

Section 08 – Customer Benefit Sanctions and Decision Making and Appeals

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Introduction

8.2. The Decision Making and Appeals (DMA) process ensures that Flexible New Deal (FND) customers comply with the conditions for receiving Jobseekers Allowance (JSA).

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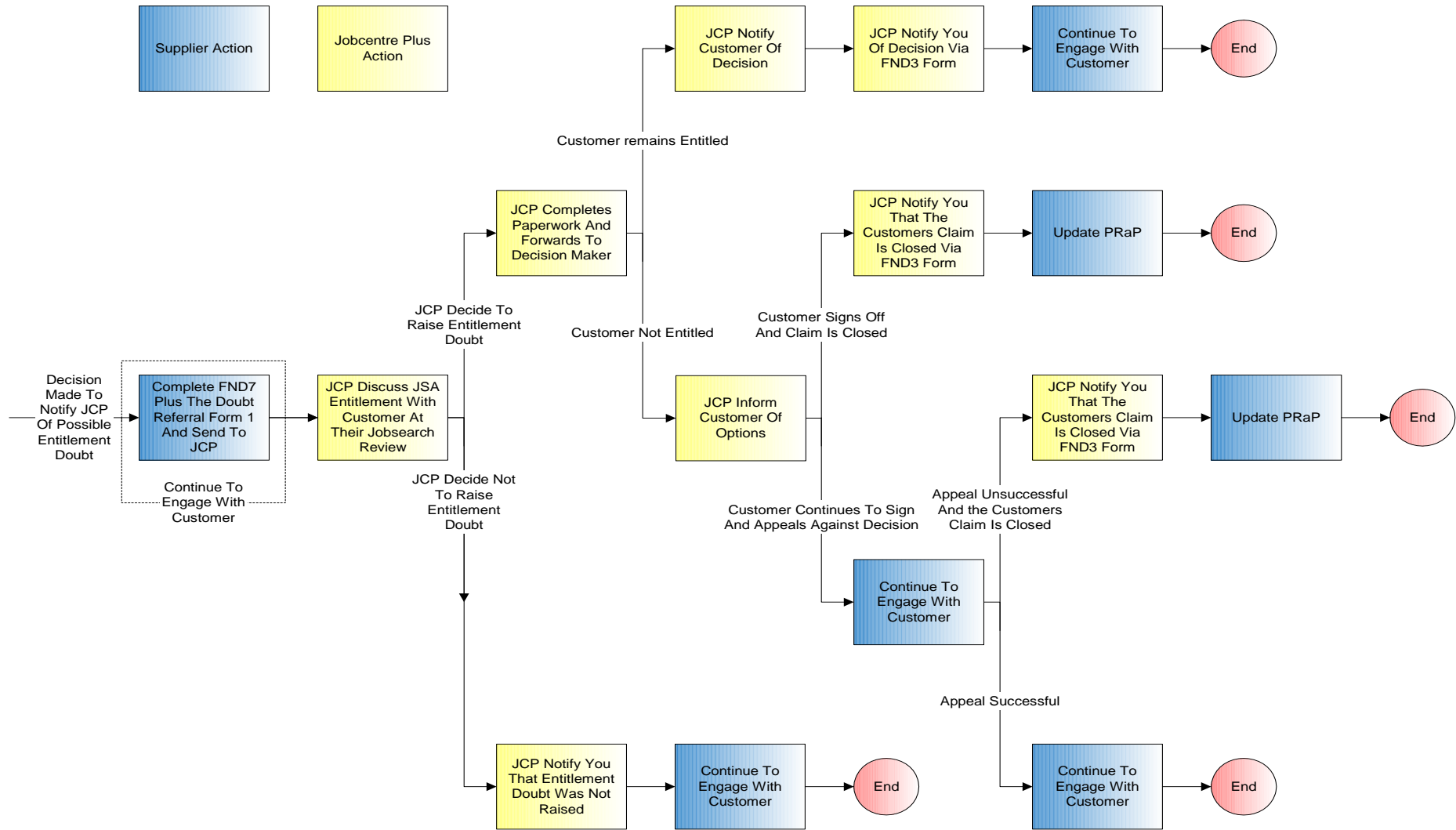
- 8.3. As FND is a mandatory employment programme for JSA customers there may be occasions where your advisers may wish to raise a doubt to encourage the customer to take an active role in participating with you as a FND supplier.
- 8.4. This section takes you through the processes that you are required to follow to ensure that once appropriate doubts are identified, quality DMA referrals are made, detailing actions and presenting the paperwork you need to complete to raise a doubt.

The decision making process overview

- 8.5. You are required to identify where doubts are to be raised. In some circumstances the customer may be able to provide suitable information as to why they were unable to attend/ undertake/ participate. DMA action may not be appropriate and you will undertake your own internal procedures, (re-book appointments, re-arrange provision etc).
- 8.6. If you decide that DMA action is appropriate you will raise entitlement/ sanction doubts with Jobcentre Plus (JCP).
- 8.7. If you have doubts regarding a customer's **entitlement** to JSA you are required to notify JCP. A customer's entitlement will then be discussed when they next attend with JCP. JCP will then notify you of any action taken and also of any resulting benefit decisions.
- 8.8. Once you have identified that a sanction doubt is to be raised you will be required to issue the customer with notification and notes for guidance. You will submit sanction doubts directly to a JCP decision maker who, using Social Security Legislation will make decisions on whether to impose a benefit sanction.
- 8.9. In all circumstances JCP will be responsible for informing the customer of any decisions, and will also notify you of any such decisions.
- 8.10. In all cases records should be kept on information obtained and actions undertaken by you and the customer ([Further information regarding record keeping can be found in: Section 16 – Data Security, Audit and Information Retention](#)).
- 8.11. The customer has the right to ask for a reconsideration and appeal against sanction decisions, and if they should approach you to exercise this right should be advised to contact their Benefit Delivery Centre (BDC) (details will be on the notification the customer receives) immediately as strict time limits operate for appeals. (Customers have 28 days to appeal from the notification of the sanction decision).

