

Absence from home

Introduction

1. This guidance gives details of the action to take when a claimant notifies Jobcentre Plus they will be absent from home. One of two forms may be used in this procedure depending on where the claimant is going and the reason for their absence.

Forms

ES674JP

2. Form ES674JP is titled 'Going on holiday within Great Britain'. Claimants who are going on holiday within Great Britain (GB) will need to complete this form before they go away, although it can be completed on their return if necessary.

ES674CJP, control sheet

3. Form ES674CJP, gives details of the action to take when a claimant notifies Jobcentre Plus of an absence from home for any reason and is designed to help people in Jobcentres.

4. The form can be completed and attached to the Labour Market Unit (LMU) if ES673 is not appropriate. This makes it easier to identify claimants who are away from home and the reason, by looking at the LMU.

5. The control sheet reduces the number of claimants completing ES674JP unnecessarily as the ES674CJP is used to record the following circumstances;

- Holidays abroad;
- Interviews abroad;
- Going away to look for work in GB;
- Absence from GB due to domestic emergency;
- Domestic emergency in another part of GB;
- Employment related course/voluntary work abroad;
- Employment related course in GB;
- Attending a residential work camp;
- Attending an Open University residential course;

Holidays in Great Britain

Definitions

6. Great Britain is England, Scotland, Wales, Shetland, Hebrides, Orkney, Lundy, Isles of Scilly, Isle of Wight and the territorial waters adjacent to GB. GB does not include:

- Northern Ireland;
- Isle of Man; or
- The Channel Islands.

7. However, for holiday purposes, Northern Ireland and the Isle of Man can be treated as being in Great Britain.

Claimant completes form ES674JP

8. Before issuing form ES674JP complete the first section on the front page with the claimant's;

- surname and initials;
- claim file and cycle;
- National Insurance number;
- date of birth; and
- benefit week ending day.

9. On receipt of the completed form, whether received by hand or post, enter the date it was received and your initials.

10. Check the answer to each question on ES674JP:

Question	Notes
What date will you leave home to go on holiday?	If the claimant is going away after the next date they are due to attend, remind them that they must attend as normal
On what date will you come home from holiday?	Tell the claimant that they must attend the office on the first day it is open after they return. Enter the date in the space provided on the notes that are issued to the claimant.
Address and phone number of where you will be staying while you are away	This should be the address of the hotel, campsite or holiday home where they can be contacted. If they are touring ask for details of where they will be on each day. If no contact address is available there may be an availability doubt unless the claimant is able to give a mobile phone number or other means of contact. If they do not know the address of where they will be staying until they get there ask them to phone the address in as soon as possible
Can you be contacted at this address?	If the claimant cannot be contacted at the address given or by mobile phone, check whether they can give an alternative contact address. If no contact address or mobile phone number can be given, there may be an availability doubt.
Tell us how we can contact you	If the claimant cannot be contacted whilst they are away, there is an availability doubt unless they will be in contact with someone acting on their behalf for all jobsearch purposes

<p>Tell us the address and phone number of someone you will be in contact with while you are away</p>	<p>if the claimant states they can be contacted at their home address, record the following details on form ES589;</p> <ul style="list-style-type: none"> • who will be at home to receive messages; • how and when they can be contacted if a job opportunity arises; • how and when the claimant will be contacting them during the period of absence. <p>If the claimant gives any other contact who will be taking messages or helping with their jobsearch, take full details of who they are and how often the claimant will contact them.</p> <p>If the claimant indicates they do not intend to contact anyone whilst they are away and they do not provide details to enable us to contact them, there will be an availability doubt</p>
<p>Are you willing to come home straight away to take up a job opportunity?</p>	<p>If the claimant is not willing to return home immediately or within time limits allowed in their particular circumstances, for example, if they have caring responsibilities, and they are still doing the caring whilst away from home, there is an availability doubt</p>
<p>Are you able to come home straight away to take up a job opportunity?</p>	<p>If the claimant is not able to return home immediately or within time limits allowed in their particular circumstances, for example, if they have caring responsibilities, and they are still doing the caring whilst away from home, there is an availability doubt</p>
<p>Why are you unwilling or unable to return home immediately?</p>	<p>If the claimant is unable or unwilling to return to attend an interview or take up employment, there may be an availability doubt. Full details of the reasons should be given on ES589</p>
<p>Are you available for work, as described in your Jobseeker's Agreement, while you are away?</p>	<p>If the claimant is not available as stated in their JSAg they may have placed a restriction on their pattern of availability or there may be an availability doubt</p>
<p>If you are not available for work on any day while you are away, please tell us when.</p>	<p>If the claimant is not available on days of travel or for particular dates while they are away consider varying the JSAg, if not there may be an availability doubt or a restriction placed on their pattern of availability</p>
<p>If you are not available for work at any times while you are away, please tell us when.</p>	<p>Does the claimant wish to vary their JSAg to satisfy the availability conditions?</p>

Will you be looking for work while you are away?	If the claimant does not intend to look for work while they are away, check whether they can be treated as ASE. If LMS or ES675 shows the claimant has already been treated as ASE for the maximum period allowed during the past 12 months, or the absence exceeds the maximum period for which they could be treated as ASE, explain to the claimant that they will have to ASE during all or part of their holiday to continue to receive JSA for the holiday period
When and where will you be looking for work?	Offer jobsearch advice to help the claimant meet the actively seeking employment condition while they are on holiday
During what period will you be looking for work?	Offer advice and guidance to help the claimant decide whether they want to be treated as ASE. For example, if the claimant has enough time before they go away, or after they return, in which to take sufficient steps to seek work they may not want to be treated as ASE for the weeks they are on holiday

11. The declaration must be signed by the claimant. Make sure they have read signed and dated the ES674JP and that the date of the next attendance is entered on the notes they are given.

12. Jobseeker's Allowance should not be paid to claimants while they are away. Any Jobseeker's Allowance owed will be paid to them when they return home.

Claimant unable to complete forms before going away

13. If a claimant notifies you by telephone or by letter that they are going away and there is not enough time for ES674JP to be completed before they go, record as much of the following information on LMS conversation screen as possible;

- the dates of absence;
- the claimant's temporary address if they have given one;
- the reason for absence;
- whether the claimant will be ASE in their home area or the area they are visiting during the period of absence;
- whether the claimant is able and willing to return, immediately, to attend an interview or start employment;
- what arrangements the claimant has made to be notified of job opportunities that may arise during their absence from home.

14. Complete form ES674CJP and attach it to the LMU. Tell the claimant they must attend the office on the first day it is open after they return home. Follow this up with a letter to remind the claimant to attend on the appropriate date.

15. When the claimant attends, ask them to confirm the details of their absence held on LMS. If there are any availability doubts, ask the claimant to complete form ES674JP.

Claimant returns from holiday

16. Following the holiday the claimant should attend the office on the date shown on ES674JP. Check whether they were available for work during the period of holiday.

17. To be available for work claimants must be available in an active, positive sense and take some active steps to draw attention to their availability.

18. Claimants are not available for employment if they are passive and merely wait for someone to find them and offer them work. For example, if the claimant has provided their home address as a contact while they are away check that there was someone at home to take messages and what arrangements the claimant made to be notified of those messages.

19. If the claimant does not attend the office on the date specified on the notes from ES674JP follow the procedures for failing to attend an interview.

Claimant does not notify absence before going away

20. There may be occasions when the claimant does not or cannot notify the Jobcentre office that they will be away from home. For example this could be because they;

- have been called away urgently;
- have been given the opportunity of a holiday at short notice;
- have been unable to return when they expected to.

21. In these circumstances you will need to check whether they have missed a day of attendance or a planned interview. If they have, normal failure to attend action will be necessary.

22. If they have attended on their normal day and state that they have been away since they last attended take the following action:

Step	Action
1	complete ES674CJP and ES674JP if appropriate, as if you had been notified in advance; the date of completion should NOT be earlier than the actual date it was completed;
2	explain that they cannot be treated as ASE for any holiday period because they did not inform you before going away;
3	ask what they have been doing to look for work while away and record on ES589;
4	refer any doubts on availability and ASE to the Labour Market Decision Maker (LMDM).

23. The completed holiday form may show the claimant was available. In these cases accept the availability and refer the ASE doubt because they did not notify you in advance that they did not intend to actively seek employment while they were away.

24. When the reason for being away is not a holiday consider whether the claimant can be treated as available/ ASE, form ES673 may be useful as a checklist but it is not necessary to complete one.

25. When they can be treated as available/ ASE do not refer to the LMDM. Make a note on LMS of the details of the absence from home and that no DMA action was necessary.

Actively seeking employment

26. Claimants can be treated as ASE for a maximum of 2 benefit weeks in a 12 month period if they are away from home, still in GB and do not intend to actively seek employment while they are away.

27. They must be available for the period they are away to continue to receive JSA. If there is a doubt on their availability they can still be treated as ASE.

28. Claimants must decide in advance whether they want to be treated as ASE while they are away. To help them decide, discuss what steps they would be required to take if they chose to actively seek employment while away from home. Record any advice given on ES589 or LMS. Explain that their steps to seek work will be reviewed when they return.

29. If they choose to be treated as ASE, check whether they have been treated as ASE for the same reason before, shown on form ES675 filed in the LMU, because of holiday.

30. The claimant may have to actively seek employment for part of the holiday depending on when they go and their week ending.

Availability

31. The claimant must remain available for the period of the holiday. Any doubts should be referred to the LMDM. These referrals should be for whole benefit weeks not just part weeks of absence. This is because the claimant will have placed a restriction on their pattern of availability because they have not been available for the whole period unless they have varied their JSAG before going away

Claimant away for more than 4 weeks

32. The regulations do not state a maximum period that claimants can be away from home in GB. However, if a claimant is on holiday in GB for more than 4 weeks and is available and ASE, it would be reasonable to expect them to either:

- make a claim at the Jobcentre nearest to where they are staying; or
- return to their home after a 4 week period and visit the Jobcentre to have their availability and jobsearch activity reviewed.

33. If there is any doubt about the claimant's availability and ASE because they are away from home for a long period always refer to the LMDM with as much jobsearch evidence for the period away as possible.

Claimant going abroad on holiday

34. If the claimant states they are going abroad on holiday:

Step	Action
1	complete ES674CJP, control sheet;

2	ask them to complete their ES40 indicating the date and time they are leaving GB;
3	input dialogue JA099: Record Claim Termination Action to terminate the claim;
4	mark LMS as inactive;

35. The termination date should always be the first full date of absence from GB. For example, if a claimant leaves GB at 3am on 18 August 2002, the termination date must be entered as 19 August 2002.

36. Watch for claimants in a joint claim going abroad. It is possible that only one of them will go away. If a claimant in a joint claim has an exemption and they go abroad the joint claim will remain for up to 4 weeks.

37. The claimant who continues to attend should notify when the other claimant returns to avoid the claim being affected. Unless one of them is treated as in Great Britain when the claim will remain a joint claim.

Claimant returns to GB

38. When the claimant returns from holiday, they will need to make a new claim to JSA and a New Jobseeker Interview will need to be arranged. An appointment can be arranged before they go away if this will save time later.

Claimant does not wish the claim to be terminated

39. In exceptional circumstances, a claimant may not agree to their claim being terminated and will not complete their ES40. Despite this, their claim should be terminated and ES674CJP completed with details of the date and time of their departure.

