considers good reason, but Kevin has good reason for leaving, as he had no proper chance to consider the situation¹.

1 R(U) 15/53

Example 2

Teresa is given one months notice by her employer that her pay will be cut because of a change in the way her pay is calculated. The change will mean a substantial drop in her pay. Teresa leaves at the end of the month because she thinks it unfair that her pay is to be cut, and she says she will find it hard to pay all her bills on a lower wage. The claimant does not have good reason.

- 34447 A claimant will not have good reason for leaving
1. if it was not possible to say for definite what the effect of the changes in terms or conditions would mean **and**
 2. the claimant left before giving the changes an adequate trial.

- 34448 A claimant will not have good reason for leaving
1. if the change to the terms and conditions was
 - 1.1 generally agreed and affected many or all of the employees **or**
 - 1.2 meant to bring the employees in the particular firm or department into line with employees elsewhere **or**
 2. if the
 - 2.1 claimant stayed in the employment for longer than could be regarded as a trial period **and**
 - 2.2 DM decides that by doing so the claimant had accepted the change to the terms and conditions of employment.

Note: For further guidance on trial periods see DMG 34701.

Police officers

- 34449 Police officers take employment knowing that its terms will become less favourable after 30 years. If, at that time, they choose to retire early they have left voluntarily and do not have good reason for leaving just because the terms become less favourable¹.

1 R(U) 4/70

34450

Grievances

- 34451 A claimant has good reason for leaving employment if the claimant
1. had a genuine and substantial grievance about the employment (other than the level of pay) **and**
 2. had tried in a proper and reasonable way to get it settled, but failed.

However also see the guidance at DMG 34 on contracts, terms and conditions.

- 34452 An employer has to give employees a written statement within two months of them starting work. The statement should include details of the person to whom employees should apply to sort out any grievances. The statement should also tell them how to apply¹. So every employee who has been in employment for at least

two months should be aware of a procedure by which they can try to sort out any grievance.

1 ER Act 96, s 1 & 3

34453 If a claimant could not sort out a grievance with the employer, the claimant might have been expected to remain in the employment for a time. If this is so, the claimant will not have good reason for leaving unless the claimant had tried hard to find other employment.

Note: Consideration should also be given to the guidance in DMG 34236 and DMG 34246 if the reasons for leaving were due to mental health issues, harassment or bullying.

The facts in the following examples are not exactly the same as the case law quoted and are used for illustrative purposes only.

Example 1

David, the foreman in charge of a building site, complains that his office is unsuitable, but does not use the workers or materials available to make it suitable. He also complains that his employer is hostile to trade unions and their members and is going to give work to non-union firms. But he does not consult his union. David does not have good reason for leaving his employment¹.

1 CU 155/50(KL)

Example 2

Suzy, an actress, and her colleagues, without consulting their union, tell their employer they will leave unless he meets certain demands. The employer treats the ultimatum as notice of termination of their contracts of employment. They do not have good reason for leaving. They should have referred the matter to their union¹.

1 R(U) 33/51

Example 3

Carole, a sales representative, resigns because she does not agree with her employer's sales policy, and she is not happy with her working conditions or her colleagues. She has not found other employment. Carole does not have good reason for leaving¹.

1 R(U) 17/54

Example 4

Sophia claims JSA. She left her job as a midwife as she was ordered to have direct involvement with abortion procedures which she morally objected to. Sophia has good reason for leaving her job on moral grounds (see DMG 34326). Sophia should have raised the issue through the normal grievance procedures and with her trade union before leaving her job as there is certain legislation regarding midwives which

cannot require them to assist in abortion procedures and so she would not have good reason for leaving. However full consideration should be given to any mental health, stress or harassment issues raised in her reasons for leaving.

Work outside of agreed duties

34454 A common grievance is where the claimant was ordered to do work which was not covered by the contract of employment. This may amount to good reason, particularly if the employer gave an ultimatum of either doing the work or leaving.

Note: Consideration should also be given to the guidance in DMG 34236 and DMG 34246 if the reasons for leaving were due to mental health issues, harassment or bullying.

The facts in the following examples are not exactly the same as the case law quoted but are used for illustrative purposes only.

Example 1

Gaik, a waitress, agrees to work behind a self service counter at a holiday camp until she is needed as a waitress. She leaves when she is made to peel potatoes. She finds work as a waitress at another holiday camp a fortnight later. Gaik has good reason for leaving voluntarily¹.

1 R(U) 40/53

Example 2

Hector, an apprentice electrician, is ordered to repair a leak in a water pipe. He had done this type of work before, but his employer has already admitted that it is outside his contractual duties. He refuses to do the work, but the employer tells him to do it or leave. Hector leaves. Hector has good reason for leaving¹.

1 R(U) 18/57

34455 In some unskilled and semi skilled jobs the duties of employees are not clearly defined. Such employees have to do or are expected to do whatever is reasonable taking into account

1. any broad categories of work specified in the contract of employment **and**
2. the job title **and**
3. the normal duties of similar employees.

So they may find it more difficult to show good reason but also see DMG 34456. The DM should consider all the facts of each individual case on its own merits taking into consideration all the circumstances.