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Entitlement doubt flow diagram



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Provider Written Notifications

- 8.12. There is an obligation legally to ensure the customer is given or sent a notice, which alerts them to the fact if they do not comply with the request without good cause their benefit could be affected. There is no requirement to actually quote regulations.
- 8.13. The following text is sufficient and simple to understand.

“Please note that if you do not attend and do not have a good reason you could lose your Jobseekers Allowance and National Insurance Credits”.

This applies to all written notification from Providers which require action on the part of the customer. ([Further information – Section 3 – The Initial Meeting, Customer Action Plan and Fortnightly contact](#), [Section 5 – Training Allowance](#), [Section 6 - The Mandatory Work Related Activity Period](#)).

Entitlement doubts

- 8.14. Two of the entitlement conditions for the receipt of JSA for FND customers are that they are:
- [available](#) for employment; and are,
 - [actively seeking](#) employment.
- 8.15. You are required to check whether customers continue to be available and actively seek employment and remind them of their obligation to do so.
- 8.16. An entitlement doubt arises when a customer is not available for work or is not actively seeking employment. Doubts about whether the customer satisfies the Labour Market conditions for the receipt of JSA are to be referred to JCP for a decision as there are many easements and provisions where a customer can be treated as available for and/or actively seeking employment and these are best addressed by JCP.

Availability

- 8.17. The Jobseekers Act provides that a customer claiming JSA must be **available** for employment. This means that a customer must be willing and able to take up employment immediately of at least 40 hours a week.
- 8.18. There are however exceptions to the requirement to be immediately available for employment and these are:
- customers engaged in providing a service, paid or unpaid, must be willing and able to take up employment on being given 24 hours' notice;
 - customers undertaking voluntary work must be willing and able to take up employment on being given one weeks notice and attend a job interview within 48 hours notice;
 - customers with caring responsibilities must be willing and able to take up employment of at least 16 hours a week on being given one weeks notice and attend a job interview within 48 hours notice;

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- customers with child care responsibilities can have up to 7 days notice of interviews for employment and can have up to 28 days notice before starting work;
- customers doing part-time work must be willing and able to take up employment immediately following the statutory period of notice they are required to give their employer to end the contract of employment. Note: all notice periods are calendar days.

Actively seeking employment

- 8.19. The Jobseeker's Act and regulations provide that a customer claiming JSA must **actively seek** employment in each week of their claim. This means that they must take those steps each week which:
- are reasonable in their case;
 - offer their best prospects of securing employment.
- 8.20. To satisfy the actively seeking employment condition customers are normally expected to take at least three steps each week.
- 8.21. Each step is expected to be taken on a separate occasion, although customers may be able to satisfy the actively seeking employment condition by taking steps on only one day in the week if that is all that is reasonable.
- 8.22. Exceptionally, a customer may satisfy the actively seeking employment condition by taking only one step on a single occasion in the week if that is all that was reasonable, for them to do in that week.
- 8.23. For example, if a customer has no living accommodation they may need to spend most of their time in a week looking for somewhere to live. They may not have much time left to actively seek employment and it may be acceptable for them to take only one step to seek work in the week.
- 8.24. Steps to satisfy the actively seeking employment condition can include steps to seek work and steps to enhance the customer's employability.
- 8.25. The following are regarded as single steps to seek work:
- making an oral or written application for employment to persons:
 - who advertise the availability of employment; or
 - who appear to be in a position to offer employment;
 - seeking information on the availability of employment from:
 - an advertisement;
 - a person who has advertised a job;
 - an employment agency or business;
 - an employer;
 - registering with an employment agency or business.
- 8.26. Applying for 3 vacancies counts as 3 steps to seek employment.
- 8.27. Activities, which improve a customer's employability, are acceptable steps for the purposes of the actively seeking employment condition. The following are single steps which could improve a customer's employability:

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- asking another person, for example an agent, to help the customer look for work;
- seeking specialist advice, to improve prospects of securing employment;
- drawing up a curriculum vitae;
- obtaining a reference or testimonial from previous employer;
- drawing up a list of employers to contact about the possibility of a job;
- researching employers who, for instance, a customer may have an interview with;
- seeking information about an occupation with a view to getting a job in that occupation, for example attending an open day.

Raising an entitlement doubt

- 8.28. You are required to consider raising entitlement doubts where a customer:
- is not available within appropriate time limits e.g. the customer is not able to start work immediately (unless suitable circumstances dictate otherwise);
 - has placed restrictions on the number of hours they are prepared to work;
 - is placing restrictions on the nature of, location or terms and conditions of employment they are prepared to accept e.g. the customer requires work which is not obtainable in the location they are seeking to be employed;
 - is a full-time student, OR where they are a part-time student who is studying for 16 hours or less but not willing to give course up for employment;
 - is not actively seeking employment e.g. where the customer is not taking sufficient steps to find employment; or where the customer,
 - is a prisoner on temporary release or a woman in receipt of maternity allowance or maternity pay.
- 8.29. If you doubt whether a customer is available for or is actively seeking work you will be required to alert JCP. You should complete the FND7 (Doubt referral form) along with the **Customer may not be available for work or actively seeking work** doubt referral form (referral form 1) detailing why you feel the customer's entitlement is in doubt. This information should then be forwarded to the JCP Advisory Services Manager (ASM) who will ensure that the customer's entitlement to JSA is explored at their next attendance.

Entitlement doubt decisions

- 8.30. Once you have alerted JCP of customers you feel may have entitlement doubts, JCP will notify you of actions taken. If an entitlement doubt is found, JCP will notify you.
- 8.31. Customers who are found to have entitlement doubts will have the ability to appeal against decisions. Therefore once a customer is notified that there is an entitlement doubt they will either:
- end their claim to JSA; or,
 - appeal against the decision.
- 8.32. If a customer ends their claim to JSA, JCP will notify you of this and you should update the Provider Referrals and Payments (PRaP) system with the customers participation end ([Further information regarding the use of PRaP can be found in](#)

