Chapter K4: Medium-level sanctions

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Legislation Used in Chapter K4

Abbreviation	Full Title
WR (NI) Order 15	The Welfare Reform (Northern Ireland) Order 2015
UC Regs (NI) 16	The Universal Credit Regulations (Northern Ireland) 2016 No. 216
SS Fraud Act (NI)	The Social Security Fraud Act (Northern Ireland) 2001

Chapter K4: Medium-level sanctions

Introduction

K4001 This Chapter should be read with ADM Chapter K1 (Sanctions - general principles). ADM Chapter K1 gives guidance on the meaning of terms, and what considerations apply when determining what reduction period applies. See ADM Chapter K2 for guidance on good reason, ADM Chapter K8 for guidance on when the reduction has effect, and Chapter K9 for guidance on the amount of the reduction.

K4002 A medium-level sanction is a reduction of Universal Credit for a sanctionable failure by a claimant who fails for no good reason (see ADM Chapter K2) to comply with[1]

1. a work search requirement, but **only** in relation to the requirement to take all reasonable action to obtain paid work, more paid work or better paid work[2] -see K4003 - K4004 for when a higher or low-level sanction applies **or**

2. a work availability requirement[3] - but see K4004 for where a higher-level sanction applies.

See ADM Chapter J3 for guidance on work-related requirements. See ADM Chapter K1 (Sanctions - general principles) for the meaning of a sanctionable failure and 'current sanctionable failure'.

1 WR (NI) Order 15, art 32(2)(a); UC Regs (NI) 16, reg 100(1); 2 WR (NI) Order 15, art 22(1)(a); UC Regs (NI) 16, reg 93; 3 WR (NI) Order 15, art 23(1)

K4003 Failure to meet a **specified** work search requirement usually results in a low-level sanction being imposed[1] - see ADM Chapter K5 (Low-level sanctions). See also K4004 for when a higher-level sanction is applied for a failure to comply with a specified work search requirement.

1 WR (NI) Order 15, art 22(1)(b) & 32; UC Regs (NI) 16, reg 101

K4004 A higher-level sanction may be imposed where the claimant fails to comply with a specified work search requirement to apply for a particular vacancy for paid work[1]. Where the failure to comply with a work availability requirement is because the claimant did not take up an offer of paid work, a higher-level sanction may be imposed[2]. See ADM Chapter K3 (Higher-level sanctions) for detailed guidance.

1 WR (NI) Order 15, art 31(2)(b); UC Regs (NI) 16, reg 99;
2 WR (NI) Order 15, art 31(2)(c); UC Regs (NI) 16, reg 99

K4005 Where

1. a medium-level sanction has been imposed **and**

2. a restriction on the payment of benefit is imposed following a benefit fraud offence[1]

the medium-level sanction is suspended for the period of the restriction in **2.**[2]. See ADM Chapter K8 (When a reduction is to have effect) for further details. See ADM Chapter B2 (Loss of benefit) for guidance on benefit fraud offences.

1 SS Fraud Act (NI), sec 5B, 6 & 8; 2 UC Regs (NI) 16, reg 105

K4006 – K4009

What is the reduction period

Claimant aged 18 or over

K4010 Where the claimant is aged 18 or over on the date of the sanctionable failure, the reduction period is[1]

1. 28 days where there has been no previous medium-level sanctionable failure within 365 days of the date of the current sanctionable failure **or**

2. 91 days if, there was another medium-level sanctionable failure for which a 28 or 91 day reduction was imposed within 365 days , but not 14 days of the date of the current sanctionable failure.

Note: See ADM Chapter K8 (When a reduction is to have effect) for guidance on when the reduction begins where there is more than one sanctionable failure. See ADM Chapter K7 (Effect of Employment and Support Allowance and Jobseeker's Allowance sanctions on Universal Credit) for guidance on the effect on Universal Credit sanctions where a sanction was imposed for the purposes of Employment and Support Allowance and Jobseeker's Allowance.

1 UC Regs (NI) 16, reg 100(2)(a)

K4011 This means

1. A failure **must** be within 365 days of the previous most recent sanctionable failure which resulted in a reduction being imposed in order to escalate to the next penalty **and**

2. where there are two failures within 14 days of each other a sanction will be imposed for each failure but the duration of the second sanction will not escalate[1].