40. Take a signature for the period up to and including the date of departure. Send the JSA460 and a copy of ES674CJP to the BC, to notify the absence and the fact that the claimant did not want to terminate their claim.

41. When the claimant returns from abroad, they will need to make a new claim in the same way as claimants that agreed to terminate their claims.

Claimant does not notify absence abroad until return

42. If the claimant has not informed you that they were going abroad in advance but tells you when they return, the claim will still need to be terminated and a new claim for JSA completed.

Single day absences abroad

43. There may be occasions when the claimant goes abroad for only one day or part of a day. For example, this could be because they are going across the Channel for a shopping trip or going to attend a funeral.

44. If the absence lasts less than 24 hours there would be little point in terminating the claim because the day it would be terminated from would be the same day as the TAM date of the new claim.

45. In these circumstances, provided advance notice is received, check the claimant's pattern of availability for the week in question. If the claimant could

vary their Jobseeker's Agreement (JSAG) to avoid needing to be available on the day of absence, they may wish to enter into a varied JSAG for that week.

46. If the claimant is going to be absent on their usual day of attendance they will need to vary their JSAG in advance if they wish to avoid an availability doubt being raised for the whole week. A failure to attend question will need to be referred to the LMDM when they attend and they still need to satisfy the availability and ASE conditions with the varied JSAG.

Attending an Interview Abroad

What the law allows

47. In certain circumstances, claimants can be treated as being in GB and available for, and Actively Seeking Employment, if they go abroad to attend a job interview.

48. Claimants can be treated as available for 1 week on each occasion they are temporarily absent from GB due to a job interview, provided they inform us before they travel.

49. A week in these circumstances means 7 consecutive days from the date the claimant goes abroad.

50. As long as the temporary absence from GB is for at least 3 days, they are treated as ASE for a maximum of 1 week on each occasion. A week in this case means a benefit week.

Claimant notifies interview abroad

51. If the claimant informs you they will be attending an interview abroad:

Step	Action
1	complete form ES674CJP with dates they will be absent from GB;
2	ask the claimant to give details of the job interview and record the information on a JSA460;
3	ask for evidence if there are any doubts;
4	complete ES673, ticking box C to show the reason the claimant is being treated as available and ASE and that they are excused attendance;
5	send a copy of the ES674CJP to the BDC with details of the interview so they can input dialogue JA091: Maintain Claim Details and release a payment.

Claimant returns from interview

52. When the claimant returns from the interview, transfer the details from ES673 to an ES675 so that there is a record in the LMU of all periods the claimant has been treated as available/ ASE. The ES673 can then be filed in the ES80K.

Claimant does not notify interview abroad in advance

53. If the claimant does not tell you they have attended an interview abroad until they have returned, take the following action:

Step	Action
1	ask them to provide details of the interview including dates they were away;
2	refer to the payment Decision Maker for consideration of the absence from GB;
3	explain that they cannot be treated as available and ASE because you were not notified in advance.

Period abroad for job interview exceeds 7 days

54. If the claimant is going to be abroad for more than 1 week to attend an interview, the absent claimant cannot take advantage of the treated as available provision. This is because the period abroad exceeds 7 days. In these circumstances the claim should be terminated.

Periods abroad for job interview is less than 3 days

55. If the period abroad is for less than 3 days, the claimant cannot be treated as ASE for the period abroad. Claimants must take some additional steps to ASE in that benefit week, unless taking only one step that is the interview, was all that it was reasonable for them to take.

Excused attendance at a Jobcentre

56. Attendance is excused if the claimant is absent from GB on their attendance day, to attend an interview. The ES673 placed on the front of the LMU will identify these cases and prevent Failure to Attend action being taken.

Going abroad to look for work

57. If a claimant is going abroad to look for work but has not got an interview arranged, they cannot be treated as being in GB.

58. They should be advised that if they are receiving JSA(C) they might be able to export their benefit. If they do not wish to do so they should complete their ES40 and their claim will be terminated. They will need to make a new claim to JSA when they return.

Claimant leaves employment to accompany spouse or civil partner abroad

59. If the claimant is the spouse or civil partner of a worker who has been moved abroad by their employer, for example, HM Forces spouse or civil partner, they may have left employment to do so. This may raise a doubt on both whether they have left voluntarily and whether they are available for employment.

60. If a doubt arises they may not be able to export their benefit, as they would not be entitled to JSA(C) on the day of their departure. Each case is decided on its own merits, but if they obtained employment in this country they would not be able to export their JSA(C).

Other absences abroad

Employment related training/voluntary work

61. If a claimant states that they are going abroad to;

- attend a training course; or
- attend employment related training; or
- do voluntary work.

62. Their claim will need to be terminated as if they were on holiday. This is because there is no provision for these groups to be treated as being in GB or treated as available and ASE. The only exception to this is if the claimant is in receipt of a training allowance.

Domestic emergency abroad

63. A claimant may notify you that they need to go abroad because of a domestic emergency, this could include;

- a death or serious illness of a close relative or friend; or
- a funeral of a close relative or friend; or
- any emergency that affects the claimant or close relatives or friends.

64. As these can be sensitive issues care needs to be taken in explaining to the claimant that JSA is not payable if they are absent from GB. They should complete their ES40 so their claim can be terminated. They will need to make a new claim on their return.

65. There are exceptions to this in cases where the claimant is taking a family member who is a child or young person abroad for treatment for a physical or mental condition. They can be treated as available and ASE for a maximum of 8 weeks

Other absences from home in Great Britain

Domestic Emergencies

66. JSA regulations allow claimants to be treated as available if they have a domestic emergency that prevents them attending the Jobcentre. They can also be treated as ASE if the emergency lasts for longer than 3 days. See Treated as Available/ASE for further information.

67. Quite often the emergency will take the claimant away from home, for example, if there is illness in the family in another part of the country.

68. The claimant can be excused attendance in these circumstances providing they let the Jobcentre know on or before the day of attendance that they will not be able to attend.

69. Claimants may visit a Jobcentre in the area they are visiting to report the change in their circumstances and to make sure their payment is not affected. This could happen when they are unable to notify their Jobcentre before leaving.

70. If a claimant attends your office and states they are visiting your area because of an emergency take the following action:

Step	Action
1	take a statement on a JSA460, to include: <ul style="list-style-type: none"> • the claimant's personal details; • the reason they are in your area; • how long they will be there; and • the Jobcentre they usually attend;
2	ask the claimant to sign it;
3	inform the home Jobcentre that the claimant is away from home and the reason why;
4	send the signed statement to the home Jobcentre for action.

71. If you receive a statement from another Jobcentre notifying the absence of a claimant:

Step	Action
1	check the claimant's details;
2	make sure there are full details of the reason for absence;
3	complete ES673 and attach to LMU to show the claimant has been excused attendance;
4	notify the BDC of the period of non-availability so they can input dialogue JA091: Maintain Claim Details and release payment.

72. It is not necessary for the claimant to complete form ES90 or ES674JP for these cases at either Jobcentre. The claimant should however, be interviewed on their return to check the length of time the domestic emergency lasted. Take any necessary action if it lasted more than the prescribed time to refer to the LMDM.

Outward Bound Courses

73. Claimants that go on Outward Bound Courses can be treated as ASE for a maximum of 3 benefit weeks in any year, provided they attend the course for at least 3 days a week. They must remain available for work.

74. Outward Bound courses are courses or programmes for personal development provided for people who are not in employment.

75. The claimant must notify Jobcentre Plus in writing, and form ES674CJP must be completed before they go away if they do not intend to actively seek employment while they are on the Outward Bound Course.

76. The course organiser should issue a letter to the people on the course informing them of the dates, the location and the times of attendance. Ask the claimant for a copy of the letter and attach to the ES674CJP.

77. Send a copy of ES674CJP and the letter to the BDC to notify them of the absence.

78. Claimants who attend an Outward Bound course for less than 3 days in a week must take some steps to satisfy the ASE condition in that week, unless taking only one step was all that was reasonable for them to take.

79. Take into account the time spent on the Outward Bound course when considering whether the steps the claimant has taken to look for work are sufficient and reasonable.

Training in the use of guide dogs

80. Blind claimants who are attending a course of training in the use of guide dogs, can be treated as ASE for up to 4 weeks in any year if:

- they notify Jobcentre Plus, in writing if possible, before going away that they do not intend to look for work while attending training in the use of guide dogs; and
- the training takes place on at least 3 days a week.

81. Blind claimants that go away from home can also be treated as ASE for a further 2 weeks in any year, irrespective of the reason for their absence.

82. The training school should inform the claimant in writing of the course details and a copy of this letter should be attached to ES674CJP which is filed on the front of the LMU. A copy of the ES674CJP and letter should be sent to the payment processing section to notify the absence.

83. Claimants who are attending a course of training in the use of guide dogs for less than 3 days in a week must take some steps to satisfy the ASE condition in that week, unless taking only one step was all that was reasonable for them to take.

84. Take into account the time spent undertaking training in the use of guide dogs when considering whether the steps the claimant has taken to look for work are sufficient.

National Citizen Service

85. National Citizen Service (NCS) is a government personal development programme that gives 16 year olds the chance to learn new skills and get involved in their communities. It is intended that in 2012, the programme be extended to include 17 year olds.

86. Participation in NCS is for three weeks:

- The first two weeks are spent away from home:
 - week one being an “outward bound” type week;
 - week two spent in community involvement - visiting local community groups (e.g. environmental or with the elderly) as a pre-cursor to designing and delivering their own social action project.
- In the final week, they spend an additional 30 hours working in their communities in their own time.

87. Participation in NCS is voluntary and claimants will apply to take part themselves. They will not be referred by DWP.

Claimant reports NCS participation

88. Any claimant reporting that they will be participating in NCS should complete the ‘going away from home’ form, ES674JP or ES674CJP to cover the period of the residential elements of the programme.

89. During their time on NCS, claimants must be available for work. They must also be actively seeking employment (ASE) unless the claimant elects to be treated as actively seeking.

90. Claimants can be treated as ASE for a maximum of two benefit weeks in a 12 month period if they are away from home, still in GB and do not intend to look for work while they are away. If they choose to be treated as ASE, check whether they have been treated as ASE for the same reason before (holiday) as shown on form ES675 filed in the LMU.

91. If they choose **not** to be treated as ASE, then they must look for work whilst taking part in NCS. The claimant should be interviewed by an adviser before departure and agree a revised JSAg to cover their time on NCS which should be reviewed and revised again upon their return. The adviser may decide that participation in NCS could be one of the (or the only) step(s) to finding work to take for this period.

92. As claimants receiving JSA under a Severe Hardship Direction may lose their entitlement to JSA for the two week residential element of NCS, they must be advised accordingly so that they may make an informed decision regarding their participation.

93. DMA action should **not** be taken on any claimant who changes their mind regarding participation on NCS or who starts but does not complete the programme. This is because NCS is an entirely voluntary programme.

Claimants who may be treated as available and/or actively seeking employment

Background

1. Claimants may not always be able to satisfy the availability or actively seeking employment (ASE) requirements. In some circumstances they can be treated as available and/or actively seeking employment.
2. A claimant that has been treated as available may, in some circumstances, also be excused attendance, and they do not need to take any steps to look for work in any week in which they have been treated as ASE.
3. Do not treat a claimant as available or ASE in any week in which they do satisfy the availability and ASE conditions.
4. In some circumstances there is a maximum period for which they can be treated as available for and/or ASE in any year.
5. In most cases the 12 month period starts from the first date on which the circumstances to be considered arise. The exception to this is for temporary periods of sickness.
6. For any day that a claimant can be treated as available for employment they are treated as available for the number of hours they have agreed to be available in their Jobseeker's Agreement (JSAg). If they do not have a fixed pattern of availability on their JSAg, they are treated as available for 8 hours on each day that the circumstances arise for the purposes of determining whether they were available for 40 hours in a week.
See Example 1.