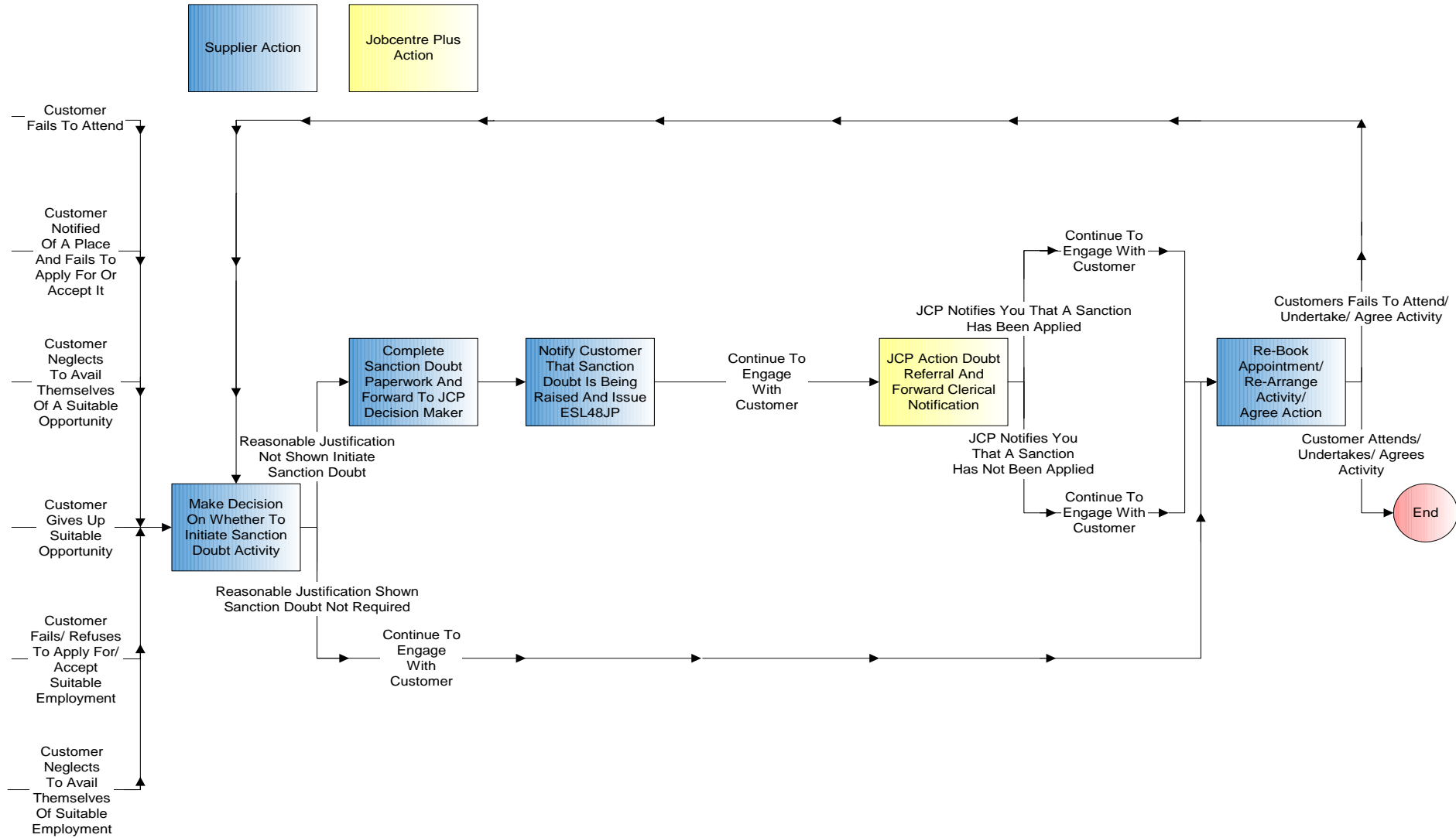
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[Provider Desk Manual which forms part of the UPK/Tutor Help function embedded within PRaP](#)) If a customer appeals you should continue to work with them until JCP inform you of the outcome of the appeal. The outcome will be either:

- unsuccessful – the customers claim to JSA will be ended (which JCP will notify you of and you should then update PRaP); or,
- successful – the customers claim and participation will therefore continue.

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Sanction doubt flow diagram



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Sanction doubts

- 8.33. Sanction doubts may be raised in a variety of circumstances, and will take the form of:
- [fixed sanctions](#) (2, 4 and 26 weeks); and,
 - [variable sanctions](#) (up to 26 weeks).

Fixed Sanctions

- 8.34. You may raise fixed sanction doubts when (and only when) a customer:
- **gives up or fails to attend a place** without '[reasonable justification](#)'. A customer is treated as failing to attend if they have been absent without authorisation, even if the absence is only for one day. They may also be treated as failing to attend if they arrive late and are not allowed to attend;
 - is **notified of a place and fails to apply for or accept it** when offered to them without '[reasonable justification](#)'; or,
 - **neglects to avail** themselves of a reasonable opportunity of a place without '[reasonable justification](#)'.
- 8.35. Examples could be where a customer:
- [fails to attend their initial meeting](#);
 - [fails to attend a notified appointment \(which is not their initial meeting\)](#);
 - [fails/ refuses to apply for or take up a suitable opportunity](#);
 - [neglects to 'avail' themselves of a suitable opportunity](#);
 - [leaves an opportunity early](#);
 - [fails/ refuses to agree an action plan](#); and,
 - [fails/ refuses to undertake activity detailed on their action plan](#).
- 8.36. If a customer fails to comply with any of the above you are required to make judgement on whether raising a sanction doubt with JCP is appropriate.
- 8.37. Fixed sanctions are set at:
- 2-weeks for the first act or omission;
 - 4-weeks for a second occurrence within 12 months of the first sanction being applied;
 - 26-weeks for a third act within 12 months of a second sanction being applied; and,
 - 26-weeks for subsequent acts or omissions which occur within 12 months of the previous sanction.