Note: The decision maker considers whether there has been another sanctionable failure within 14 or 365 days of the date of the current sanctionable failure in question for which a reduction was imposed. It is the period between the date of the previous most recent sanctionable failure and the current sanctionable failure which determines whether a sanction will escalate to the next level. Also see guidance in K4012 and ADM Chapter K1 (General Principles).

1 UC Regs (NI) 16, reg 100(2)

Example 1

Brad is awarded Universal Credit from 13.3.18 after he is made redundant when the call centre he works in relocates. He is subject to all work-related requirements. This includes a requirement to take all reasonable action to search for paid work for his expected hours of work a week, which Brad agreed with his work coach is 35 hours a week. This is recorded on Brad's claimant commitment.

At an interview with his work coach, Brad gives evidence that in the week ending 26.3.18 he only spent four hours looking for work, by drafting a CV and looking at job vacancies in the Jobs and Benefits office. The rest of the time he spent with his friends or watching television.

The decision maker determines that Brad had no good reason for not searching for the agreed period. Brad is treated as not complying with a work search requirement, there are no previous medium-level sanctions recorded and a 28 day reduction of Universal Credit is imposed.

Example 2

Terri has been entitled to Universal Credit since 2.7.18. Her award of Universal Credit was reduced for 28 days as on 15.7.18 she had been treated as not complying with a work search requirement. Terri is also required to be available for work, and no limitations have been set on that requirement to be available. Terri notifies her work coach that she is going on a camping holiday for a fortnight from 15.8.18 with friends, who are providing the transport. She states that it will not be possible to contact her as mobile signals are variable, and she will not be able to leave due to lack of transport. She does not intend to look for work while on holiday as it will be in a remote rural area. The work coach considers that there is a doubt as to whether Terri is complying with her work availability requirement. The decision maker determines that there is no good reason for Terri not to comply with her work availability requirement and imposes a 91 day reduction, as this sanctionable failure is within 365 days (but not within 14 days) of a previous sanctionable failure for which a reduction was imposed.

K4012 A sanctionable failure which

1. is within 14 days of the date of the current sanctionable failure under consideration[1] (see ADM Chapter K1 General Principles) **or**

2. resulted in a reduction at a different level **or**

3. was imposed for a sanctionable failure as in K4020 (claimant aged 16 or 17)

does not count for the purposes of calculating which period in K4010 applies.

Example 1

Pat has been entitled to Universal Credit since 8.5.18. She is required to search for work for 35 hours a week. At an interview with her work coach on 3.7.18, she is unable to provide any evidence of work search. The decision maker decides that there was no good reason for the failure, and imposes a 28 day reduction.

Pat attends a work focused interview on 11.7.18. During the interview, she tells the work coach that she had stayed with her sister for the period 5.7.18 - 9.7.18. She had not left any contact details during this period. The decision maker determines that Pat is treated as not having complied with a work availability requirement on 5.7.18. As this sanctionable failure is within 14 days of the previous failure for which a reduction was imposed, a further 28 day reduction is imposed.

Example 2

Derek claims Universal Credit from 20.5.18 after being made redundant from his job as an HGV lorry driver. He fails for no good reason to attend his fortnightly interview at the Jobs and Benefits Office on 3.6.18, and a low-level sanction of 7 days reduction is imposed.

For the first three months of Universal Credit entitlement Derek's work coach agrees that he can restrict his work search to jobs as an HGV driver, and this is recorded on Derek's claimant commitment. After this three month period has passed, Derek is subject to no limitations on his work search and work availability requirement, and this is agreed on an updated claimant commitment. Following this updated claimant commitment, Derek provides no evidence that he has widened his work search or work availability beyond that which had originally been agreed for three months. The decision maker imposes a 28 day reduction. There has been no previous medium-level sanction imposed and the previous low-level sanction is disregarded when considering which medium-level reduction period applies.