Circumstances in which a claimant may be treated as available for, and actively seeking, employment

The first week of a claim

7. Where the date of claim is not the first day of a benefit week, claimants can be treated as available for any part of the period from the date of claim to the end of the first benefit week if:
 - they have drawn up a Jobseeker's Agreement (JSAg) with an agreed pattern of availability ; or
 - they have agreed with an adviser restricted hours for which they are available because of:
 - caring responsibilities;
 - physical or mental conditions; or
 - short time working; and
 - they are available in accordance with the pattern agreed for the corresponding days in the part week where they are not treated as available for employment for any other reason for the same period. For example, they are not engaged in emergency duties as a part time member of the fire service.
8. They can also be treated as available for any part of the period from the date of claim to the end of the first benefit week if:
 - they do not have a pattern of availability recorded on a JSAg; and

- they are available for a minimum of eight hours on each of the days in that period and they are not treated as available for any other reason.
9. In all cases described above any restriction imposed on availability must have been agreed with an adviser and the claimant must be available to start work immediately unless they fall within one of the exceptions.
10. If they cannot be treated as available under any of the circumstances above or for any of the reasons below, refer to the Labour Market Decision Maker (LMDM).

Actively seeking employment

11. Where the date of claim is not the first day of a benefit week, claimants can satisfy the ASE test for the period from the date of claim up to the end of the first benefit week, if they have taken steps that it would be reasonable for them to take in that period.
12. The steps must give them their best chance of getting employment.
13. This means that because the period is less than a full week they would not have been able to take all the steps set out in their JSAg.
14. The claimant must take those which are appropriate for them to take in a part week. If no steps are taken or the steps are insufficient to satisfy the condition, reference to the LMDM is necessary.
See Example 2.
15. These procedures apply even when the JSAg is not completed until after the date of claim. Claimants should agree a pattern of availability for the part week to suit their availability at that time and then immediately vary their JSAg to reflect their usual availability.

The last week of a claim

16. Claimants are treated as available for and ASE in the last week of a claim. This begins on the day after the benefit week ending day of the last full week of the claim and ends on the day before the date the claim is terminated.

Backdated claims

17. A claimant must be available and ASE, or be treated as being for available and ASE, for each week of a backdated claim, therefore if a claimant makes a backdated claim, an availability or ASE doubt may arise.
18. The treated as available provision cannot be considered until it has been decided whether backdating is appropriate. This action is taken in the BDC and establishes the date of claim and whether there is a part week in which the treated as available and treated as actively seeking employment provisions can be considered.
19. Availability and ASE are weekly conditions; therefore each full benefit week in which a doubt arises must be referred to the LMDM for a decision.
20. This also applies to the benefit week, which includes the Treat as Made (TAM) date, or Date of Claim (DOC) accepted at the New Jobseeker Interview.
21. Where the TAM date or DOC is not the first day of a benefit week, the days from the TAM date or DOC to the first benefit week ending should also be referred to the LMDM for a decision.

22. This applies to all cases where the claimant has specified a pattern of availability.
See Example 3.

Part time fire brigade members, lifeboat crews members and emergency duties

23. Claimants are treated as available for employment while they are carrying out the following duties:

- engaged in crewing or launching a lifeboat;
- on duty as part-time members of a fire brigade;
- engaged in emergency duties for the benefit of others.

24. Claimants are also treated as ASE in any benefit week in which they carry out these duties for not less than 3 days.

25. Claimants are engaged in emergency duties for the benefit of others if they are:

- helping people whose life may be at risk;
- helping people who may be exposed to the risk of a serious bodily injury;
- helping people whose health may be seriously impaired;
- protecting property of substantial value from imminent risk of serious damage or ruin. There is no definition of 'substantial value' in JSA regulations. If unsure as to whether property has 'substantial value' refer the availability or actively seeking employment doubt to the LMDM;
- helping to prevent a serious threat to the health of others.

26. Events which may give rise to an emergency are:

- fire, flood or explosion;
- natural disaster;
- railway or other transport accident;
- cave or mountain accident;
- the search for a missing person;
- an accident at sea.

27. Claimants who are engaged in duties as described above for less than 3 days in a benefit week must take some steps to ASE in that week. Take into account the time spent on these duties when considering whether the steps a claimant has taken are sufficient.

28. Take the following action:

Step	Action
1	ask the claimant to give the details of the activity they are involved in, including dates;
2	send to the BDC who will input dialogue JA091: Maintain Claim Details to JSAPS;
3	on form ES673: <ul style="list-style-type: none">• tick box A; and• enter the period that the claimant is engaged in these duties;
4	Sign and date the form and attach it to the Labour Market Unit; (LMU)
5	tell the claimant to attend on their next usual attendance day;

6	ask the claimant to contact the Jobcentre in advance if they are unable to attend on this day otherwise their claim may be terminated;
7	payment of JSA will be made automatically without the need to confirm attendance.

29. If the claimant is engaged in any of these duties on a day when they should attend, attendance is excused. This is providing they notify the Jobcentre on or before the day of attendance that they will not be able to attend.

30. A claimant may attend late and declare the reason for late attendance as participation in emergency duties. They can be treated as available and the failure to attend question can be treated as straightforward if the claimant was given at least 24 hours notice of the requirement to attend.

Members of the Reserve Forces

31. The Jobseeker's Allowance (Members of the Reserve Forces) Regulations 2012 come into force on 30 July 2012. From this date, claimants can be treated as available for employment, for a maximum of 15 days in any calendar year, where they are:

- a member of the reserve forces; **and**
- attending their annual training camp (known as annual continuous training) regardless of whether the training is in GB or abroad.

32. The territorial or reserve forces are:

- Royal Fleet Reserve;
- Royal Naval Reserve;
- Royal Marines Reserve;
- Army Reserve;
- Territorial Army (which includes members of the Royal Irish Regiment);
- Royal Air Force Reserve; and
- Royal Auxiliary Air Force.

33. Members of the reserve forces who claim JSA should also be treated as ASE in any benefit week where they are attending their annual continuous training for not less than 3 days.

34. Claimants who attend their annual continuous training for less than 3 days in a benefit week must take some steps to seek work in that week. However, the time spent attending the training must be taken into account when determining whether or not the claimant has fulfilled the ASE condition.

35. Details of any availability and/or ASE doubt should be referred to the LMDM for consideration.

36. A claimant, who is a member of the reserve forces, should be excused attendance during any period that they are treated as available for employment due to attending their annual continuous training.

37. When a claimant notifies before they leave that are going to go on their annual continuous training, take the following action:

Step	Action
1	Ask the claimant to fully complete the RES1 (Reserve Forces Notification of Annual Camp) form.
2	Determine whether or not the claimant can be treated as available

	during the period of their annual continuous training, eg check that the duration of the camp does not exceed 15 days. Refer details of any availability doubt to the LMDM for consideration.
3	Send the completed RES1 to the BC for them to input dialogue JA091: Maintain Claim Details into JSAPS to record the temporary period of unavailability. Once the BC has input JA091 into JSAPS, payment of the claimants JSA will be issued automatically without the need to confirm attendance.
4	On the LMS 'Client Conversations' screen record details of: <ul style="list-style-type: none"> • the annual continuous training; • the dates of attendance; and • the period to be treated as available.
5	Manually annotate form ES673 that the claimant is participating in an annual training camp as a member of the reserve forces. Enter the period that the claimant is being treated as available, and sign and date the form.
6	Attach the completed ES673 to the front of the LMU to prevent the claim being terminated.
7	Tell the claimant to attend on their next usual attendance day to avoid their claim being terminated.

38. Further guidance about the impact of attending annual continuous training upon a persons JSA claim is available within JSA Payment Procedural Bulletin 2012/05.

Open University Residential course

39. Claimants are treated as available for employment for a maximum of one week per course if they attending an Open University (OU) residential course as a requirement of their studies. A week in this case is a period of seven consecutive days which starts on the first day of the OU residential course.

40. They are also treated as ASE for a maximum of 1 week per course if they are attending an OU residential course for not less than 3 days in a week. A week in this case is a benefit week.

41. An OU course results in the award of one credit or a half credit that counts towards the award of a degree. Residential courses are usually attended for courses that attract the award of one credit, although there may be exceptions.

42. Claimants who are attending an OU residential course for less than 3 days in a benefit week must take some steps to ASE in that week.

43. Take the following action:

Step	Action
1	access JSAPS dialogue JA501: Claim Details Enquiry and/or LMS to confirm whether the claimant has already been treated as available whilst attending an OU residential course;
2	ask the claimant to give details of the: <ul style="list-style-type: none"> • residential course; and • dates of attendance if they have not been treated as available previously;

3	send the details to the BDC who will input dialogue JA091: Maintain Claim Details to JSAPS;
4	record the details on LMS 'Client Conversations' screen.

44. If the week in which the claimant is attending the residential course is the week they would normally attend, attendance can be excused:

Step	Action
1	complete form ES673 by: <ul style="list-style-type: none"> ticking box B; and entering the dates of the residential course;
2	sign and date the form and attach it to the front of the LMU; payment of JSA will be made automatically without the need to confirm attendance;
3	tell the claimant to attend on their next usual attendance day;
4	ask them to contact the Jobcentre/Jobcentre Plus office in advance if they are unable to attend on that day as their claim may be terminated if they fail to attend.

45. If the claimant cannot be treated as available for the period they are on the residential course:

Step	Action
1	complete form ES674C, by: <ul style="list-style-type: none"> ticking the appropriate box; and entering the dates;
2	do not complete ES673, as attendance cannot be excused;
3	when the claimant returns refer to the LMDM, with full details, for a decision on both availability and failure to attend, as attendance cannot be excused if the claimant cannot be treated as available.

Discharged from a prison, remand centre or youth custody institution

46. Claimants who have been discharged from detention in a prison, remand centre or youth custody institution are treated as available for work for one week starting from the date of discharge. A week in this case is a period of 7 consecutive days which starts with the date of discharge.

47. They are also treated as ASE for any days they are treated as available and for the remainder of any week if they are treated as available for at least one day in that week.

See Example 4.

48. This does not include release from police cells unless they are being used as a prison where there is a shortage of prison accommodation.

49. The date of discharge will be on the Customer Statement or claim form and details of the period the claimant could be treated as available should be recorded on form ES675 and the LMS 'Client Conversations' screen.

50. Claimants who have been released from prison are not automatically excused attendance because they can be treated as available. To be excused attendance they would need to show that they could be treated as available for some other reason. If they cannot do so normal failure to attend action will be necessary.

Attending a job interview abroad

51. Claimants can be treated as available for a maximum of one week on each occasion that they are temporarily absent from Great Britain to attend a job interview, provided they notify Jobcentre Plus about the interview before they go.

52. A week in this case is a period of 7 consecutive days which starts on the day they go abroad.

53. They are also treated as ASE for a maximum of one week on each occasion that they are temporarily absent from Great Britain for at least 3 days to attend a job interview. A week in this case is a benefit week.