Fixed sanction reasonable justification

- 8.38. When considering the raising of a fixed sanction doubt you should consider if the customer automatically has 'reasonable justification' for failing to comply. Sanction doubts should not be raised where a customer:
- had a disease or physical/mental disability that meant they were unable to attend, or their health (or that of others) would have been at risk if they had done so;

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- gave up a place where their continued participation would have put their health and safety at risk;
- failed to participate in FND resulting from a sincerely held religious or conscientious objection;
- travelling time to and from the scheme or programme would have exceeded one hour in each direction. A customer may have reasonable justification if travel is difficult, e.g. because of a disability or poor health, or if the distance involved is very long;
- had caring responsibilities and no close relative of the person cared for or member of that person's household was available to provide the care, and it was not practical to make other arrangements;
- had child care responsibilities and child care:
 - costs were or would be unreasonable;
 - is not available; or,
 - was available but not suitable for the needs of the child.
- was arranging or attending the funeral of a close relative or a close friend;
- had to deal with a domestic emergency; were crewing or launching a lifeboat, working as a part-time fire fighter or doing work as part of an organised group for the benefit of others in an emergency; or,
- failed to start or leaves any of the aspects of FND but were not given a written notification by the DWP or yourselves about the scheme in question that warned them about when they could be sanctioned and that payment of JSA could cease or be reduced.

Variable Sanctions

- 8.39. You may raise variable sanction doubts when (and only when) a customer
- **'refuses employment'** without reasonable justification; and,
 - **'neglects to avail'** themselves of a reasonable opportunity of employment without 'reasonable justification'.
- 8.40. Examples could be where a customer:
- [fails/ refuses to apply for or accept suitable employment](#); and,
 - [fails/ refuses to take up an offer of employment with a former employer](#).
- 8.41. If a customer fails to comply with any of the above you are required to make judgement on whether raising a sanction doubt with JCP is appropriate.
- 8.42. If a customer continuously fails to comply you should strongly consider raising a doubt to ensure the customer fully participates in FND. Continuous refusal of employment should contribute towards the possibility of an [entitlement doubt](#) being raised.

Variable sanction reasonable justification

- 8.43. When considering the raising of a variable sanction doubt for refusal of employment and neglect to avail cases you should consider if the customer automatically has 'reasonable justification' for failing to comply. Sanction doubts should not be raised where:

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- the job is for less than 24 hours p/w (16 hours if restrictions on [availability](#) for less than 24 hours p/w apply).
- the job is vacant because of a trade dispute.
- the customer has trained for a particular type of work for at least two calendar months – the customer does not have to accept work in any other kind of employment for four weeks after the training ends.
- the job is with a 'qualifying former employer' (i.e. an employer the customer has worked for in the last 12 months).
- the customer is exempt from having to start work immediately (carer, volunteer etc) or the job does not meet their pattern of [availability](#).
- the customer has child care responsibilities and has 'reasonable justification' for non-attendance at interviews for employment if they received notice less than 7 days before the interview and can also have up to 28 days notice before starting work.

8.44. You should also take into account where:

- restrictions in availability are applicable to the customer;
- the job would or did cause significant harm damage or mental/physical stress;
- failure to comply originated from a religious or conscientious belief;
- caring responsibilities would, or did, make it unreasonable to comply;
- time to travel to the employment by a means appropriate to the customer; and where,
- the expense that was, or would be, incurred exclusively in connection with the employment, together with the expense of travel, would be an unreasonable amount of any remuneration (for employment) or other income they received.

8.45. **Please Note:** A customer with child care responsibilities can have reasonable justification for failing/ refusing to apply for, or subsequently failing/ refusing to accept employment if:

- child care costs were or would be unreasonable;
- child care not available; or,
- child care was available but not suitable for the needs of the child.

8.46. The customer should not be considered as showing reasonable justification where they fail to comply because of:

- the rate of pay offered (unless it is below the minimum wage);
- the customer's income or outgoings as they are, or would be if they took the job. E.g. a customer cannot argue that they need a high wage because of a large mortgage or expensive lifestyle;
- (unless unreasonable because of health or caring responsibilities) the travelling time between a customers home and place of work is less than one and a half hours either way, in all other cases.

Referring the sanction doubt

8.47. Once you have decided that it is appropriate to raise a sanction doubt you are required to complete the FND7 (selecting the relevant doubt at Part 2) plus the appropriate doubt referral form. You should then refer the paperwork to the decision Maker for a decision.

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- 8.48. You are then required to notify the customer that a sanction doubt has been raised (via a [customer doubt notification](#)) and issue them with the [ESL48JP/ESL48JPW](#) (Welsh version) notes for guidance form which details how the customer's benefit may be affected, next steps, and what to do if the customer has any questions.

Customer doubt notification letter

- 8.49. You are required to notify the customer should you raise a sanction doubt. You should do this by issuing them (face-to-face or postal) with a notification letter. An example customer doubt notification can be found at [Appendix 1](#).
- 8.50. On the letter you are required to detail (in the space provided) what the doubt is e.g:
- giving up or failing to attend a place;
 - notified of a place and failing to apply for or accept it;
 - neglecting to avail themselves of a reasonable opportunity of a place;
 - refusing employment; or,
 - neglecting to avail themselves of a reasonable opportunity of employment.
- 8.51. You should also detail the relevant date, activity, employment etc that the doubt has been raised against.
- 8.52. Along with the customer doubt notification you should also issue/ enclose a copy of the [ESL48JP/ESL48JPW](#) notes for guidance form.

Ordering the ESL48JP/ ESL48JPW notes for guidance forms

- 8.53. The ESL48JP/ ESL48JPW forms should be ordered from iON and the order form can be found at the following web address:
<http://www.dwp.gov.uk/docs/xionorderform-march2009.doc>.
- 8.54. Further information regarding ordering DWP products can be found at:
<http://www.dwp.gov.uk/publications/catalogue-of-information/how-to-order-products/>; and, <http://www.dwp.gov.uk/publications/catalogue-of-information/all-products/>.

Sanction doubt decisions

- 8.55. Once DMA action has been taken you will be notified of the sanction doubt decision via a clerical notification.
- 8.56. This clerical notification will detail:
- the customers name;
 - the last three characters of the customers National Insurance Number (NINo);
 - an AR Code – referencing the doubt the notification is related to ([Further information regarding AR Codes can be found in: Section 10 – Notifications and Changes in Circumstance](#));
 - the decision outcome; and,
 - the period of the sanction.