Contracts, terms and conditions

34456 Some employers may show no awareness or interest in complying with employment law and may not provide anything for their employees such as written terms and conditions or grievance procedures, not even payslips. It would be for the DM to consider all the individual facts of the case on its own merits where for example a claimant leaves paid work because they are given no meal breaks or expected to work for 12 hours non-stop or don't get paid on time. If an employer persistently breaches health and safety law or does not pay an employee the claimant would have good reason for leaving the paid work.

Example

Anya starts work in a shoe shop. She is given no written terms and conditions of employment. Her understanding when she takes the job is that she will work 4 days per week 9am to 5pm and she will be paid weekly. This suits Anya's personal circumstances as she helps out her family by caring for her sister's children in the evenings and at weekends so that her sister can work.

After the first 4 weeks Anya complains to her boss as she has had no meal breaks and has worked until 7pm on most days to complete stock taking and tidy the store room after the shop has closed and has still received no pay

The boss tells her this is during her period of training until she is up to speed with the job. He tells her she will be paid as soon as he sorts the details out with head office. He also tells her that it is part of the duties of the job to stay behind to clean up after the store closes and she will get meal breaks as and when the business allows as the store has been so busy lately. He tells Anya that he expects his employees to do what is expected, as and when, as the trade demands on any particular day.

Anya continues to work at the shoe shop for a further 3 weeks and the boss continues to ignore her complaints about the extra hours, no meal breaks and no pay. He tells her she is also now expected to work weekends in addition to the 4 days in the week when the store is busy. She decides to leave. Anya has good reason to leave the paid work.

34457 - 34460

Short time and overtime working

34461 A claimant does not have good reason for leaving just because

1. overtime stopped or reduced and the earnings were less **or**

2. short time working was introduced, and the claimant could not earn full wages. A claimant may have good reason because of short time working if there was a firm offer of better paid employment elsewhere.

34462 But if claimants' earnings were substantially reduced and they had a lot of expenses because of living and working away from home, they may have good reason if

1. redundancies were clearly likely and the claimants thought they would find employment very soon **or**
2. they were working P/T, and left to take up F/T employment¹.

1 R(U) 4/73

34463 If claimants left employment because they disliked working overtime, whether they have good reason depends on the

1. reason they were unwilling to work overtime **and**
2. amount of the overtime working and how long it was due to last for **and**
3. what they were obliged to do under their contracts of employment.

34464 If claimants

1. left employment only because they **wanted** to work overtime, or more overtime (see DMG 34746) **or**
2. lost employment because they refused to work overtime

the question of whether they have lost employment through misconduct should be considered if appropriate.

Note: Consideration should also be given to the guidance in DMG 34236 and DMG 34246 if the reasons for leaving were due to mental health issues, harassment or bullying and also see DMG 34456 where an employer breaches the terms and conditions of employment.

34465

Retirement and resignation

34466 Claimants who reached normal retirement age for their employment, but did not have to retire, will not have good reason for leaving if they retired because

1. they wanted to **or**
2. they wanted to get their pension.

It will not help such claimants to say that they would have continued working on certain conditions (for example that they could get their lump sum pension) if this was not acceptable to the employer.

- 34467 The DM is not deciding whether it was reasonable and proper for claimants to retire on pension. The DM is deciding whether, if claimants chose to retire, it is reasonable that they should be allowed to benefit from the NI fund¹.

1 R(U) 26/51

- 34468 Where the claimant gives other reasons for leaving employment on reaching retirement age, they should be considered in the normal way giving full consideration to all the facts and evidence in the individual case.

The facts in the following examples are not exactly the same as the case law quoted but are used for illustrative purposes only.

Example 1

Elizabeth, a police officer, aged 52, retires on maximum pension after 30 years' service. She leaves because she does not want to stand in the way of younger officers' promotion prospects, and because she believes she has a better chance of getting another job than she would if she waited three years until compulsory police retirement age. She does not register for employment or make any other efforts to find any other work before leaving. Elizabeth does not have good reason for leaving¹.

1 R(U) 23/59

Example 2

Joe, a police officer, aged 51, retires on maximum pension after 30 years service. If he had stayed at work, his terms of employment would have been financially less attractive. He leaves because he wants to obtain a lump sum payment of pension with which to buy a house for himself and his wife, and to make his wife more financially secure. He had tried very hard to find other work before leaving, but had not been successful. Joe does not have good reason for leaving¹.

1 R(U) 4/70

Early retirement

- 34469 Sometimes an employer runs an early retirement scheme to speed up normal wastage. A claimant who left on such a scheme will not have good reason just because the employer wanted, and indeed may have encouraged, the claimant to retire early.

Example

Richard, a school teacher, aged 62, applies for early retirement after reading a circular from his LEA on early retirement. The LEA accepts his application and certifies that his leaving allows them to carry out their services more efficiently. He has no pressing personal or domestic circumstances for leaving, and has no reasonable chance of finding other work. Richard has no good reason for leaving¹.