54. Claimants who are temporarily absent from Great Britain, to attend a job interview, for less than 3 days in a week must take some additional steps to ASE in that benefit week, unless taking only one step was all that was reasonable for them to do in that week.

55. If the claimant is absent from Great Britain to attend an interview on a day when they are expected to attend a Jobcentre, attendance can be excused provided they inform the office on or before the time they are due to attend

56. If the claimant is attending an interview abroad:

Step	Action
1	ask them to complete form JSA460 with: <ul style="list-style-type: none">the dates they will be absent from Great Britain; anddetails of the job interview they are attending;
2	send the completed form to the BDC who will input dialogue JA091: Maintain Claim Details to JSAPS;
3	on the LMS 'Client Conversations' screen record details of: <ul style="list-style-type: none">the absence;the job interview; andthe period to be treated as available..
4	on form ES673: <ul style="list-style-type: none">tick box C; andenter the dates of the treated as available period;
5	attach the form to the front of the LMU. Payment of JSA will be made automatically without the need to confirm attendance;
6	tell the claimant to attend on their next usual attendance day to avoid their claim being terminated.

57. Refer to the LMDM on failure to attend if notification is not received before departure.

58. Because it has not been pre arranged, an availability doubt will also need referring.

59. If the claimant is going to be away for more than a week or they have not got a pre-arranged job interview this provision does not apply.

Domestic Emergency

60. Claimants can be treated as available for employment for up to a week at a time, for a maximum of 4 times in a year, if one of the circumstances below arises;

- if there is a:

- death;
- serious illness; or
- accident of a close relative or close friend;
- if there is a funeral of a close relative or close friend;
- if the person has caring responsibilities and the person they are caring for dies;
- if there is any other domestic emergency affecting the claimant or a close relative or close friend.

Note: The periods can run consecutively if appropriate

61. A week in this case is a period of 7 consecutive days which starts on the day on which the emergency arises. The 7 day period may consist of a combination of the events listed above, for example the claimant's relative dies so they ask to be treated as available from the date of death but they also attend the relative's funeral in the same 7 day period.

62. Claimants are also treated as ASE in the circumstances described above provided they are treated as available for employment for at least 3 days in a week. A week in this case is a benefit week.

63. Claimants who are treated as available for employment for less than 3 days in a week in the circumstances described must take some steps to ASE in that benefit week.

64. The claimant can be excused attendance if the emergency arises on a day they are expected to attend; provided they inform the Jobcentre Plus on or before the time they are due to attend.

65. If a claimant reports a Domestic Emergency, having already been treated as available for the maximum number of 4 times in a year, it should be explained to them that they can not be treated as available during this period.

66. Unless the claimant is willing to be available and actively seeking working, despite the Domestic Emergency, the details of the availability doubt should be referred to the LMDM.

67. See the Claimant reports a Domestic Emergency chapter of the Get Britain Working guidance further details regarding the actions to take when a claimant makes contact to notify a domestic emergency

Domestic Emergency - Claimants with caring responsibilities for a child

68. Under normal circumstances, a claimant can be treated as available and ASE when there is a domestic emergency for up to a week at a time, and for a maximum of 4 times in a year. See Domestic Emergency for further information.

69. For claimants with caring responsibilities for a child the period of one week can be extended to a maximum of 8 weeks for one of the periods in any 12 months where there is a:

- death or serious illness of a close relative or close friend;
- or a domestic emergency which arises in relation to the claimant, close relative or a close friend.

70. In these circumstances, the claimant is also treated as ASE during this period and can be excused from attending their Job Review. If the claimant needs more than 8 weeks, their adviser will need to consider if it would be more appropriate for them to claim another benefit.

71. As a result, there are potentially a total of 11 weeks throughout a 12 month period where a claimant with caring responsibilities for a child can be treated as available.

School Holidays

72. Where a claimant is looking after a child for whom she/he has caring responsibilities during the child's school holidays and it is unreasonable to expect for him/her to make other child care arrangements, for example the person is unable to obtain appropriate, affordable childcare, Advisers may treat claimants faced with these difficulties as being available for work and can be excused from attending their Jobsearch Reviews during this period.

73. The claimant would be expected to make reasonable efforts to locate suitable child care.

Parenting order/contract or child excluded from school

74. Claimants who have additional caring responsibilities for a child will be considered as having good cause for not attending the office if they have:

- an outstanding parenting order in England, Wales & Scotland;
- a parenting contract in England and Wales; or
- the child has been excluded from school.

75. In these circumstances, where the claimant is required to care for a child, Advisers will consider treating the claimant as available for work to safeguard the claimant from being disallowed JSA and attendance can be excused for this period.

76. See Example 13

Victims of Domestic Violence and Abuse

77. The Jobseeker's Allowance (Domestic Violence) (Amendment) Regulations 2012 come into force on 23 April 2012. From this date, claimants can be treated as available for employment for up to 13 weeks, on one occasion in any 12 month period, in prescribed circumstances, where they have been a victim of domestic violence and abuse.

78. Claimants should be treated as ASE during any period in which they are treated as available for employment due to being a victim domestic violence and abuse.

79. See the Victims of Domestic Violence and Abuse chapter of the Get Britain Working guidance for further details regarding domestic violence and abuse, the definition of domestic violence and abuse and the actions to take when a claimant notifies that they have been subjected to domestic violence and abuse.

80. A JSA claimant will be treated as available for and ASE for an initial period of 4 weeks if they notify Jobcentre Plus in the 'required way' that they have been subject to actual or threatened domestic violence and abuse by the claimant's current or former partner, or certain family members of the claimant their partner or former partner, within the previous 26 weeks. However, the person who inflicted or threatened the violence and abuse must not be living at the same address as the claimant at the time of the notification.

81. A claimant will be considered to have provided notification in the 'required way' when they state that they have been the victim of domestic violence and abuse in a face-to-face interview with an adviser.

82. If a claimant notifies Jobcentre Plus that they have been the victim of domestic violence and abuse at any other time, ie during a jobsearch review or first contact, this notification will not usually be classed as being provided in the 'required way', the claimant must be referred for an urgent adviser interview. However, if the claimant notifies Jobcentre Plus verbally within the 26 week time limit but cannot be booked an adviser interview until after the end of the 26 week time limit, then the verbal notification can be treated as being provided in the 'required way'.

83. If the claimant provides written evidence from a person acting in an official capacity during the initial 4 week period which confirms that:

- the claimant has made contact with the person providing the evidence in connection with a threat or incident of domestic violence and abuse that is covered by the exemption and which occurred during the 26 weeks immediately before the claimants notification to Jobcentre Plus; or
- the claimant's circumstances are consistent with them having been a victim of threatened or actual domestic violence during the 26 weeks before the claimant's notification to Jobcentre Plus.

then they can be treated as available and ASE for a total of 13 weeks from the date of notification in the required way.

84. A person "acting in an official capacity" means a health care professional, a police officer, a registered social worker, the claimant's employer or a representative of their trade union or any public, voluntary or charitable body which has had direct contact with the claimant in connection with domestic violence and abuse.

85. A week in this case is a period of 7 consecutive days which starts on the day on which the claimant notifies us in the required way that they have been subject to domestic violence and abuse.

86. If the claimant does not provide the required written evidence within the initial 4 week period then they cannot be treated as available or ASE for the full 13 week period from date of notification. However, those claimants who do not provide the required evidence may still be treated as available and ASE due to a domestic emergency if the domestic emergency provisions apply.

87. A claimant can only be treated as available and ASE under the domestic violence and abuse exemption once within any 12 month period.

88. If a claimant reports that they have been a victim of domestic violence and abuse having already been treated as available for employment as a victim within the previous 12 months, consider whether the claimant can be treated as available and ASE using one of the other provisions (for example due to a domestic emergency). Unless the claimant can be treated as available and ASE using one of the other provisions they must meet all of the JSA labour market conditions in order to continue claiming JSA.

89. Details of any availability and/or ASE doubt should be referred to the LMDM for consideration.

90. A claimant should be excused attendance during any period that they are treated as available for employment due to being a victim of domestic violence and abuse.

Changes of circumstances

91. Regardless of any changes of circumstances, once the claimant is treated as available and ASE due to being a victim of domestic violence and abuse, the exemption will continue to run for the initial 4 week period, and then, if they provide the required written evidence, for a further 9 week period (totalling 13 weeks).

92. However, after the initial 4 week easement period, a claimant may decide that their situation has improved to such an extent that they want to return to full JSA conditionality or leave JSA. In these cases a claimant can choose to suspend any remaining period of the 13 week.

93. If a claimant decides to suspend the availability easement, they can choose to restart it at any time within 12 months. However, the balance of the 13 weeks cannot continue beyond 12 months of the initial notification to us.

Employment related course

94. Claimants who are participating as a full time student in an employment related course can be treated as available and ASE for a maximum of **up to 2 weeks and one such course** in any period of 12 months. e.g. if claimant attends a course lasting 3 days, they **do not** have another 11 days banked to use within the 12 months. They can attend one course, up to two weeks within the 12 month period.

95. A week in this case is a period of 7 consecutive days starting on the first day of the course. Attendance on the course must be agreed with an adviser before they start the course.

96. Jobcentre Plus employment or training programmes are not employment related courses.

97. If a claimant wishes to participate full-time in a longer employment-related course, eg 4 weeks, they can only be treated as available and ASE for the first 2 weeks. For the remainder of the course they will be a full-time student and therefore cannot be treated as available for work.

98. An employment related course is a course which will help a claimant acquire or enhance the skills needed for:

- employment; and/or
- seeking employment; and/or
- a particular occupation, for example:
 - deep-sea diving course;
 - large goods vehicle driving course; or
 - a period of trial before employment begins.

99. For a course to be accepted as 'employment related' it is not necessary for it to be the type of work that is recorded on the claimant's JSAG but it must improve their chances of getting a job. A CV writing course would be regarded as employment related if it improved the claimant's employability.

100. See Example 5.

101. If the claimant is participating as a full time student in an employment related course:

Step	Action
1	ask the claimant to complete form JSA460 with: <ul style="list-style-type: none">• the details of the course;

	<ul style="list-style-type: none"> • dates of attendance; and • the name of the course;
2	check whether they have been treated as available on an earlier occasion to attend an employment related course;
3	if not, record the details on LMS Client 'Client Conversations' screen and form ES675.

102. The claimant can be excused attendance if they are participating as a full time student in an employment related course on the day they are expected to attend:

Step	Action
1	on form ES673: <ul style="list-style-type: none"> • tick box 'E'; and • enter the period of attendance on the course;
2	attach the form to the LMU to show attendance has been excused;
3	pass details to the BDC to input dialogue JA091: Maintain Claim Details;
4	payment of JSA will be made automatically without the need to confirm attendance;
5	tell the claimant to attend on their next usual attendance day to avoid their claim being terminated.

103. Refer any doubt to the LMDM.

Work Camps

104. A work camp is any place in Great Britain where people, supported by a charity or local authority or a voluntary organisation, provide a service to benefit the community or the environment.

105. Claimants can be treated as available for a maximum of 2 weeks in any year in which they are attending a residential work camp. They may only be treated as available when attending a work camp once in a year. A week in this case is a period of 7 consecutive days which start on the first day of attendance.

106. They are also treated as ASE for a maximum of 2 weeks in any year in which they are attending a residential work camp for at least 3 days a week. A week in this case is a benefit week.