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- 8.57. Employment related doubts e.g. where a customer fails/ refuses to apply or take up a suitable job opportunity will attract benefit sanctions of between 1 and 26 weeks. For all other sanction doubts a customer's first breach will result in a 2 week sanction, with a subsequent doubt (within 12 months of the previous breach) resulting in a 4 week sanction with a further third breach resulting in a 26 week sanction.
- 8.58. Throughout this process, including when the decision has been made, you are required to continue to engage the customer.
- 8.59. If a sanction doubt is imposed the customer remains required to engage with you, however there needs to be a balance agreed regarding expectations and the participation of the customer (during any period in which they are sanctioned for) and any further non-compliance which could result in further sanction doubts being raised.
- 8.60. A customer under sanction will sometimes struggle to participate in full due to their reduced income and you need to take this into account when engaging with them.
- 8.61. In certain circumstances customers who have had benefit sanctions imposed may be able to regain payment through re-engaging with you ([Further information regarding customer re-engagement can be found in: Section 09 – Sanctioned Customer Re-engagement](#)).

Examples of sanction doubts

- 8.62. The below are examples of where you may need to raise sanction doubts:
- [customer fails to attend their initial meeting](#);
 - [customer fails to attend a notified appointment \(which is not their initial meeting\)](#);
 - [customer fails/ refuses to apply for or take up a suitable opportunity](#);
 - [customer neglects to 'avail' themselves of a suitable opportunity](#);
 - [customer leaves an opportunity early](#);
 - [customer fails/ refuses to agree an action plan](#);
 - [customer fails/ refuses to undertake activity detailed on their action plan](#);
 - [customer fails/ refuses to apply for or accept suitable employment](#); and,
 - [customer fails/ refuses to take up an offer of employment with a former employer](#).

Customer fails to attend their initial meeting

- 8.63. You have a contractual target to register a FND start for customers, providing they continue to claim JSA, within 15 working days of being referred by JCP ([Further information regarding registering customer starts can be found in: Section 02 – Customer Referrals, Starts and Allotted time](#)).
- 8.64. You have the flexibility to decide how to engage with customers during this period, but must ensure you keep evidence to demonstrate that every effort has been made to start customers on the programme (such as details of re-booked of

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appointments) and in your attempts to engage with them ensure that an appointment notification letter is issued in advance of at least one proposed meeting (as this will be required for any sanction activity that may be appropriate).

- 8.65. Where a customer does not comply, and you have been unable to start the customer within the 15 day window you are required to update the customers Provider Referrals and Payments (PRaP) referral with a result of 'Did Not Start' and where the customer does not show [reasonable justification](#) for failing to attend also raise a doubt ([Further information regarding notifying JCP that a customer has not started can be found in: Section 02 – Customer Referrals, Starts and Allotted time](#)).
- 8.66. If a doubt is to be raised you should complete the FND7 form along with the **Customer failed to attend** doubt referral form (referral form 2) detailing:
- the date the appointment was notified to the customer;
 - how the customer was notified;
 - the date the customer failed to attend; and,
 - also attaching copies of any appointment letters that have been sent to the customer.
- 8.67. These forms should then be forwarded to the JCP decision maker.
- 8.68. You are then required to notify the customer that a sanction doubt has been raised (via a [customer doubt notification letter](#)), and issue them with the [ESL48JP/ ESL48JPW \(Welsh version\)](#) notes for guidance form which details how the customer's benefit may be affected, next steps, and what to do if the customer has any questions.
- 8.69. Once DMA action has been taken you will be notified of the sanction doubt decision via a clerical notification.

Customer fails to attend a notified appointment (which is not their initial meeting)

- 8.70. Once a customer has started with you, if they FTA an appointment or meeting you have arranged and notified them of you will be required to establish why the customer has FTA and consider if a sanction doubt is appropriate or whether you are to re-arrange your interview with the customer.
- 8.71. Where a customer has FTA an appointment or meeting with you. You can write to the customer in an effort to establish if the customer had reasonable justification for their FTA. If a letter is issued to the customer to establish this information, a copy of the letter and the date of its issue should be retained. Also the customer must be notified that they have seven working days from the issue of the letter in which to respond. [An example of Customer Request for Information Letter can be found in Appendix 2.](#)
- 8.72. Upon receipt of the returned letter from the customer, you must determine if the customer has demonstrated reasonable justification for their FTA.

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- 8.73. Please note that if the customer does not respond within seven working days of the issue of the letter a sanction doubt may still be raised and annotated with no response received from the customer.
- 8.74. If a doubt is to be raised you should complete the FND7 form along with the **Customer failed to attend** doubt referral form (referral form 2) detailing:
- the date the appointment was notified to the customer;
 - how the customer was notified;
 - the date the customer failed to attend; and,
 - also attaching copies of any appointment letters that have been sent to the customer.
- 8.75. These forms should then be forwarded to the JCP decision maker.
- 8.76. You are then required to notify the customer that a sanction doubt has been raised (via a [customer doubt notification letter](#)), and issue them with the [ESL48JP/ ESL48JPW \(Welsh version\)](#) notes for guidance form which details how the customer's benefit may be affected, next steps, and what to do if the customer has any questions.
- 8.77. Once DMA action has been taken you will be notified of the sanction doubt decision via a clerical notification.
- 8.78. Throughout this process, including when the decision has been made, you are required to continue to engage the customer.

Customer fails/ refuses to apply for or take up a suitable opportunity

- 8.79. The opportunity place offered to the customer must be one that they could do and which would help to enhance their job prospects. Referral to opportunities and subsequent cases of failure/ refusal to apply for or take up may arise from any interaction that you may have with a customer.
- 8.80. It must have been made clear to the customer, at the time they were formally notified of a suitable opportunity that their failure/ refusal to apply for or take up the opportunity may result in loss of benefit. This ensures that the customer can make their decision in the full knowledge of the possible consequences.
- 8.81. Should a customer fail/ refuse to apply for or take up a place you are to consider if a sanction doubt is appropriate or whether to again warn the customer of the consequences and give them a further chance and apply or take up the opportunity.
- 8.82. Should they still fail/ refuse to apply for or take up the place on the opportunity you should consider referring to JCP for a benefit decision.
- 8.83. If a doubt is to be raised you should complete the FND7 form along with the **Customer notified of a suitable opportunity but failed to apply for it or failed to accept it** doubt referral form (referral form 3) detailing:
- the opportunity;

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- the date the opportunity was notified to the customer; and,
 - the date the customer failed/ refused to apply for/ take up the opportunity.
- 8.84. These forms should then be forwarded to the JCP decision maker, along with a copy of the customer's action plan.
- 8.85. You are then required to notify the customer that a sanction doubt has been raised (via a [customer doubt notification letter](#)), and issue them with the [ESL48JP/ ESL48JPW \(Welsh version\)](#) notes for guidance form which details how the customer's benefit may be affected, next steps, and what to do if the customer has any questions.
- 8.86. Once DMA action has been taken you will be notified of the sanction doubt decision via a clerical notification.
- 8.87. Throughout this process, including when the decision has been made, you are required to continue to engage the customer.