1 R(U) 3/81 Appendix

Leaving to take better paid or preferred employment

34470 A claimant may have left employment, not because there was a fault with it, but because the claimant wanted a different type of work. In such a case the claimant will only have good reason if there was a firm offer of new employment which the claimant could reasonably have expected would start immediately and would last for a reasonably long time.

34471 Claimants may have left employment because they wanted employment that offered

1. improved prospects **or**
2. the chance to improve their career **or**
3. F/T instead of P/T work.

In such cases claimants will have good reason if they had offers or strong expectations of such employment which would start very soon. Sometimes there may have been a risk of occasional unemployment in the new employment (for example because it depended on the weather).

Leaving to take up training

34472 If claimants left employment just before they started a course of study or training that would advance their careers, they have good reason but may face a disallowance if not available for work. If the questions have been referred to the DM for a decision, the DM should consider availability during the period of the course (see DMG Chapter 21 for full guidance on availability).

Personal and domestic circumstances

34473 A claimant's personal or domestic circumstances may have become so urgent that the claimant will have good reason for leaving employment without having looked for other employment. But if there was no urgency, the claimant should have taken all reasonable steps to avoid leaving, or the claimant will not have good reason¹. In some cases the claimant's reasons for leaving may show that the claimant is not available for employment.

1 R(U) 20/64(T)

The facts in the following examples are not exactly the same as the case law quoted but are used for illustrative purposes only.

Example 1

Megan, a school teacher, leaves her employment to look after her youngest child, as there is no one else available to do so. Megan has good reason for leaving employment, but availability will have to be considered if this has been referred to the DM for a decision¹.

1 R(U) 6/59

Example 2

Patrick, a painter, who lives and works in England leaves employment to go to Scotland because his father is dying. Before he leaves he asks his employer about employment when he returns. But when he comes back, there is no vacancy because of a redundancy. Patrick has good reason for leaving employment¹. Asking his employer about employment when he returned amounted to asking for a leave of absence.

1 R(U) 32/59

Moving home

34474 If claimants moved home to a place beyond the normal 90 minutes daily travelling distance either way of their employment, that alone does not give them good reason for leaving¹. But the DM will need to find out the reasons for the move. If there was some urgent personal reason for moving, for example

1. the claimant or partner was ill **or**
2. their current accommodation was totally inadequate **or**
3. they lost their accommodation

they may have good reason for leaving.

1 R(U) 20/64(T)

Example

Matthew lives in two attic rooms with his wife and year old baby. He gets a house, but it is too far away from the place he works to allow him to travel daily. He has not found work in the town he is moving to. Matthew leaves his job and moves to the new house. He has good reason for leaving¹.

1 R(U) 31/59

34475 If the reasons for moving are not quite enough to establish good reason, the DM should consider how likely the claimant was to get other employment quickly, and what steps had been taken to obtain other employment. But the DM should bear in mind that it would be difficult to organize buying or renting accommodation to start on exactly the same date as a new job.

Example

Andy, a police sergeant, buys his own house. Nearly a year later he is transferred to a different place of work, which he finds it difficult to travel to and from. He makes enquiries of other employers, but retires voluntarily from the police force after 25 years service before having found other employment. He finds other work two weeks later. Andy does not have good reason for leaving, but the facts of the case are taken into account in deciding whether to sanction¹ taking into consideration all the facts of the case and in particular any mental health issues (see DMG 34236 et seq).

1 R(U) 20/64(T)

34476 In all cases where the claimants say they left employment because of moving home, the DM will need the following information

1. the reason for the move
2. the date of the move
3. the date on which the claimants gave notice to end the employment
4. the date on which the claimants first knew they would be moving and, if the new home is being bought, the date on which contracts were exchanged
5. what efforts the claimants made to find employment in the new area between the dates in 4. and 2.

34477 Sometimes, although the reasons for the move would seem to amount to good reason, the claimant may fail to show good reason overall because, for example the claimant

1. did not make any attempt to find new employment in the new area before moving, despite having ample notice of the move **or**
2. left employment before it was necessary to do so.

34478 The DM should take into account

1. the distance and the practicality of going to interviews in the new area
2. the difficulty of arranging everything for a particular date
3. the possibility of daily travelling, at least for a temporary period, if the distance is not too great
4. the employment prospects in the new area.

There is no general rule in this type of case, and while one fact alone may not give good reason, all the facts together may do so. The claimant's availability for employment may be in doubt for the days surrounding the move.

34479 Claimants often leave employment to

1. marry, form a civil partnership or join someone who lives in an area beyond daily travelling distance **or**
2. go with a partner who takes employment in another area **or**
3. move to another area where there is more suitable accommodation

To show good reason such claimants must show that they had done everything reasonably possible to find employment in the new area which they could start immediately after moving.

Relocation

34480 Where an employer relocates within the UK it would be necessary to look at the notice given for such a move and the DM should consider all the individual circumstances of each case on its own merits.

Partner going abroad

34481 Claimants may have left their job to go with a partner whose employment takes them abroad. In these circumstances it may not be reasonable for claimants to take steps to find work abroad before leaving the UK. If they left employment no earlier than was reasonably necessary in order to arrange the move, then they will have good reason. But in such cases availability for employment will often be in doubt. Claimants cannot show good reason if they left employment earlier than they needed to.