107. Claimants who are attending for less than 3 days in a week must take some steps to ASE in that benefit week, unless taking one step was all that was reasonable for them to take.

108. If the claimant is attending the work camp on a day when they are expected to attend the Jobcentre, they can be excused provided they inform the office on or before the time they are due to attend.

Step	Action
1	ask the claimant to complete form JSA460 with details of: <ul style="list-style-type: none"> • the residential work camp; • the address; and • the dates of attendance;
2	check whether they have been treated as available for the same reason in the year;

3	If they have not send the form JSA460 to the BDC who will input dialogue JA091: Maintain Claim Details to JSAPS
4	payment of JSA will be made automatically without the need to confirm attendance
5	on form ES673: <ul style="list-style-type: none"> • tick box 'F'; and enter the dates of attendance at the work camp;
6	Attach the ES673 to the front of the LMU to prevent the claim being terminated
7	record details of the work camp including dates on LMS 'Client Conversations' screen.
8	tell the claimant to attend on their next usual attendance day to avoid their claim being terminated

109. If the claimant cannot be treated as available or treated as ASE, refer any doubts to the LMDM.

Venture Trust in Scotland

110. If a programme is provided under an agreement between the Scottish Ministers and the Venture Trust, claimants can be treated as available and ASE.

111. Claimants are treated as available for a maximum of 4 weeks in any year in which they are attending a residential work camp. They may only be treated as available when attending once in a year. A week in this case is a period of 7 consecutive days which start on the first day of attendance.

112. They are also treated as ASE for a maximum of 4 weeks in any year in which they are attending a residential work camp for at least 3 days a week. A week in this case is a benefit week.

113. Claimants who are attending for less than 3 days in a week must take some steps to actively seek employment in that benefit week, unless taking one step was all that was reasonable for them to take.

114. If the claimant is attending the Venture Trust on a day when they are expected to attend the Jobcentre, they can be excused provided they inform the office on or before the time they are due to attend.

Step	Action
1	ask the claimant to complete form JSA460 with details of: <ul style="list-style-type: none"> • the Venture Trust programme; • the address; and • the dates of attendance;
2	check whether they have been treated as available and actively seeking for the same reason in the year;
3	If they have not, send the form JSA460 to the BDC who will input dialogue JA091: Maintain Claim Details to JSAPS to record the temporary period of unavailability
4	payment of JSA will be made automatically without the need to confirm attendance
5	on form ES673: <ul style="list-style-type: none"> • tick box 'F'; and

	<ul style="list-style-type: none"> enter the dates of attendance at the work camp;
6	Attach the ES673 to the front of the LMU to prevent the claim being terminated
7	record details of the work camp including dates on LMS 'Client Conversations' screen.
8	tell the claimant to attend on their next usual attendance day to avoid their claim being terminated

115. If the claimant cannot be treated as available or treated as ASE refer any doubts to the LMDM.

Temporary periods of sickness

116. The action to take when a claimant declares a temporary period of sickness depends upon whether or not they provide a Statement of Fitness for Work (medical statement), which is also called a medical certificate, doctor's statement, a fit note or a sick note:

- Claimant does not provide a Statement of Fitness for Work
- Claimant provides a Statement of Fitness for Work

Claimant does not provide a Statement of Fitness for Work

117. Claimants can be treated as available and ASE for short periods of sickness once they have become entitled to JSA. If the claimant is not entitled to JSA and is claiming credits only they may be entitled to IB/ESA.

118. A claimant can declare two short periods of sickness, without their entitlement to JSA being affected, in:

- any Jobseeking Period (JSP); **or**
- within each successive 12 month period if the JSP lasts for longer than 12 months.

119. **For example;**

- Claimant makes a claim/ begins a JSP 01/01/2012. The end of the first 12 months JSP will therefore be 31/12/2012
- Start of 2nd JSP will be 01/01/2013, end of 2nd JSP will be 31/12/2013
- Claimant declares sickness periods April 2012, October 2012 & Feb 2013
- In this example even though the three periods of sickness are within 12 months of each other, the 3rd period falls into the 2nd 12 month JSP and therefore their JSA is unaffected.

120. Each period of sickness must not exceed 14 days and must not fall within eight weeks of an earlier claim to Statutory Sickness Pay (SSP), beginning with the day that the person ceased to be entitled to SSP.

121. Unless they are a member of a joint claim and can be granted an exemption, a claimant cannot remain on JSA, if:

- They have had a period of temporary sickness on two occasions in any JSP or in the last 12 months if the JSP lasts longer than 12 months; or
- The period of sickness exceeds 14 days; or
- They ceased to be entitled to SSP within the previous eight weeks.

In these circumstances the claimant must be advised to make a claim to ESA.

Claimant notifies sickness

122. Claimants may:

- notify, on or before their day of attendance, that they are ill and cannot attend;
- ask someone else to notify their sickness, on or before their day of attendance;
- attend their Jobsearch review and state they have been ill and unable to ASE; or
- fail to attend and declare sickness as the reason for their failure.

Claimant notifies sickness on or before their attendance day

123. If the claimant makes contact on or before their day of attendance and states that they will not be able to attend due to sickness, ask them how long the sickness is likely to last.

124. Issue a form JSA28 and warn the claimant that payment for the period which, includes the days of sickness, cannot be made until the form has been returned and considered. The return by date on the JSA28 should be the 14th day after the period of sickness began.

Third party notifies claimant is sick and unable to attend

125. There may be times when the claimant cannot tell anyone about their sickness in person, and may ask someone to do it on their behalf either in person or by telephone.

126. If a third party makes contact on or before the claimants' normal day of attendance and states that they will not be able to attend due to sickness, issue form JSA28 for completion by the claimant. The return by date on the JSA28 should be the 14th day after the period of sickness began.

Claimant attends at their usual time and declares sickness

127. A claimant may attend at their usual time but say they have not been ASE because they were sick.

128. The claimant must complete form JSA28, and consideration should be given as to whether the period of sickness would reduce the steps needed to satisfy the ASE condition.

Claimant declares sickness as the reason for Failing to Attend

129. If the claimant states that they failed to attend (FTA) due to sickness, issue form JSA28.

130. A decision from the LMDM on whether the claimant had good cause will not be necessary for the day that they FTA providing that the claimant can be treated as available.

131. In all cases the claimant must be warned that payment for the period which includes the days of sickness cannot be made until the completed form has been returned and the reasons for FTA have been considered.

132. See the Fail to Attend Interviews and Jobsearch Reviews chapter for further information.

Action to take on receipt of the completed JSA28

133. Once form JSA28 has been issued to the claimant it should be completed and returned as soon as possible to avoid delay in payment.

134. On receipt of the completed form JSA28 check:

- the dates of sickness ;
 - whether the claimant has had a prior claim to SSP within eight weeks of the first date of sickness declared;
 - whether the period of sickness is for 14 days or less;
 - whether the claimant has declared any previous periods of sickness in the JSP or last 12 months;
 - that the claimant has given specific information about their illness, saying 'not well' or 'ill' is not sufficient.
135. Record the following in LMS Conversations:
- the start date of the sickness;
 - the end date of the sickness if known; and
 - any details given about the sickness

Claimant can be treated as capable of work

136. If the claimant is declaring their **first or second period of sickness**, and the Jobcentre can treat the period as straightforward, they should input dialogue JA470 into JSAPS to pay the claimant, and then send the completed JSA28 to the BDC.

137. Form ES673 should be completed and attached to the LMU, if this has not already been done, to show the claimant has been treated as available and ASE.

138. The claimant can be excused attendance if they notify sickness on or before their attendance day.

BDC record that claimant can be treated as capable of work

139. When it has been established that there are no reasons to prevent the claimant from being treated as capable, the BDC will input details of the temporary period of sickness to JSAPS using dialogue JA091: Maintain Claim Details.

Claimant cannot be treated as capable of work

140. A claimant will not be able to remain on JSA if:

- they have already had a period of temporary sickness on two occasions in the current jobseeking period or within each successive 12 months if the JSP lasts for longer than 12 months; **or**
- their period of sickness exceeds 14 days; **or**
- they ceased to be entitled to SSP within the previous eight weeks.

In these circumstances the claimant must be advised to make a claim to ESA.

141. If the claimant insists on continuing to claim JSA even when it is clear that they cannot do so, details must be passed to the BDC who will consider disallowing the award on capability and terminate the claim.

No end date of sickness on JSA28

142. If the JSA28 shows the date from which the claimant became ill, but does not include an end date, send it to the BDC in the usual way.

143. The BDC will set a case control for the end of the 14 day period and will check if the claimant is still sick or establish an end date after this time.

Sickness in a backdated claim period

144. If a claimant makes a backdated claim and gives the reason for the delay in claiming as sickness, a JSA28 can only be issued in certain circumstances.

145. Temporary period of sickness procedures can only be used once an award of JSA has been made. Only issue a JSA28 with the JSA5, if the period of sickness is for the latter part of the backdated claim period and refer for consideration of capability.

146. If sickness is given as the only reason for backdating the claim do not issue form JSA28, as there cannot be an award of JSA made before the period of sickness.

See example 8 and example 9.

Availability and Actively Seeking Employment

147. When a period of sickness is declared and it is clear that JSA28 procedures apply, the claimant can be treated as available for the period of sickness.

148. The claimant can also be treated as ASE where the period of sickness is for 3 days or more in the week. However, where a claimant reports a period of sickness of less than 3 days, consideration will need to be given to whether or not they satisfied the conditions for the remainder of that benefit week.

149. If an availability doubt has already been referred to the LMDM or is identified and subsequently the claimant declares that they are sick, the underlying doubt still needs to be considered. The LMDM will need to be notified of the temporary period of sickness dates.

150. The period of sickness should be taken into account when considering ASE. The claimant may have taken fewer steps to seek work if they have been ill for part of the fortnight.

See example 10.

Advance use of JSA28 procedures

151. JSA28 procedures should not be used in circumstances where a claimant states they are going to be unable to work at a future time, for example when a claimant declares that they have a date to go into hospital for a few days and will not be looking for work.

152. They should be told to wait until they know the exact dates they will be in hospital. This is because it is possible the period of incapacity may last longer than anticipated.

Claimant provides a Statement of Fitness for Work

153. From early July an electronic version of the Statement of Fitness for Work may be received in offices. Both the handwritten and electronic versions of the form are acceptable.

Claimant provides a Statement of Fitness for Work but they are not fit for work

154. If a claimant provides a Statement of Fitness for Work (medical statement) and their Doctor has ticked "you are not fit for work", they can be treated as capable, available and ASE.

155. The claimant can declare two short periods of sickness, without their entitlement to JSA being affected, in exactly the same way as a claimant that does not provide a Statement of Fitness for Work.

156. Each period of sickness must not exceed 14 days and must not fall within eight weeks of an earlier claim to Statutory Sickness Pay (SSP), beginning with the day that the person ceased to be entitled to SSP.

157. See claimant does not provide a Statement of Fitness for Work for further information

Claimant provides a Statement of Fitness for Work and they may be fit for work

158. If a claimant provides a Statement of Fitness for Work (medical statement) and their Doctor has ticked “you may be fit for work taking into account the following advice”, they do not need to be treated as available and ASE or claim an alternative benefit.

159. Consider the claimant’s availability and any restrictions which may be appropriate in light of the Doctor’s comments. If the JSAG needs to be reviewed or amended, arrange an adviser interview.