Customer neglects to 'avail' themselves of a suitable opportunity

- 8.88. This sanction doubt is subtly different from failure/ refusal to take up a suitable opportunity in that a customer can have a sanction doubt raised if they fail to take up ('neglect to avail' themselves of) a suitable opportunity without '[reasonable justification](#)'.
- 8.89. Failure/ refusal to take up a suitable opportunity doubts are brought about by a customer refusing to take up or failing to take up a suitable opportunity, whereas neglect to avail doubts are raised where, although the customer has agreed to apply or take up a suitable opportunity, it is felt the customer has behaved in such a way that they have purposely lost the chance of a place.
- 8.90. Only the reasonable opportunity of a place on a suitable opportunity need exist, not necessarily an actual place e.g. a customer may be advised about an opportunity on a course or programme which is to be filled on a first come first served basis. If the customer does not attend and all the available places are subsequently taken up, the customer may have neglected to avail themselves of an opportunity of a place.
- 8.91. A referral to a decision maker may be appropriate if the customer behaves in such a way that they lose the chance of a place. Examples of such conduct are where the customer:
- arrives late or does not turn up for an interview;
 - arrives at the wrong place through their own negligence;
 - imposes unreasonable conditions on acceptance of a place;
 - behaves in such a manner at an interview that the provider decides not to offer them a place;
 - delays acceptance of a place until it has been taken by somebody else; or,
 - accepts a place but then fails to start on the agreed day.
- 8.92. If you consider the customer to have neglected to 'avail' themselves of a suitable opportunity you should complete the FND7 form along with the **Customer**

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neglected to avail themselves of a suitable opportunity doubt referral form (referral form 4) detailing:

- the opportunity; and,
- how the customer neglected to avail themselves.

- 8.93. These forms should then be forwarded to the JCP decision maker, along with a copy of the customer's action plan.
- 8.94. You are then required to notify the customer that a sanction doubt has been raised (via a [customer doubt notification letter](#)), and issue them with the [ESL48JP/ ESL48JPW \(Welsh version\)](#) notes for guidance form which details how the customer's benefit may be affected, next steps, and what to do if the customer has any questions.
- 8.95. Once DMA action has been taken you will be notified of the sanction doubt decision via a clerical notification.
- 8.96. Throughout this process, including when the decision has been made, you are required to continue to engage the customer.

Customer leaves an opportunity early

- 8.97. If the customer leaves an opportunity early you will be required to consider if a sanction doubt is appropriate.
- 8.98. If a doubt is to be raised you should complete the FND7 form along with the ***Customer gave up a suitable opportunity*** doubt referral form (referral form 5) detailing:
- the opportunity;
 - the date the customer gave up the opportunity; and also,
 - why the customer is adjudged to have given up the opportunity.
- 8.99. These forms should then be forwarded to the JCP decision maker, along with a copy of the customer's action plan.
- 8.100. You are then required to notify the customer that a sanction doubt has been raised (via a [customer doubt notification letter](#)), and issue them with the [ESL48JP/ ESL48JPW \(Welsh version\)](#) notes for guidance form which details how the customer's benefit may be affected, next steps, and what to do if the customer has any questions.
- 8.101. Once DMA action has been taken you will be notified of the sanction doubt decision via a clerical notification.
- 8.102. Throughout this process, including when the decision has been made, you are required to continue to engage the customer.

Customer fails/ refuses to agree an action plan

- 8.103. Where a customer fails/ refuses to ***agree*** an action plan, you cannot directly raise a sanction doubt for this. However the action plan that you propose will consist of

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steps and actions you feel are appropriate for the customer to help them into employment and the customer's refusal to apply for/ undertake these actions may attract possible sanction activity. ([Further information regarding action plans can be found in: Section 03 – The Initial Meeting, Customer Action Plan and Fortnightly Contact](#)).

8.104. If the customer refuses to agree an action plan they are refusing to comply with a mandatory element of FND and are therefore effectively 'giving up' their place on FND. You should complete the FND7 form along with the **Customer gave up a suitable opportunity** doubt referral form (referral form 5) detailing:

- the opportunity (FND);
- the date the customer gave up the opportunity (failed to agree and therefore comply);
- why the customer is adjudged to have given up the opportunity (E.g. Non compliance); and also,
- the customer's reasons for giving up the opportunity.

8.105. These forms should then be forwarded to the JCP decision maker.

8.106. You are then required to notify the customer that a sanction doubt has been raised (via a [customer doubt notification letter](#)), and issue them with the [ESL48JP/ ESL48JPW \(Welsh version\)](#) notes for guidance form which details how the customer's benefit may be affected, next steps, and what to do if the customer has any questions.

8.107. Once DMA action has been taken you will be notified of the sanction doubt decision via a clerical notification.

8.108. Throughout this process, including when the decision has been made, you are required to continue to engage the customer.

Customer fails/ refuses to undertake activity detailed on their action plan

8.109. Where a customer fails/ refuses to **undertake** an activity detailed on their action plan, you will be required to highlight the specific activity/ opportunity that the customer is failing/ refusing to undertake and make it clear to the customer, that their refusal to undertake the activity/ opportunity may result in loss of benefit. This ensures that the customer can make their decision in full knowledge of the possible consequences ([Further information regarding action plans can be found in: Section 03 – The Initial Meeting, Customer Action Plan and Fortnightly Contact](#)).

8.110. Should the customer continue to refuse to undertake an activity/ opportunity you should refer to JCP for a benefit decision.