Example

Faziz leaves employment ten days before leaving the UK to go with her husband, a Royal Air Force officer, to a posting in Holland. She leaves when she does to make the arrangements for going abroad. Faziz has good reason for leaving¹.

1 R(U) 2/90

Moving with parents

34482 Sometimes claimants give up employment to accompany their parents when they move home to another area. If claimants are under 18, and their parents objected to them living and working away from home, they will have good reason for leaving their employment. Claimants 18 or over may also have good reason if they, or their parents, can show that there was a strong reason why they should have continued to live with their parents. Some examples of reasons which would amount to good reason are where claimants

1. have to be with their parents because of the parents' age and health **or**
2. need their parent's help or guidance **or**

3. would have a lot of difficulty and expense (compared with their earnings) if they lived somewhere else until they found other employment in the new area.

34483 A less strong reason for moving with parents will not amount to good reason.

Example

Glenys, a typist aged 21, lives with her parents. They move home. She leaves her employment to move with them because they object to her living on her own. She does not make any efforts to find lodgings so that she can stay in employment whilst she looks for work in the new area. Glenys does not have good reason for leaving employment¹. However the DM should consider Glenys' efforts to find affordable lodgings.

1 R(U) 6/53

Financial difficulties

34484 The fact that

1. the claimant's earnings were reduced because of
 - 1.1 an alteration in the terms and conditions of employment **or**
 - 1.2 short time working **or**
2. the claimant would be better off financially if claiming JSA¹

does not by itself give the claimant good reason for leaving. However each case should be looked at on its own individual merits and circumstances.

1 R(U) 10/61(T); R(U) 15/62

34485 Sometimes claimants were not dissatisfied with their earnings. But they left to get extra money, for example a lump sum or holiday pay which would be paid when the employment ended, to meet some financial difficulties. They will have good reason only if they were unexpectedly faced with urgent financial difficulties which could not be resolved in any other way. They will not have good reason if

1. they left only to
 - 1.1 gain a financial advantage **or**
 - 1.2 avoid a financial disadvantage¹ **or**
2. they have had financial difficulties for a long time and they are due mainly to their failure to manage their finances.

1 R(U) 14/55; R(U) 4/70

34486 In all cases where a claimant loses pay or leaves paid work voluntarily the DM should take special care to consider any mental health issues that could affect the claimant's reasons for leaving (see DMG 34236).

34487 – 34490

Living away from home

34491 Claimants who had to live away from home permanently, or for long periods, have good reason if they had to leave their employment because

1. they were urgently needed at home **or**
2. their expenses for living away were unreasonably high when compared to their earnings.

Example

Ross, aged 61, has to live in lodgings 113 km (70 miles) away from his wife, Maureen aged 68. He tries to find her accommodation with him and to get a job near his home, but is unsuccessful. His wife falls ill, and there is no one to care for her, so he leaves his employment to look after her. Ross has good reason for leaving¹.

1 R(U) 14/52

34492 A long period of working away from home may also provide good reason for leaving employment. When deciding this, the DM should take all the circumstances into account, including

1. what opportunity there was to look for other work while still in employment
2. the claimant's chances of getting work nearer home
3. whether the claimant could have found accommodation for the family nearer the employment.

A **short** period of working away from home does not give the claimant good reason for leaving employment, unless there are other urgent reasons for leaving.

Long daily journey to and from work

34493 Claimants who live in remote places must expect to put up with a lot of inconvenience and expense in travelling daily to work. But they will have good reason for leaving if, taking their personal and domestic circumstances into account

1. they could not move their homes nearer to work **and**
2. the travelling took up an unreasonably high part of their earnings and prevented them from looking for work nearer home.

Note 1: The DM should consider each case on its own merits and the individual circumstances having regard to any transport difficulties created by public transport which make it difficult to get to and from work in rural areas.

Note 2: For detailed guidance on travelling time to paid work see DMG Chapter 21.

Long or awkward working hours

34494 Claimants are expected, within reason, to organize their domestic lives to suit their working hours. But they have good reason if

1. it became essential for them to reduce or alter their working hours (for example because a relative is ill) **and**
2. they tried but were unable to get their hours changed.

Note1: The DM should consider each case on its own merits and the individual circumstances having regard to any transport difficulties created by public transport which make it difficult to get to and from work in rural areas. For detailed guidance on travelling to and from paid work see DMG Chapter 21.

Note 2: Consideration should also be given to the guidance in DMG 34236 and DMG 34246 if the reasons for leaving were also due to mental health issues, harassment or bullying.

34495

Chances of getting other employment

34496 If the circumstances in which a claimant left employment fall just short of providing good reason, the DM should take into account the claimant's chances of getting other paid work quickly. When looked at together these may mean that the claimant has acted reasonably in leaving and becoming dependent on the NI fund¹.

1 R(U) 4/73

34497 How good the chances of getting other work must be will vary from case to case. Claimants will have good reason if

1. there was a promise of continuous employment, which was expected to last for some time, to start in the near future **or**
2. they got another job and the circumstances in which they left employment almost amounted to good reason.