160. Claimants can restrict their availability because of a physical or mental condition; see Restrictions because of physical or mental condition for further information.

Absence abroad accompanying partner who receives a pension or disability premium

161. Claimants can be treated as available for a maximum of 4 weeks at a time where;

- they are one of a couple, by couple we mean:
 - a man and a woman who are married to each other and members of the same household,
 - a man and a woman who are not married to each other but are living together as husband and wife,
 - two people of the same sex who are civil partners of each other and members of the same household, or
 - two people of the same sex who are not civil partners of each other but are living together as if they were civil partners;
- both are absent from Great Britain; and
- one of the following is payable in respect of the claimant’s partner;
 - any type of pensioner premium;
 - a disability premium;
 - a severe disability premium.

They are also treated as being in Great Britain.

162. A week for availability purposes is a period of 7 consecutive days starting on the day the claimant goes abroad.

163. Claimants are also treated as actively seeking employment for a maximum of 4 weeks at a time if they meet the conditions described above for at least 3 days a week. A week in this case is a benefit week.

164. In these cases:

Step	Action
1	ask the claimant to complete form JSA460 with details of the absence abroad including: <ul style="list-style-type: none"> • Dates; • details of the premium payable; and • the name of the claimant's partner;
2	send the JSA460 to the BDC who will input dialogue JA091: Maintain Claim Details to JSAPS;
	payment of JSA will be made automatically without the need to confirm attendance
3	treat the claimant as available and record the details on the LMS 'Client Conversations' screen;
4	complete form ES673 by: <ul style="list-style-type: none"> • ticking box 'J'; and • entering the dates of the absence abroad;
5	attach the ES673 to the front of the LMU.

165. Tell the claimant when they will next be required to attend after their period abroad and explain that if they are unable to attend they should let Jobcentre Plus know to avoid their claim being terminated.

Person who normally looks after a child is unavailable

166. Claimants can be treated as available for a maximum of 8 weeks at a time, for as many times as they need in a year, if they are temporarily looking after a child full time because the person who normally looks after the child is:

- ill;
- temporarily absent from home overnight; or
- looking after a member of the family who is ill.

167. A week in this case is 7 consecutive days starting on the day on which they start looking after the child because the normal carer is unavailable.

168. Claimants can also be treated as ASE for a maximum of 8 weeks on each occasion they are temporarily looking after a child full time for at least 3 days a week. A week in this case is a benefit week.

169. If they are looking after the child full time for less than 3 days in a week they must take some steps to actively seek employment in that benefit week.

170. In these cases:

Step	Action
1	ask the claimant to complete form JSA460 with details of: <ul style="list-style-type: none"> • their temporary caring responsibilities; • dates; • the name of the person who normally looks after the child; and • the reason they are unable to do so;
2	check whether the claimant has had previous periods where they have been treated as available for this reason;
3	send the JSA460 to the BDC who will input dialogue JA091: Maintain Claim Details to JSAPS and payment of JSA will be made automatically without the need to confirm attendance;

4	complete form ES673 by: <ul style="list-style-type: none"> ticking box 'G'; and entering the dates;
5	attach the ES673 to the front of the LMU to show attendance is excused;
6	tell the claimant when they will next be required to attend after the period they are treated as available and explain that if they are unable to attend they should let Jobcentre Plus know to avoid their claim being terminated.

171. Although, there is no limit to the number of occasions a claimant can be treated as available in any year, careful consideration needs to be given to whether the situation is temporary, that is lasting up to 8 weeks, or whether it is an on going situation for which other action is necessary. For example, has the claimant become the long term carer?

172. Once they have been treated as available and ASE for 8 weeks they must have a break of at least one day from looking after the child full time before they can be treated as available for this reason again.

173. They must also satisfy the ASE condition for one week before they can be treated as ASE for this reason.

The person who normally looks after the child is temporarily absent from the United Kingdom

174. A claimant, who is one of a couple, can be treated as available for a maximum of 8 weeks at a time, for as many times as they need, if they are temporarily looking after their child because their partner who normally looks after their child is temporarily absent from the United Kingdom.

175. The United Kingdom includes Great Britain and Northern Ireland. It does not include the Channel Islands.

176. A week in this case is 7 consecutive days starting from the day on which the claimant starts to look after the child because of the normal carer's absence.

177. Claimants can also be treated as ASE for a maximum of 8 weeks on each occasion that they are temporarily looking after their child, for at least 3 days a week.

178. If they are looking after the child for less than 3 days they must take some steps to ASE in that week.

179. An absence of less than 52 weeks can be treated as a temporary absence.

180. In these cases:

Step	Action
1	ask the claimant to complete form JSA460 with: <ul style="list-style-type: none"> the details of their caring responsibilities; the name of their partner; and the dates they will be absent;
2	pass the JSA460 to the BDC who will input dialogue JA091: Maintain Claim Details;
3	record details of the claimant's temporary caring responsibilities on LMS 'Client Conversations' screen;

4	if the claimant can be treated as available they can also be excused attendance. Complete ES673 by: <ul style="list-style-type: none"> ticking box 'K'; and entering the dates to be treated as available;
5	attach the ES673 to the front of the LMU to show attendance is excused;
6	tell the claimant when they are next required to attend. Explain that if they cannot attend they must contact Jobcentre Plus to avoid their claim being terminated.

181. If the claimant has already been treated as available and ASE for 8 weeks on one occasion because they are temporarily looking after their child they must;

- have a break of at least one day from looking after their child before they can be treated as available for this reason again; and
- satisfy the actively seeking employment requirement for one week before they can be treated as ASE for this reason again.

Claimant is taking a child abroad for medical treatment

182. Claimants can be treated as available for a maximum of 8 weeks at a time for as many times as they need, during which they are absent from Great Britain because they are taking a child or young person, who is a member of their family, abroad for medical treatment.

183. Treatment means treatment for a disease or bodily or mental disablement by, or under the supervision of, a person qualified to provide medical treatment, physiotherapy or similar treatment.

184. A week in this case is a period of 7 consecutive days which starts on the day the claimant goes abroad.

185. A young person for these purposes is a person aged under 16 for whom the claimant (o partner in the case of a couple) are entitled to and receiving Child benefit.

186. Claimants can also be treated as ASE for a maximum of 8 weeks on each occasion when they are absent in these circumstances for at least 3 days a week. A week in this case is a benefit week.

187. If the absence is for less than 3 days in a week they must take some steps to ASE in that week.

188. In these cases:

Step	Action
1	ask the claimant to complete form JSA460 with details of: <ul style="list-style-type: none"> their absence from Great Britain; the country they are going to; the dates of absence; the name of the child or young person receiving treatment; and the nature of the treatment;
2	pass the JSA460 to the BDC who will input dialogue JA091: Maintain Claim Details;
3	record the details of the claimant's absence on the LMS 'Client Conversations' screen;

4	complete form ES673 by: <ul style="list-style-type: none"> ticking box 'H(2)'; and entering the dates;
5	attach ES673 to the front of the LMU;
6	tell the claimant on what date they will next be expected to attend. Explain that if they do not do so their claim may be terminated;

189. Payment of JSA will be made automatically without the need to confirm attendance once the method of payment has been set up.

190. If the claimant has already been treated as available and treated as ASE for 8 weeks to take a child or young person abroad for treatment they must;

- return to Great Britain for at least one day before they can be treated as available again for the same reason;
- satisfy the ASE condition for one week before they can be treated as actively seeking employment for the same reason again.

Ex-Incapacity Benefit and Employment Support Allowance Claimants

191. Claimant's whose Incapacity Benefit (IB) or Employment Support Allowance (ESA) has ceased, can be treated as ASE for any period between the last date IB/ESA was paid and the date of claim for JSA. This is provided;

- they are available, or treated as available, on the day they claim JSA; and
- the time limit for claiming has been extended.

192. The Claims and Payments Regulations allow the time limit for claiming to be extended for a maximum of a month, when the cause of the delay is the late notification, of the end of IB/ESA.

193. This provision helps those claimants whose IB/ ESA ceased but who are not aware that they need to claim JSA. This is usually because of a delay in the notification, of IB/ESA terminating, being received.

194. They would also be unlikely to satisfy the availability and ASE conditions, as they do not know they are no longer on IB/ESA

Action to take

195. Ask the claimant to complete Form JSA5, if this information was not gathered by CMS, for any period between the IB/ESA ending and the date of the claim for JSA. It should be clearly noted 'Ex Incapacity Benefit/ESA' in the 'Reason' box for the period in doubt before sending it to the BDC. Mark the JSA5 as 'doubtful'.

196. If the BDC allow the backdating request they will notify the Jobcentre that the claim has been accepted and the claimant can be treated as available and ASE.

197. Make a note of the completion, the referral and the reason for referral of the JSA5 on LMS Conversations.

198. If they do not accept the backdated claim refer the Labour Market doubt to the LMDM for an opinion for credits purposes.

199. If the claimant is not available for any reason on the treat as made date, or cannot be treated as available for any of the reasons stated earlier in

this section, refer to the LMDM as the claimant cannot be treated as available under this provision.

National Health Treatment Abroad

200. From 4 October 2004 claimants can receive National Health Treatment abroad and remain in receipt of JSA.

201. When a claimant states they are going abroad for NHS funded treatment they should complete JSA460 and provide supporting medical evidence for the whole of the absence from GB.

202. To continue to receive JSA they must have satisfied in full the conditions of entitlement immediately before beginning the temporary absence.

203. Claimants need to provide a contact name, address and phone number for our use during their absence. In return they must be given a named contact in the office to notify any further changes.

204. Advise the claimant that any further changes in circumstance must be notified as soon as possible. For JSA(C) claimants check whether the date of exhaustion is during the period of absence and issue the appropriate claim form for JSA(IB) so the claim can be processed at the earliest opportunity.

205. Inform the claimant they will need to contact us immediately they return to GB so we can establish the most appropriate benefit for them.

206. Record the absence on LMS conversations and JSAPS notepad and complete ES673JP and attach to the LMU.

Claimant attending court or tribunal

207. If a claimant is required to attend a court or tribunal for any reason, for example jury service, as a defendant or as a witness, they can be treated as available and ASE for up to 8 weeks from the first date of attendance in court.

208. They will still have the option of claiming Income Support and closing their JSA claim or claiming for any loss of benefit from the court (JSA(C) only). They would only be expected to take this course of action if the court had advised them that their involvement in the proceedings would last longer than 8 weeks.

209. Ask the claimant for proof of the court/tribunal attendance. If they have no evidence immediately available explain that we need to see some evidence before we can treat them as available and ASE.

210. Explain that we can treat them as available and actively seeking employment for up to 8 weeks and ask whether they want to continue receiving JSA or close their claim and claim IS or from the court. If they close their claim they will need to make a new claim as soon as the court/tribunal proceedings have ended. They will also need to make an application for National Insurance Contribution Credits for the time they were in court/tribunal.

211. Keep a record of the claimant's choice with a copy of the evidence provided of the court/tribunal attendance. In all cases remind the claimant that they must attend the Jobcentre as soon as they are no longer required by the court/tribunal.

Claimant wishes to continue claiming JSA

212. If they wish to continue with their claim for JSA, complete form ES673JP, indicating in the relevant box the reason they are being treated as available and actively seeking employment, and attach to the LMU to avoid the claim being closed as failed to attend.