8.111. If the customer fails/ refuses to undertake an **activity** detailed on their action plan they are refusing to comply with a mandatory element of FND and are therefore effectively 'giving up' their place on FND. You should complete the FND7 form along with the **Customer gave up a suitable opportunity** doubt referral form (referral form 5) detailing:

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- the opportunity (FND);
- the date the customer gave up the opportunity (failed to undertake activity/ comply);
- why the customer is adjudged to have given up the opportunity (E.g. Non compliance); and also,
- the customer's reasons for giving up the opportunity.

8.112. Where a customer gives up an opportunity. You can write to the customer in an effort to establish the customer reasons. If a letter is issued to the customer to establish this information, a copy of the letter and the date of its issue should be retained. Also the customer must be notified that they have seven working days from the issue of the letter in which to respond. [An example Customer Request for Information letter can be found at Appendix 2.](#)

8.113. Upon receipt of the returned letter from the customer, you must determine if the customer has demonstrated reasonable justification.

8.114. Please note that if the customer does not respond within 7 working days of the issue of the letter a sanction doubt may still be raised and annotated with no response received from the customer.

8.115. If the customer fails/ refuses to apply for or accept an **opportunity** detailed on their action plan you should complete the FND7 form along with the **Customer notified of a suitable opportunity but failed to apply for it or failed to accept it** doubt referral form (referral form 3) detailing:

- the opportunity;
- the date the opportunity was notified to the customer; and,
- the date the customer failed/ refused to apply for/ take up the opportunity.

8.116. These forms should then be forwarded to the JCP decision maker, along with a copy of the customer's action plan.

8.117. You are then required to notify the customer that a sanction doubt has been raised (via a [customer doubt notification letter](#)), and issue them with the [ESL48JP/ ESL48JPW \(Welsh version\)](#) notes for guidance form which details how the customer's benefit may be affected, next steps, and what to do if the customer has any questions.

8.118. Once DMA action has been taken you will be notified of the sanction doubt decision via a clerical notification.

8.119. Throughout this process, including when the decision has been made, you are required to continue to engage the customer.

Customer fails/ refuses to apply for or accept suitable employment (Variable Sanction)

8.120. It must have been made clear to the customer, at the time they were formally notified of suitable employment that their failure/ refusal to apply for the job, or

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subsequent non-acceptance of the job may result in loss of benefit. This ensures that the customer can make their decision in the full knowledge of the possible consequences.

- 8.121. Generally, vacancies that may attract a variable sanction doubt if the customer fails/ refuses to apply for or accept must be identified by yourself and notified to the customer face to face.
- 8.122. There are a number of exceptions to the face to face rule, where refusal of employment would be appropriate. For example, you may telephone the customer following any job matching activity you may undertake. Job matching activity could also occur during a call made by the customer to yourselves.
- 8.123. Vacancies that the customer identifies themselves and then discusses with you can also be classed as being notified and are subject to refusal of employment action.
- 8.124. Employment, for the purposes of refusal or failure, excludes self-employed work. Therefore, a doubt cannot be raised if the customer refuses or fails to apply for or accept a notified self-employed job.
- 8.125. A doubt may be raised if the customer refuses or fails to accept a temporary job notified by yourselves if appropriate. When referring such cases, you should annotate the referral stencil advising of the date the temporary job would have ended.
- 8.126. This will be taken into account by the decision maker when deciding the period of any appropriate sanction. Make every effort to find out the date the temporary job would have ended. However, a referral should still be made even if a definite end date has not been clarified. Record any discussion with the employer on the referral papers. If a sanction is imposed, then it will begin on the same date the job would have started.
- 8.127. If the customer fails/ refuses to apply for, or subsequently fails/ refuses to accept employment that you have notified them of you will be required to consider if a sanction doubt is appropriate. You may decide to again warn the customer of the consequences and give them a further chance and apply/ take up the employment.
- 8.128. Should they still fail/ refuse to apply for/ take up the job you should consider referring to JCP for a benefit decision.
- 8.129. If a doubt is to be raised you should complete the FND7 form along with the **Customer failed or refused to apply for or to accept suitable employment** doubt referral form (referral form 6) where you must detail the following information relating to the failure/ refusal:
- the job title;
 - the place of work;
 - how/ when the employment offer was made;
 - details of any available overtime;
 - details of any bonus schemes;

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- the daily pattern of hours each week
- the date the customer was notified of the employment opportunity;
- the vacancy closing date;
- the date the customer failed/ refused to apply for or take up employment
- notification 'IF' the customer had been undertaking any training in the 4 weeks prior to refusing the employment offer;
- how the offer was refused;
- what their reason was for refusing;
- what action/(s) the customer was to carry out (e.g. send CV, attend interview etc);
- details if there was industrial action taking place at the company where the customer refused/failed to apply for the employment opportunity; and,
- where possible, a copy of the vacancy with the start/finish times, rate of pay and expected duration.

8.130. **Please Note:** A customer with child care responsibilities can be judged to have reasonable justification for non-attendance at interviews for employment if they received notice less than 7 days before the interview. Customers with child care responsibilities can also have up to 28 days notice before starting work.

8.131. These forms should then be forwarded to the JCP decision maker, along with a copy of the customer's action plan.

8.132. You are then required to notify the customer that a sanction doubt has been raised (via a [customer doubt notification letter](#)), and issue them with the [ESL48JP/ ESL48JPW \(Welsh version\)](#) notes for guidance form which details how the customer's benefit may be affected, next steps, and what to do if the customer has any questions.

8.133. Once DMA action has been taken you will be notified of the sanction doubt decision via a clerical notification.

8.134. Throughout this process, including when the decision has been made, you are required to continue to engage the customer.

Customer fails/ refuses to take up an offer of employment with a former employer (Variable Sanction)

8.135. This sanction doubt is subtly different from refusal of employment in that a customer can have a variable sanction doubt raised if they fail to take up ('neglect to avail' themselves of) a reasonable opportunity of employment without 'reasonable justification' but do not have to be notified of a vacancy by JCP or yourselves for this sanction to apply.

8.136. This will be quite unusual in that a customer 'neglects to avail' themselves of an opportunity if they have the chance to return to a job with a former employer but fail to take it up. However, this rule does not apply if the 'opportunity' is for further work with an employer they have been working for during a 'trial period'.