Claimants will not have good reason if they hoped they would get other employment quickly, but the evidence does not support this.

34498 The DM should take the following into account when deciding what weight to give to the claimant's prospects or lack of prospects

1. the claimant's occupation, or type of employment sought if different
2. the chances of getting such employment
3. the area where the claimant lived compared to the area where the claimant wanted to work, if different

4. whether it would have been easy or difficult for the claimant to find new employment while staying in the existing employment
5. the results of any enquiries the claimant had already made about other employment
6. the claimant's work record.

34499 The date at which the claimant's chances of getting other employment should be considered is the date on which the claimant

1. gave notice to leave **or**
2. took the action that led to leaving employment **or**
3. left employment, if it is to the claimant's advantage.

34500 Claimants would not normally have good reason for leaving if their only reason for leaving was because they

1. had a good chance of getting other employment **or**
2. are claiming JSA only for a very short time.

Firm offer of other employment

34501 Claimants may have left employment because they had firm offers of other employment to start at once. But such claimants may have to claim UC because the

1. offers fell through unexpectedly **or**
2. new employment did not last very long.

34502 Such claimants will have good reason for leaving unless

1. the offers were cancelled before they left their existing employment **and**
 - 1.1 they could have stayed in their existing employment **or**
 - 1.2 they did not ask their employer whether they could stay **or**
2. they changed their minds and decided not to take the new job **and 1.1 or 1.2** applies.

34503 Sometimes claimants have left employment because they had firm offers of other employment to start shortly, but **not** immediately. They may then claim UC because

1. they changed their original intention not to claim JSA during the interval **or**
2. the offer fell through and they are claiming JSA for longer than they expected.

They do not have good reason for leaving, because they left their original employment before they needed to.

34504 – 34530

Refuses or fails to take up employment

Introduction

34721 Legislation provides that a failure is a sanctionable failure where a claimant refuses or fails without good reason to

1. apply for **or**
2. accept if offered

a situation in any employment which an Emp O has informed is vacant or about to become vacant¹.

Note 1: For the meaning of Emp O see DMG 34015 and for the meaning of employment see DMG 34016.

Note 2: It is for the DM to consider in every case where there is a refusal or failure whether the claimant had good reason. For detailed guidance on good reason see DMG 34200 et seq.

Note 3: See further guidance at DMG 34887 et seq where the claimant was informed of the vacancy by a provider.

1 JS Act 95, s 19(2)(c)

34722 A sanction can only be imposed if the claimant

1. is entitled to JSA
2. was informed by an Emp O of employment which was vacant or about to become vacant (see DMG 34723)
3. has
 - 3.1 refused or failed to apply for the vacancy **or**
 - 3.2 refused to accept the vacancy when offered (see DMG 34732) **and**
4. does not have good reason for the refusal or failure (see DMG 34200 et seq).

Note 1: If the job was a zero hours contract see DMG 34415. If the job was vacant because of a trade dispute see DMG 34746. If the claimant fails to apply but the job vacancy is still open see DMG 34733.

Note 2: If the vacancy is for a temporary job see DMG 34385. For guidance where a prescribed scheme provider (for example: MWA or WP) makes an offer of employment see DMG 34809 and 34876.

Informed by an employment officer

34723 The claimant may be informed

1. personally when attending the Jobcentre Plus office or elsewhere **or**

2. by letter **or**
3. by telephone.

34724 If the information of the vacancy is sent by post, the claimant may not get it because of

1. a move of home **or**
2. an absence from home

which has not been notified to the relevant Jobcentre Plus office or elsewhere. The DM should decide that the claimant has been notified on the day on which the notification would have been delivered to the claimant's old address in the normal course of post.

34725 The DM should take into account the fact that a claimant does not receive the notification and the reasons why in deciding good reason.

34726 Claimants need not be given complete and precise details of the vacancy. But they must be given enough details to enable them to pursue it¹. Claimants will have been informed even if they are given incorrect details about a vacancy. However see DMG 34436 when considering good reason.

1 R(U) 32/52

Informing the claimant

34727 The word 'informed' is not defined in legislation and therefore has to be interpreted in its normal context. The context here is that it allows a sanction to be imposed on a claimant who fails or refuses to apply for a job vacancy or accept a job when offered it. That context does not require a special meaning to be given to it, so 'informed' must be given its ordinary meaning.

34728 In its ordinary meaning, 'informed' means to provide information about something in particular in a formal manner. The important issue is that however the claimant is informed it should be

1. by an Emp O **and**
2. some obligation should be attached to it.

34729 The claimant should be clearly informed of

1. the specified vacancy **and**
2. what is expected of him **and**
3. by when he has to comply **and**
4. the consequences of failing to comply.

34730 - 34731

Refusal or failure

34732 Claimants may not actually refuse or fail to apply for or accept employment for it to be a sanctionable failure. A failure as per DMG 34721 includes not taking the appropriate steps to improve their chances of getting the job such as attending an interview or they may behave in such a way that they lose the chance of getting the vacancy. For example they may

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

These actions may amount to refusals or failures. However, if any statement under **3.** was reasonable in the circumstances, and it was not made **only** to put the employer off, the claimants have not refused the vacancy. Also, claimants will have failed to accept a vacancy if they accept the job when it is offered, but then fail to start it.