213. Notify the BDC that the claimant is being treated as available and ASE so that payments can be made.

Claimant wishes to close their JSA claim

214. If the claimant decides to terminate their claim, ask them to complete their ES40, input dialogue JA099 using code 17 to close the claim. Remind the claimant of the need to make a new claim for JSA if they are still unemployed after their court/tribunal attendance.

Joint Claims

215. If a member of a joint claim is required to attend court/tribunal, they can apply for an exemption if they wish using existing guidance in the Joint Claims Exemption Guide. However, if a member of a joint claim is already exempt, the other partner must be treated as available and actively seeking employment for a maximum of 8 weeks. Only one member of a joint claim can be exempt at any one time.

216. New Deal provision can be suspended during the court/tribunal attendance and reinstated when proceedings have ended.

Detained in Custody

217. JSA regulations allow claimants who are detained in police custody for 96 hours or less and then released, to be treated as available and ASE.

218. If the claimant is not released, for example they are remanded in custody or imprisoned, then they cannot be treated as available and ASE for the period in police custody.

219. When a claimant attends and states they were unable to attend their normal attendance or an advisory interview because they were detained in custody ask them to complete a statement giving the dates and times when they were taken into custody and released.

220. Make sure the claimant was available and ASE for any periods outside the time in custody. Check they were in custody for 96 hours or less.

221. Ask the claimant to sign their fortnightly declaration and arrange payment

222. If the claimant was detained in police custody for more than 96 hours their availability will be in doubt as they can only be treated as available and actively seeking employment for the first 96 hours.

223. If the claimants states they were released from police custody on the day they were due to attend the Jobcentre but still failed to attend, they should not be treated as available and ASE. This is because they were able to attend on the assigned day and failed to do so. Take action to refer to the LMDM on an availability or ASE doubt.

Payday and Periodicity

224. From the introduction of Payday and Periodicity it is possible that the Claimant's benefit week ending day (BWE) may not be the same as the day they attend the Jobcentre.

225. If the claimant notifies a change of circumstance for any of the reasons above and they are due to attend on a day after their BWE, careful consideration needs to be given to what period they need to be treated as available/ASE for:

Step	Action
1	Identify the first date the claimant needs to be treated as available/actively seeking employment and which BWE it falls into. Take a statement in the usual way
2	Complete ES673 as appropriate if the treat as available period is ongoing. If the period is in a period due for payment but before the day of attendance ES673 is not required.
3	Check the claimant's availability and actively seeking employment activity up to the BWE date for which payment is due: <ul style="list-style-type: none">○ If no doubts arise, arrange for payment to be made up to the BWE.○ If there is a doubt, refer the case to a LMDM for a decision.
4	Tell the claimant they should attend as normal on their next attendance day.

226. See example 14

Examples

Example 1

- a claimant with no pattern of availability has a domestic emergency that lasts three days;
- they are treated as available for 3x8 hours = 24 hours and would be required to be available for a balance of 40-24= 16 hours in the week.

Example 2

- the claimant makes a claim on Friday and is given a week ending Tuesday;
- a JSAG is agreed and signed by the claimant and adviser;
- the claimant has agreed to apply for at least three jobs and read two local papers each week;
- as the week in question is only 5 days it would be reasonable to expect him to do most but not all of the agreed steps.

Example 3

- the claimant makes a claim on Friday 19 July and asks to backdate it to 15 July;
- they are given a week ending of Wednesday;

- although the claimant is available from Friday 19 July they were not available in accordance with their JSAG during the backdated claim period;
- the period in doubt to be referred to the LMDM is Monday 15 July to Wednesday 24 July.

Example 4

- a claimant is released from prison on Tuesday 11 June and makes a claim from the same date;
- they are allocated a week ending Friday;
- they can be treated as available for 7 days from their date of discharge, which will be from Tuesday 11 June to Monday 17 June ;
- they can also be treated as actively seeking employment until 21 June because they have been treated as available for at least one day in the benefit week ending 21 June.

Example 5

- a claimant who usually works as a builders labourer decides to take part in a health and safety training course for one week;
- while it is not essential to have any health and safety qualifications to work as a labourer, it would enhance his employability and open up new opportunities.

Example 6

- the claimant telephones the Jobcentre/Jobcentre Plus office on the day before they are due to attend a fortnightly review;
- they say they will not be able to attend because they have flu;
- they have not declared a previous period of sickness and say they will be well again in a couple of days;
- a form JSA28 can be issued by post and must be returned as soon as possible;
- form ES673 is completed and attached to the LMU until the claimant next attends;
- failed to attend action is not taken if attendance is excused.

Example 7

- the claimant's partner phones because the claimant has a sore throat and has lost his voice;
- she says he will not be able to attend his Restart interview that afternoon;
- he has not declared any previous periods of sickness and will be able to attend within 5 days;
- a new appointment for his interview is arranged as usual on his next attendance day;
- form JSA28 can be sent by post.

Example 8

- the claimant attends a New Jobseeker Interview;

- he wishes to backdate his claim because he was ill the week before;
- when questioned he states that he was only ill for the last three days of the week in the backdated period and for the other days he was attending interviews;
- form JSA5 is issued with a form JSA28 and both are referred for decisions.

Example 9

- the claimant completes JSA5 to backdate their claim;
- the reason given for the delay is that they were in hospital for the whole period;
- JSA28 action is not appropriate; and
- JSA5 is sent to the BDC as usual.

Example 10

- a claimant attends on their usual day but states that they have been sick for four days in the last fortnight;
- JSA28 is issued for that period and the claimant is treated as available and actively seeking employment;
- he is asked what steps he has taken to find work on the remaining days in the period;
- he states that he has not been able to visit the Jobcentre but has read the newspapers and applied for two jobs;
- apart from visiting the Jobcentre the steps he has taken are in accordance with his Jobseeker's Agreement;
- taking the period of sickness into account no availability or actively seeking employment doubt needs to be raised.

Example 11

- the claimant attends the Jobcentre at their usual time but because they have sprained their wrist they have not been able to apply for jobs for the last four days;
- they have been told that the injury will heal within the next week;
- they have no previous record of sickness and because the incapacity will last only 11 days JSA28 procedures can be used;
- this will mean that the claimant can be treated as available and ASE for the period of the injury when they have been unable to look for work.

Example 12

- a claimant notifies the Jobcentre that his doctor has given him a Statement of Fitness for Work for 6 weeks because he has problems with his back;
- he has not contacted the Jobcentre until the day before he is due to attend but he saw the doctor the day after he last attended;
- he is advised that he could claim IB/IS but as he has not done so from the date on his Statement of Fitness for Work a JSA28 should be issued for the first 14 days of his period of sickness;

- had he contacted the Jobcentre immediately he could have claimed IB/IS earlier and JSA28 would not have been appropriate.

Example 13

- Liam, who has a six year old son Lennon, attends his Jobsearch Review appointment and expresses concerns as the school holidays are approaching. Liam has made enquiries about childcare for the school holidays but has been unsuccessful. As a result, he is unable to come into the office during the school holidays for his Jobsearch Reviews.
- The Jobsearch Review officer completes ES673JP and books Liam an appointment with the PA to make a decision.
- Using knowledge of local childcare arrangements, the PA treats Liam as unavailable for the school holiday period and sets work flow to commence at the end of the school holidays to contact Liam reminding him to start coming into the office again.

Example 14

- The claimant is BWE Tuesday but attends on Thursday.
- He telephones on Wednesday to say he can't attend because he is ill.
- A JSA28 is issued to the claimant, a note is made of the reason they can't attend and an ES673 is completed and attached to the LMU.
- The claimant is asked about their availability and actively seeking employment up to the Tuesday BWE.
- As there are no doubts, the payment for the period ending Tuesday can be made.
- The JSA28 period of sickness will fall in the next fortnight ending Tuesday so it can be returned on the next attendance.

Failure to Attend Interviews and Jobsearch Reviews

Background

1. The law requires claimants to participate in an interview in such manner; time and place at such place as an employment officer may specify by a notification which is given or sent to the claimant and which may be in writing, by telephone or by electronic means.
2. Any type of notification for this purpose must specify the date and location of the interview and may also include the time. The written notice is usually the claimant's ES40 or an Interview Invitation Letter, but can be an ESL21, ES674 etc.

Implications for Failing to Attend an Interview or Jobsearch Review

Claimant fails to contact Jobcentre Plus within 5 working days

3. A claimant's entitlement to Jobseeker's Allowance will cease if they Fail to Attend (FTA) an interview, after being required to do so by a Jobcentre Plus officer on behalf of the Secretary of State and fails to contact Jobcentre Plus within 5 working days.

Claimant contacts Jobcentre Plus within 5 working days

4. A claimant's Jobseeker's Allowance will be sanctioned if they:
 - FTA an interview or Jobsearch Review; **AND**
 - contacts Jobcentre Plus within 5 working days; **AND**
 - cannot be treated as straightforward (TaS); **AND**
 - does not show good reason for their failure.

Clarification of working day

5. A working day means any day on which the appropriate office is open to the public, as confirmed by its list of regular opening hours, which all Jobcentres are required to display.
6. Appropriate office means the Jobcentre or any other place, which the claimant has been told to attend in a notification.

Periods of excusal of attendance and advance payments

7. During periods of excusal of attendance and advance arrangements, FTA action must be taken if claimants do not comply with the notification, leaflet ESL21. When issuing leaflet ESL21, it should be clearly explained to the claimant that even if a payment is received early, they must attend as required, or their next payment will be affected.
8. In FTA Jobsearch Review cases, the claimant must still provide a signed declaration for the period if a payment is to be processed by the BDC.

9. If the claimant has been Treated as Straightforward (TaS) or shown good reason for the day of FTA, they do not have to show that they had good reason for any days in between the day they FTA and the day they actually attended.

Claimant attends on the correct day but at the wrong time

10. When a claimant attends on the correct day, but either early or late, record on form ES589 or on LMS 'Conversations' the times of attendance, and their reasons for attending outside their specified time.

11. The claimant may be referred to an adviser to:

- discuss their reasons for early/late attendance;
- explain the implications of not attending at the correct time; and
- either discuss alternative fortnightly attendance arrangements or issue an ES19 warning letter.

12. Make a note of the referral and outcome of the adviser discussion on LMS 'Conversations' or on form ES589.

Adviser interviews

13. If the claimant attends early on the date of the adviser interview, ask them to return at the correct time.

14. If they state they are unable to return at the correct time or they are late:

- ask them why;
- note the reason on form ES589; and
- notify the adviser concerned as this may raise a doubt on another question, for example, availability.

15. If an adviser is not available to conduct an interview at that time, consider issuing form ES19 to the claimant.

16. Do not automatically issue this letter but use it to target persistently early/late attenders.

ES19 Warning Letter

17. A warning letter (ES19) can be issued to people who, although they attend on the correct day, regularly attend early or late.

18. The ES19 is a written notice issued to the claimant setting out the date and time they are next required to attend the Jobcentre. However, it can only apply to the very next occasion that they are required to attend, regardless of whether this is a Jobsearch review or an adviser interview.

19. If, after being issued with an ES19, the claimant attends early or late on their next due day of attendance, their JSA will be sanctioned unless they can be TaS or show good reason.