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- 8.137. Neglect to avail could occur where a person was not in a trial period and they did not return to work with a former employer after what was originally intended to be a temporary break e.g. if the customer decided not to resume work after maternity leave or refused an offer of alternative employment in a redundancy situation.
- 8.138. A sanction doubt should be raised if the job vacancy was in a 'qualifying former employment'. This is because a customer automatically has reasonable justification for 'neglecting to avail' themselves of the job if it is not a qualifying former employment
- 8.139. The sanction will apply if, for example, a person knew they had a reasonable chance of getting the job and did not take the necessary steps to get it. A sanction doubt cannot be raised if the job was vacant because of a stoppage of work caused by a trade dispute.
- 8.140. A job counts as a 'qualifying former employment' if :
- it is with an employer the customer previously worked for or an employer who took over the business from the former employer; and
 - it is not more than a year between the date the customer last worked for the employer and the date the question of a sanction arises; and
 - the terms and conditions are not less favourable than those of the job the person had when they last worked for the employer.
- 8.141. The date on which the person last worked for the employer is the date they last attended work, not the last date for which they were paid.
- 8.142. Should the customer neglect to avail themselves of a reasonable opportunity of employment you should complete the FND7 form along with the **Customer neglected to avail themselves of a reasonable opportunity of employment** doubt referral form (referral form 7) detailing:
- the employment opportunity; and,
 - how the customer neglected to avail themselves.
- 8.143. These forms should then be forwarded to the JCP decision maker.
- 8.144. You are then required to notify the customer that a sanction doubt has been raised (via a [customer doubt notification letter](#)), and issue them with the [ESL48JP/ ESL48JPW \(Welsh version\)](#) notes for guidance form which details how the customer's benefit may be affected, next steps, and what to do if the customer has any questions.
- 8.145. Once DMA action has been taken you will be notified of the sanction doubt decision via a clerical notification.
- 8.146. Throughout this process, including when the decision has been made, you are required to continue to engage the customer.

Entitlement/ sanction doubt referral forms

- 8.147. The forms and stencils below are to be used when referring customers for sanction / entitlement doubts:

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- FND7 doubt referral form;
- Doubt referral forms:
 - Referral form 1 – Customer may not be available for work or actively seeking work doubt referral form;
 - Referral form 2 – Customer failed to attend doubt referral form;
 - Referral form 3 – Customer notified of a suitable opportunity but failed to apply for it or failed to accept it doubt referral form;
 - Referral form 4 – Customer neglected to avail themselves of a suitable opportunity doubt referral form;
 - Referral form 5 – Customer gave up a suitable opportunity doubt referral form;
 - Referral form 6 – Customer failed or refused to apply for or to accept suitable employment doubt referral form;
 - Referral form 7 – Customer neglected to avail themselves of a reasonable opportunity of employment doubt referral form.

Sanction reconsiderations and appeals

8.148. The customer has the right to ask for a reconsideration and the right of appeal against sanction decisions, and if they should approach you to exercise this right should be advised to contact the BDC immediately as strict time limits operate for appeals. The customer has 28 days to appeal from the notification of the sanction decision.

JCP Sanctions for Fortnightly Jobsearch Review

8.149. A customer may be subject to a sanction affecting their benefits in addition to those which may have been instigated by yourselves.

8.150. From April 2010 customers must show 'good cause' for having not attended an appointment made by Jobcentre Plus staff for them i.e. fortnightly jobsearch review appointments (FJR).

8.151. These sanctions are for one week for the first failure to attend without 'good cause' and two weeks for the second and subsequent failure to attend without 'good cause'.

8.152. These sanctions do not count towards any roll up in Flexible New Deal sanctions, which maybe applied to a customer

Example:-

Customer fails to attend an FJR with Jobcentre Plus and has a one week sanction applied from 19.04.2010 – 25.04.2010.

Customer then fails to attend a Provider appointment and a two week sanction is applied from 19.04.2010 – 01.05.2010.

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The period the customer is sanctioned for is 19.04.2010 – 01.05.2010 for both sanctions.

Customer then fails to attend a further Provider appointment and a four week sanction is applied 26.04.2010 – 23.05.2010.

The period the customer is sanctioned for is 19.04.2010 – 23.05.2010 for all three sanctions.

Customer then fails to attend an FJR with Jobcentre Plus and has a two week sanction applied from 03.05.2010 – 23.05.2010,

The period the customer is sanctioned for is 19.04.2010 – 23.05.2010 for all four sanctions.

8.153. If a customer has a sanction applied by Jobcentre Plus for failing to attend an appointment with them you will be notified via the FND3 form.

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Appendix 1 – Customer Doubt Notification Letter

Office address:

Our phone number is:

18 May 2011

Dear

About your claim for Jobseeker's Allowance

A doubt has arisen on your claim for Jobseeker's Allowance as it appears that you have:

(Enter doubt below)

- A decision will be made about how this affects your claim for Jobseeker's Allowance
- You will be notified of the decision as soon as it is made
- Jobcentre Plus will let you know what effect the decision has on the payment of Jobseeker's Allowance and/or the award of National Insurance credits.

As long as you are still looking for work, you should continue to provide signed declarations to Jobcentre Plus as instructed on your ES40.

Payment of Jobseeker's Allowance will not be affected until the decision has been made.

Please see the attached/ enclosed ESL48JP leaflet. ***It is important that you read it.***

Yours sincerely

Provider name, address and telephone number

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Appendix 2 – Customer Request for Information Letter

Mr A N Other
1 Main Street
Town
AB11 2CD

Reference: Customer Nino

Date:

Dear Mr Other,

We notice from our records that you failed to attend your interview on --/--/--
at 00:00hrs.

at:

Enter the interview address

Please contact us as soon as you can as we need to talk to you about why you did not attend the above interview. Our address and telephone number are at the top of this letter.

Please note that if you do not attend and do not have a good reason you could lose your Jobseeker's Allowance and National Insurance Credits.

If we do not hear from you within seven working days from the date of your failure to attend or you do not have reasonable justification for missing the above appointment, we will have to refer the matter to the Decision Maker to make a decision on your continued entitlement to benefit.

Yours sincerely

Consultant/Adviser's name