Example 1

Seelma is looking for work as a supervisor in a bank, and has been getting JSA for six months. She is offered a job as a bank clerk at an interview. She tells the person interviewing her that she will take the job, but will only stay until she finds a job as a supervisor. The employer decides not to give her the job. The DM decides that Seelma has not refused the vacancy.

Example 2

Pauline is offered a job. She says that she wants three weeks holiday within a month of starting. The employer withdraws the offer of a job. In this case her attitude is considered unreasonable and Pauline has refused an offer of a job without good reason¹.

1 R(U) 23/51

Example 3

Franz refuses to complete a form before he is interviewed for a vacancy. Because of this, the employer will not interview him. Franz has failed to apply for a vacancy without good reason¹.

1 R(U) 32/52

Note: DMs should remember, when reading the caselaw, references to the employment having to be suitable no longer apply and from 22.10.12 there are no discretionary length sanctions all sanctions are fixed period sanctions.

Example 4

A Jobcentre Plus office gives Chin Lu an application form for a job in a local factory. She completes the application form and sends it to the employer.

Chin Lu has written on the application form, in the space provided for additional information,

"I am frequently advised by personnel managers and other simple-minded people that "it is easier to get a job if you have one already". **Why is it easier??** What do you expect the unemployed to do about it?"

There will always be long-term unemployed until **you buck up your ideas!!**"

The employer does not invite Chin Lu for an interview. The DM decides Chin Lu has failed to apply for the job.

Vacancy not closed

34733 There is no provision in legislation for

1. a specific deadline to be set by when a claimant must apply for a vacancy **or**
2. that a vacancy must be closed before a sanction can be considered.

The Emp O sets the deadline of when the claimant is expected to apply for the vacancy when informing the claimant of the vacancy (see DMG 34729). The DM considers what is reasonable in the individual circumstances and whether the claimant can show good reason for any failure or refusal.

34734 Where the claimant has refused a vacancy immediately and a sanction could be applied at that point in time, i.e. the claimant can show no good reason for the failure, a sanction can be imposed regardless of whether the vacancy is still "open". If the claimant changed his mind and applied, i.e. the vacancy is still "open", the DM can take account of that and decide not to sanction.

Example

Jamhal is informed by his advisor of a suitable job vacancy when he attends his job search review on 29.10.13. The advisor informs Jamhal that he has to apply for the vacancy before his next review on 12.11.13. On 12.11.13 Jamhal attends his job search review and informs his advisor he did not apply for the vacancy because he thinks it will be a waste of time. The vacancy is still open until 1.12.13 but Jamhal has failed to apply by 12.11.13. The advisor refers the case to the DM to consider a sanction for the failure.

Relevant notification

34835 The meaning of “relevant notification” in DMG 34834 is a notification to the claimant of when, where and how they are to participate in an interview¹ but which is not a notification to participate in an employment programme, training scheme, the MWA scheme or any other prescribed scheme.

Note: Please note the provision at DMG 34834 **2.4** which allows a claimant five working days to contact JCP only applies where a claimant fails to participate in an interview at JCP and does not apply to a failure to participate in a prescribed scheme, the MWA scheme or failures in relation to employment or training schemes or job seeker’s directions.

1 JSA Regs, reg 70A(5); reg 23 & 23A; reg 25(1A)

34836 The period and amount of the reduction applicable for a failure to participate in an interview will be the lower-level sanction¹ (see DMG 34161 et seq).

1 JS Act 95, s 19A(2)(a)

34837 - 34840

Failure to participate – no sanction

34841 Where a claimant (or in the case of a joint-claim couple, either member of the couple)

1. fails to participate as in DMG 34834 **and**
2. makes contact with the Emp O within 5 days **and**
3. shows good reason for that failure

no reduction is applied to the amount of benefit payable¹.

Note: For guidance on good reason see DMG 34200 et seq.

1 JSA Regs, reg 70A(2)(b)

Failure to participate – entitlement ends

34842 Where a claimant (or in the case of a joint-claim couple, each member of the couple) fails to

1. participate in an interview as specified in a relevant notification **and**
2. make contact with the Emp O within the prescribed period,
3. the guidance at DMG 20919 and DMG 20956 applies¹.

1 JS Act 95, s 8(2); JSA Regs, reg 25

34843 For guidance on the provision of information and evidence see DMG Chapter 20.

34844 – 34845

Schemes for assisting claimants to obtain employment

Introduction

34846 It is a failure without good reason to comply with regulations under relevant legislation¹ that allows a claimant's JSA to be sanctioned². Failures for schemes as described in relevant legislation³ are sanctionable at the lower-level. For guidance on the length of a lower-level sanction and when it should begin see DMG 34161 et seq.

Note: The MWA scheme is not a prescribed scheme for lower-level sanctions purposes, see DMG 34762 et seq for guidance on the MWA scheme.