Example 3

Matthew has not met his work search requirements as agreed on his Claimant Commitment on four consecutive occasions. He cannot show a good reason for the failure to comply on any of the dates concerned. The decision maker determines that there will be 4 x 28 days sanctions imposed. A sanction will be imposed for each failure but the sanctions cannot escalate to 91 days as although each failure is within 365 days of the previous most recent failure for which a reduction was made, there is less than 14 days between each sanctionable failure and the previous most recent sanctionable failure.

Dates of the medium-level sanctionable failures	Period between current medium-level sanctionable failure & most recent previous sanctionable medium-level failure	Duration of sanction
5.10.18	None	**28 days** - it is Matthew's first medium-level failure
12.10.18	7 days	**28 days** - there was a previous medium level sanctionable failure for which a reduction was imposed but the current failure falls within 14 days (i.e. in the 13 days immediately preceding the failure in question) of the previous most recent sanctionable failure on 5.10.18
19.10.18	7 days	**28 days** - there was a previous medium level sanctionable failure for which a reduction was imposed but the current failure falls within 14 days of the previous most recent sanctionable failure on 12.10.18.
26.10.18	7 days	**28 days** - there was a previous medium level sanctionable failure for which a reduction was imposed but the current failure falls within 14 days of the previous most recent sanctionable failure on 19.10.18.

K4013 – K4019

Claimant aged 16 or 17

K4020 Where the claimant is aged 16 or 17 on the date of the sanctionable failure, the reduction period is[1]

1. 7 days where there has been no previous medium-level sanctionable failure within 365 of the date of the current sanctionable failure **or**

2. 14 days if, within 365 days of the date of the current sanctionable failure, there was another medium-level sanctionable failure for which a 7 or 14 day reduction was imposed.

Note: Once a claimant reaches age 18 any subsequent failures will be at the aged 18 or over level.

1 UC Regs (NI) 16, reg 100(2)(b)

Example

Daisy is entitled to Universal Credit, and is aged 17. She attends for her fortnightly interview on 23.10.17, and in her statement is unable to provide evidence that she was taking all reasonable action to look for paid work for her expected number of hours per week. Daisy's 18th birthday is on 28.10.17. She replies to a request for reasons for her failure to search for work on 29.10.17. The decision maker determines that Daisy is treated as not complying with her work search requirement, as she had no good reason for the failure. Although Daisy is now 18, the decision maker imposes a 7 day reduction, as Daisy was 17 when the failure occurred and there are no other medium-level sanctions recorded.

Daisy fails again on 18.12.17 to meet her work-search requirements without good reason. The decision maker determines that a 91 day medium-level sanction should be imposed as there has been a previous sanctionable failure on 23.10.17 for which a medium-level sanction was imposed which is within 365 days of the current sanctionable failure. Daisy is sanctioned at the adult level as she is now 18 years old on the date of the second sanctionable failure.

K4021 – K4040

Consideration of general work search activity and jobs within Jobcentre Online

K4041 Where the Claimant Commitment has a generic requirement to apply for vacancies via Jobcentre Online, before considering a referral for sanction the work coach should review compliance considering

1. what was reasonable for the claimant to do in context of all they have done during the relevant week **and**

2. whether they have done everything they reasonably could to give them the best prospects of employment.

Note: It is important that the decision maker considers the quality of all the claimant's work search activities in the relevant week. It is not just about whether they have applied for all possible jobs listed on Jobcentre Online.

K4042 The decision maker makes a consideration of

1. What was reasonable for the individual claimant in their circumstances **and**

2. gave them the best prospects of getting into work along with all the other work search they may have taken in that week[1]. Just because those jobs were available and the claimant did not apply for all of them would not necessarily mean a sanction would apply.

Note 1: As in all sanction determinations the decision maker would consider all the facts and circumstances of the individual case and what is reasonable in the claimant's individual circumstances. For detailed guidance on the work search requirement see ADM Chapter J3.

Note 2: If the decision maker decided the claimant has not met the work search requirement in any one week, a medium-level sanction will apply. For full guidance on medium-level sanctions see ADM Chapter K4.

1 WR (NI) Order 15, art 22

Example

There are 11 jobs advertised on Jobcentre Online which Lorian could apply for and he applied for 6. There is a generic requirement on his Claimant Commitment that he will *"log onto Jobcentre Online to find and apply for jobs I can do"*.