1 JS Act 95, s 17A; 2 s 19A(2)(b); 3 JSA (SAPOE) Regs

34847 The following schemes are prescribed as schemes in which claimants are required to participate under relevant legislation¹

1. Day One Support for Young People
2. The Derbyshire Mandatory Youth Activity Programme
3. Full-time Training Flexibility
4. New Enterprise Allowance
5. The sector-based work academy
6. Skills Conditionality
7. The Work Programme
8. Community Work Placements

Note 1: All these schemes aim to support JSA claimants towards or into employment and address various issues such as a lack of experience of work and the associated skills needed within the work place which can have a significant effect on the chances of unemployed people.

Note 2: Unless the exemptions at DMG 34893 – 34895 apply, claimants are required to continue to comply with the jobseeking conditions (i.e. JSAg, ASE and availability) whilst participating in a relevant prescribed scheme (see DMG Chapter 21 for guidance on jobseeking conditions).

Note 3: A claimant cannot be mandated to participate in any scheme or notified activity on a day when there is no award of JSA.

1 JS Act 95, s 17A(1); JSA (SAPOE) Regs, reg 3(1)

Day one Support for Young People

34848 The Day One Support for Young People is a scheme comprising up to

1. 30 hours per week in a work placement for the benefit of the community **and**
2. 10 hours per week of supported work search

over a period of 13 weeks for any claimant between 18 and 24 years who has less than 6 months work history since leaving full-time education¹.

Note: Work history includes employment, voluntary work, internships and work experience².

1 JSA (SAPOE) Regs, reg 3(2); 2 reg 3(9)

Derbyshire Mandatory Youth Activity Programme

34849 The Derbyshire Mandatory Youth Activity Programme is a scheme comprising up to

1. 30 hours per week in a work-related activity for the benefit of the community **and**
2. 6 hours per week of supported work search

over a period of 8 weeks for any claimant aged between 18 and 34 years¹.

Note: This scheme is running as a trailblazer in the Derbyshire JCP District and is targeted at young people on JSA providing work based experience and basic work habits, i.e. turning up on time or working as a team. The scheme will run until 2014 and identify if this support increases the likelihood of young JSA claimants being in employment.

1 JSA (SAPOE) Regs, reg 3(3)

Full-time Training Flexibility

34850 Full-time Training Flexibility is a scheme comprising training of 16 to 30 hours per week for any claimant who has been receiving JSA for a continuous period of not less than 26 weeks ending on the first required entry date to the scheme¹.

Note: These schemes are used to support longer-term JSA claimants who need to develop numeracy, literacy or general employability skills through full-time training.

1 JSA (SAPOE) Regs, reg 3(4)

New Enterprise Allowance

34851 NEA is a scheme designed to assist a claimant into S/E earner's employment comprising

1. guidance and support provided by a business mentor
2. access to a loan to help with start up costs (subject to status) **and**

Note 2: Of the relevant schemes listed at DMG 34847, Day One Support for Young People, the Derbyshire Mandatory Youth Activity Programme, the Wp and the CwP are delivered by third party providers. **N.B.** National Careers Service do not have contracted out functions for the Sc scheme and cannot mandate claimants to attend skills training or skills assessments. Notifications for participating in Sc must be sent by JCP.

Note 3: Providers of relevant prescribed schemes are not necessarily Emp Os for the purpose of notifying a job vacancy, employment or training scheme. Other than the Wp and CwP (see DMG 34879 et seq), contracting out provisions for prescribed work schemes do **not** give providers Emp O status. See the guidance on Emp O at DMG 34015.

1 JSA (SAPOE) Regs, reg 17

Requirement to notify

34869 The requirement to notify¹ is usually met by

1. the issue of a letter to the claimant by the JCP advisor at the point of referral to the relevant scheme **and**
2. a notification from JCP or the provider to tell the claimant what specific activity they are actually being mandated to do.

Note 1: As long as all the requirements at DMG 34867 are fulfilled, even if it is by a combination of **1.** and **2.**, this will meet the legal requirement for notification and a sanction may be considered if the claimant fails to participate without good reason (see guidance on evidence of notification at DMG 34872).

Note 2: See guidance at DMG 34853 with regard to the Sc scheme.

1 JSA (SAPOE) Regs, reg 5

Failure to participate in the prescribed scheme

34870 A claimant is regarded as failing to participate in a prescribed scheme where they fail without good reason to comply with any of the requirements notified to them¹.

Note: A sanction for a failure to participate can only be imposed where the Secretary of State complies with the notification requirements. If the notice does not meet the requirements the claimant cannot be sanctioned. See DMG 34872 for guidance on evidence of notification.

1 JS Act 95, s 19A(2)(b)

Participating in a relevant scheme

34871 Fails to participate is not defined in legislation and therefore takes its everyday meaning of failing 'to take part in'. For the schemes listed at DMG 34847 this will include a failure to take part in any activity which is notified by the Secretary of State

1. in relation to the specific placement **and**

2. what is considered
 - 2.1 reasonable **and**
 - 2.2 acceptable

in a working situation and in the claimant's individual circumstances.