Lorian states he has not applied for 5 of the vacancies because the closing date for applications for them has not yet passed and he intends to apply for those in the next

week. One vacancy was not suitable as it required as a minimum a qualification Lorian did not have. The 6 jobs he applied for had closing dates during this week and it took him several hours to complete the applications. Lorian can show he has done sufficient work search during this week as in addition to the 6 jobs he has applied for, he has checked the internet daily and also applied for several other suitable jobs advertised on other on-line sites and in newspapers which had deadlines for applications this week, he has attended a job interview and a Jobs Fair and spent several hours scanning newspapers and jobs boards. He has another job interview tomorrow and has spent several hours researching the employer and preparing for the interview. He also spent time researching on-line the possibility of how to gain the specific qualification required for one of the vacancies as it is of particular interest to him.

In consideration of whether Lorian has met the work search requirement for the week, the jobs he has applied for gave him the best prospects of moving into work as the deadlines for applications were due in the relevant week. He still has the opportunity to apply for the 4 others during the following week as the closing dates have not yet expired. He also spent time preparing for his job interview the next day and researching how to gain qualifications to broaden his work search and to look for better paid work.

Lorian has met the work search requirement for that week regardless that he did not apply for all available job vacancies advertised on Jobcentre Online.

Two separate failures and two sanctions apply

K4043 Where the claimant has

1. failed or refused to apply for a particular specified vacancy without a good reason[1] **and**

2. also failed to meet their work search requirements[2]

there are 2 separate failures and 2 sanctions to consider.

Note: If in one period of 7 days the claimant did not do everything they reasonably could do to give them the best chance of finding work by undertaking work search activity, nor did they apply for a specific job they had been mandated to apply for, 2 sanctions may apply.

1 WR (NI) Order 15, art 31(2)(b); 2 art 22(1)(a)

Example

See the example of Sydney in ADM Chapter K3. Sydney has a generic requirement on her Claimant Commitment *"to apply for all suitable jobs on Jobcentre Online"* and also a specific job detailed in Section 4 of the Claimant Commitment that the work coach discussed with her and advised her she must apply for before the closing date. Sydney signed and accepted her Claimant Commitment.

Sydney does not apply for the specified job and cannot provide a good reason for not doing so. She says she forgot when the closing date for applications to be made by was and thought she had more time to consider applying for the vacancy. She stated she had spent her time during that particular week applying for 2 jobs from Jobcentre Online that were nearer to her home address as she thought they were more suitable for her as there would have been no travelling costs to work. As the closing date has now passed Sydney has missed all opportunity to apply for the specified vacancy. The decision maker considers the job was a suitable vacancy for Sydney. Sydney is primarily looking for work in retail or warehouse work and the vacancy was for a full time sales assistant in a newsagents in the local town. The travelling involved would have been 25 minutes by bus and there is a bus twice per hour from her village. Sydney was advised on the Claimant Commitment of all the relevant details of the vacancy, when the closing date was and the consequences if she failed to apply and the decision maker decides that a higher-level sanction is appropriate for the failure. As there has been no previous higher-level sanctions in the preceding 364 days of the current failure a 91 day sanction is applied to the total outstanding reduction period.

In the same 7 day period Sydney has also failed to meet her work search obligations. There are 20 suitable jobs on Jobcentre Online. Sydney applied for only 2 of the vacancies which were the 2 nearest to her home address and would not involve any travel costs. She says she did check and read through the details of the other jobs but did not apply for any of them and has not done any other work search. She says she wants to work on the local industrial estate where her friend works so she can walk to work and reduce her outgoings. Sydney's friend has told her some jobs will be available for packers at the warehouse outlet where she works on the local industrial estate very soon.

The decision maker considers Sydney has not done everything she reasonably could do to look for work and give her the best prospects of getting work in the relevant 7 day period.

The decision maker imposes a medium-level sanction for 91 days as this is the third sanctionable failure where a medium-level sanction has previously been imposed within 365 days.

Therefore in this case 2 sanctions are imposed on Sydney's Universal Credit

1. a higher-level sanction for the failure to apply without good reason for the specified vacancy **and**
2. a medium-level sanction for the failure to do all reasonable work search in the relevant week.

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