Note 1: All these schemes aim to support JSA claimants towards or into employment and address various issues such as a lack of experience of work and the associated skills needed within the work place which can have a significant effect on the chances of unemployed people.

Note 2: Any requirements must have been notified to the claimant. The DM would determine under good reason if the claimant advocated the requirements as notified were unreasonable, taking into account all the individual circumstances of the case.

Evidence of notification

34872 In addition to the notifications outlined at DMG 34869 **1.** and **2.** the JCP advisor will have discussed or advised the claimant

1. the benefits of participation in a relevant scheme **and**
2. what is expected of them whilst participating **and**
3. the consequences of failing to participate

before they are mandated to take part. For example: when a claimant is selected to participate in the WP they are issued with an information leaflet which outlines the responsibilities of the claimant whilst participating in the WP to include attending meetings and taking phone calls as arranged and completing activities the provider tells the claimant to do. The issue of all correspondence should be recorded for evidentiary purposes but the DM does not have to see evidence of all the notifications in order to impose a sanction. As long as the Secretary of State can show the notifications were sent, then the DM can go on to consider the reasons for the non-compliance, unless the claimant raises the issue of notification in their reasons for failing to comply (also see DMG 34772).

Note: The issue of all notifications should be recorded in departmental records for evidentiary reasons in the event of a reconsideration and/or appeal.

Claimant raises issue of notification

34873 Where a claimant fails to participate in the mandatory back to work schemes but raises the issue of notification in his reasons, for example he says he did not receive the relevant notification, the DM will have to investigate further and obtain copies of the relevant notifications to decide whether the claimant can show he did not receive it.

Training schemes and employment programmes

Introduction

34941 JSA is not payable if claimants

1. lose a place on a training scheme or employment programme through misconduct¹ **or**
2. without good reason
 - 2.1 neglected to avail themselves of a reasonable opportunity of a place on a training scheme or employment programme²
 - 2.2 refuses or fails to apply for or accept if offered a place on a training scheme or employment programme which an Emp O has notified is vacant or about to become vacant³
 - 2.3 gives up or fails to attend a place on a training scheme or employment programme having been given a place on it⁴.

However see DMG 34951 if the training or employment opportunity includes work experience.

Note 1: For the meaning of training scheme see DMG 34164. For the meaning of employment programme see DMG 34163. For the meaning of Emp O see DMG 34015. For guidance on good reason see DMG 34200 et seq.

Note 2: For guidance on the length of a lower-level sanction and when it should begin see DMG 34161 et seq.

1 JS Act 95, s 19A(2)(g); 2 s 19A(2)(d); 3 s 19A(2)(e); 4 s 19A(2)(f)

34942 Unless the employment or training opportunity is Work experience, in which case follow the guidance in DMG 34951, for the purposes of considering

1. losing a place on an employment programme or training scheme through misconduct the guidance in DMG 34531 et seq should be followed where relevant **or**
2. a refusal of a training scheme or employment programme the guidance in DMG 34721 et seq should be followed **or**
3. giving up or failing to attend a training scheme or employment programme the guidance in DMG 34651 et seq should be followed **or**
4. whether a claimant neglected to avail a reasonable opportunity of a place on a training scheme or employment programme the guidance in DMG 34751 et seq should be followed substituting references to 'the employer' as references to 'the training provider' or 'employment programme provider'.

Work experience

34951 Work experience is not defined in legislation since October 2012. For any work experience opportunity a sanction may only be imposed where the claimant loses a place or is dismissed from the work experience due to gross misconduct (see DMG 34961 for guidance on Gross misconduct). Participation in work experience is voluntary.

Note: This followed an announcement by Ministers on 1.3.12 of a change in policy as regards the application of sanctions to JSA claimants participating in work experience.

34952 Work experience opportunities should provide claimants who have little or no knowledge of working with the opportunity to gain some tangible work related experience which will help them improve their future job prospects. They should gain an insight into the skills and behaviours employers want and see how the skills they do have can be adapted to the work place. It helps fill gaps in their CVs, and ideally they should get a work related reference.

Note: Work experience includes any opportunities arranged through WP providers, the work experience element of sbwa or Traineeships. It does not include work placements for community benefit such as those arranged through the MWA or CwP schemes (see further guidance at DMG 34763 and DMG 34855).

Work experience opportunity

34953 The claimant has to have been informed of the work experience by an Emp O and participation will be voluntary. For guidance on how a claimant will be informed of a work experience opportunity see DMG 34727 - 34729. For the meaning of Emp O see DMG 34015. The claimant should have been notified that whilst participation in the work experience opportunity is voluntary, if their behaviour whilst participating is such as to amount to gross misconduct a sanction to their JSA may be applied.

Note: For work experience arranged through SAPOE scheme providers see DMG 34921.

Work experience arranged by work programme providers, sector-based work academies or traineeships

34954 For any voluntary work experience arranged by a WP provider or SBWA provider the claimant will be notified that whilst participation in the work experience is voluntary, once they are participating they are expected to maintain basic standards of good behaviour during their participation and if they fail to maintain those standards a sanction may apply.