20. The ES19 should only be used in exceptional circumstances where all other measures have been tried and failed.

Action to take when a claimant regularly attends on the correct day but at the wrong time

21. When a claimant persistently attends Jobsearch Reviews on the correct day but at the wrong time:

Step	Action
1	Prepare an ES19 for the claimant setting out the date and time they are next required to attend. Note: It is important that the date and time on the ES19 refer to the claimants next required attendance, which will be their next Jobsearch Review or an adviser interview where one is due to take place prior to their next Jobsearch Review.
2	Issue the ES19 to the claimant. It is preferable that the ES19 is issued by hand however it can also be posted in exceptional circumstances. In a joint claim, a copy of the ES19 should also be handed or posted to the other claimant.
3	Record the date of issue and keep a copy of the notice in the Labour Market Unit (LMU). If the ES19 is issued by hand, ask the claimant to acknowledge its receipt by signing the copy.
4	Inform the claimant that this is their last opportunity to attend at the specified time and that if they fail to do so as required, their JSA may be affected.

Claimant does not attend at the time specified on the ES19

22. If the claimant attends at a time other than that specified on the ES19, normal failure to attend action must be taken. See Claimant makes contact face-to-face after failing to attend for further information.

Claimant notifies in advance that they are unable to attend

23. If a claimant notifies the Jobcentre in advance that they will not be able to attend on the correct day, question them to determine whether they can be Treated as Available.

24. If the claimant can be treated as available, their attendance can also be excused. Form ES673 must be attached to the front of the Labour Market Unit (LMU) and the ES24 noted 'see ES673'.

25. If the claimant notifies in advance that they will not be able to attend on the correct day but they cannot be treated as available, for example, they have an appointment with a probation officer, attendance cannot be automatically excused and their day and/or time of attendance cannot be rearranged.

26. Explain that:

- they must still provide a signed declaration to be paid JSA;
- they must show good reason within 5 working days; and
- they must give full reasons why they cannot attend.

Claimant notifies in advance that they are attending a job interview

27. If the claimant has notified the Jobcentre in advance that they will not be able to attend on the correct day because they have a job interview, their attendance cannot automatically be excused. However, if the claimant can provide documentary evidence confirming the interview, their day and/or time of attendance can be rearranged for this occasion only. FTA action will not be required providing they attend on the rearranged date.

28. Where a claimant has arranged a job interview at short notice and has notified the Jobcentre in advance by telephone, it may not be possible for them to attend prior to the job interview. In these cases they should be given a rearranged interview time and told that documentary evidence confirming their interview is a condition for rearrangement of attendance and therefore it must be produced when they attend.

29. If they FTA on the rearranged date, or do not provide documentary evidence, FTA action will apply from the re-arranged attendance time.

Contact made by the claimant within 5 working days

30. If, after failing to attend the claimant makes contact within 5 working days, obtain details from them to establish the reason why they FTA.

31. If the reason for non-attendance would allow them to be treated as available, they cannot be excused attendance retrospectively. Therefore, although they can be treated as available and ASE, action is still required.

32. The action to take depends upon the reason given by the claimant and whether they make contact by telephone or face-to-face.

Claimant declares sickness as the reason for failing to attend

33. If the claimant states that they have FTA due to sickness, consider taking JSA28 action.

34. Providing that the claimant can be treated as available a decision from the LMDM, on whether the claimant had good reason for failing to attend, will not be necessary.

35. If a claimant provides information about their sickness on a JSA28, and can be treated as available for the period of the sickness, there is no need for a doubt to be raised via DART.

36. In all cases the claimant must be warned that payment for the period which includes the days of sickness cannot be made until the completed form has been returned and the reasons for FTA have been considered by the Jobcentre.

37. If the claimant cannot be treated as available, for example they have already had two periods of sickness in that Jobseeking Period then a referral to the LMDM is required.

38. See the Treated as Available and Actively Seeking Employment chapter for further information.

Claimant makes contact by telephone and declares any other reason for failing to attend

39. If the claimant makes contact by telephone and states that they have FTA for any reason, other than sickness, take the following actions:

Step	Action
1	Confirm the claimant's identity as per existing procedures.
2	Take a statement from the claimant of their reasons for failing to attend using the Decision and Referral Template system (DART).
3	Check the statement does not indicate there are any availability or ASE doubts, if there are, refer to Availability or Actively Seeking Employment doubt for further information.
4	Use the Treat as Straightforward (TaS) filter on DART, to determine whether or not the claimant can be TaS.
5	If the case can be TaS: <ul style="list-style-type: none">• create a new DMA referral on LMS via the 'View referral/decision details' screen using AR code JSA 719S. The 'Ref To' field must be set to [N/A – Straightforward]. See the LMS User Guide for further information;• on the 'Notes' sub window enter the reason why the claimant can be TaS;• send the DART referral to a Team Leader or other designated officer for confirmation of TaS.
6	If the case does not fall within the TaS criteria, the DART referral must be sent to the AO Decision Maker shared inbox for an AO Decision Maker to consider. Note: it is important that no action is taken on LMS for cases which cannot be TaS.
7	Ask the claimant to attend the office as soon as possible to provide evidence that they were available and actively seeking employment.

40. When the claimant actually attends the office:

Step	Action
1	Confirm the claimant's identity as per existing procedures.
2	Confirm that the claimant was available and actively seeking employment and take a signature on form ES24 for the full fortnight up to the benefit week ending day.
3	Input dialogue JA470: Attendance where the claimant has FTA on their normal day.

Claimant makes contact face-to-face and declares any other reason for failing to attend

41. If the claimant states that they have FTA for any reason, other than sickness, take the following actions:

Step	Action
1	Confirm the claimant's identity as per existing procedures.
2	Take a signature on form ES24 for the full fortnight up to the benefit week ending day, if appropriate.
3	Take a statement from the claimant of their reasons for failing to attend using the Decision and Referral Template system (DART).
4	Check the statement does not indicate there are any availability or ASE doubts, if there are, refer to Availability or Actively Seeking Employment doubt for further information.
5	Use the Treat as Straightforward (TaS) filter on DART, to determine whether or not the claimant can be TaS.
6	If the case can be TaS: <ul style="list-style-type: none"> • create a new DMA referral on LMS via the 'View referral/decision details' screen using AR code JSA 719S. The 'Ref To' field must be set to [N/A – Straightforward]. See the LMS User Guide for further information; • on the 'Notes' sub window enter the reason why the claimant can be TaS; • send the DART referral to a Team Leader or other designated officer for confirmation of TaS.
7	If the case does not fall within the TaS criteria, the DART referral must be sent to the AO Decision Maker shared inbox for an AO Decision Maker to consider. Note: it is important that no action is taken on LMS for cases which cannot be TaS.
8	input dialogue JA470: Attendance where the claimant has FTA on their normal day;

Claimant wishes to cease claiming JSA prior to the day of FTA

42. If the claimant wishes to cease claiming JSA prior to the day they FTA, ask them to complete and return their ES40.

43. Once the ES40 is received, input the termination reason and date to JSAPS in dialogue JA099: Record Claim Termination Details. This triggers a Work Available Report JA72539 to the BDC to terminate the claim on JSAPS.

Contact not made by the claimant within 5 working days

44. If the claimant does not make contact within 5 working days of FTA, the claim must be terminated:

Step	Action
1	Enter this information on LMS and make the record inactive.
2	Input JSAPS dialogue JA060: Register Claim/Event to register a change of circumstances.
3	Input JSAPS dialogue JA099: Record Claim Termination Details to

	inform the BDC to complete claim termination action.
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45. The termination date should be the day after the last date for which the claimant provided evidence that they were entitled to JSA. This could be the last day they provided a signed declaration, or the last day they attended an adviser interview and the labour market conditions were satisfied and recorded as such on LMS.

46. If the claimant contacts the Jobcentre after dialogue JA099: Record Claim Termination Details has been input into JSAPS, and wishes to continue to claim JSA, the claimant must reclaim JSA using the JSA STP Reclaim process and the JSA4RR.

Treat as Straightforward

47. This provision enables claimants to be treated as having good reason for FTA, without a referral to an AO Decision Maker or LMDM.

48. The Treat as Straightforward (TaS) filter on DART will be used to identify those claimants who could be treated as straightforward. **NOTE: The use of DART is not necessary when sickness is the reason for FTA a Jobsearch Review or advisory interview.**

49. However prior to TaS being applied, a team leader or other designated officer must confirm that TaS is appropriate. The designated officer should be Band B or above and adjudged by the Manager to be competent and experienced enough to make the determination.

50. Only cases where the reason for FTA falls clearly within the guidelines can be TaS. However, in all such cases, the 'treat as available' conditions or any other relevant action must be applied before considering TaS.

51. Where a doubt still exists, the case must be submitted to an AO Decision Maker on site for consideration.

52. The Treat as Straightforward considerations are:

If the reason given for FTA is:	Consider:	Y/N	Action
Voluntary work/caring responsibilities	Was the claimant given at least 48 hours notice of the requirement to attend?	Y N	Refer to AO DM TaS
Providing a service	Was the claimant given at least 24 hours notice of the requirement to attend?	Y N	Refer to AO DM TaS
Attending a residential work camp	Has the claimant been treated as available?	Y N	TaS Refer to AO DM
Taking a child or young person abroad for medical treatment	Has the claimant been treated as available?	Y N	TaS Refer to AO DM
Manning a lifeboat/ p/t fire-	Has the claimant been	Y	TaS

fighter/working for the benefits of others in an emergency	treated as available?	N	Refer to AO DM
Member of couple and needed to care for child while usual carer is abroad	Has the claimant been treated as available?	Y	TaS
		N	Refer to AO DM
Attending Open University residential course	Has the claimant been treated as available?	Y	TaS
		N	Refer to AO DM
Temporarily looking after a child full-time because the normal carer is ill or temporarily absent from home, or looking after a family member who is ill	Has the claimant been treated as available?	Y	TaS
		N	Refer to AO DM
Suffering a temporary period of sickness	Has the claimant been treated as available/actively seeking employment ?	Y	TaS
		N	Refer to AO DM
A domestic emergency (including serious illness, death, funeral or emergency affecting a relative or close friend or death of someone the claimant is caring for	Has the claimant been treated as available?	Y	TaS
		N	Refer to AO DM
Claimant was detained in police custody for 96 hours or less then released	Has the claimant been treated as available	Y	TaS
		N	Refer to AO DM
Claimant was required to attend court, or tribunal for up to 8 weeks	Has the claimant been treated as available	Y	TaS
		N	Refer to AO DM
Claimant was participating in annual continuous training as a member of the reserve forces	Has the claimant been treated as available	Y	TaS
		N	Refer to AO DM
Although the following can be TaS they are not circumstances to which Treated as Available/ASE would apply			
Claimant has attended a job interview and can provide sufficient evidence for example, letter from employer / name of interviewer	Could the claimant have reasonably been expected to attend at the time on his ES40 / ND6 /invitation letter/telephone call?	N	TaS
		Y	Refer to AO DM
Claimant declares part time work which does not result in claim termination	Could the claimant have reasonably been expected to attend?	N	TaS
		Y	Refer to AO DM
Adverse weather conditions	Are the local	Y	TaS

	conditions such that the claimant could not reasonably be expected to attend?	N	Refer to AO DM
Additional TaS for parents			
Claimant is caring for a child and is subject to a parenting order or a parenting contract. The child may be excluded from school	Was it reasonable for the claimant to be unable to attend?	Y N	TaS Refer to AO DM
Claimant is caring for a child because of school holidays and they can not obtain affordable and appropriate childcare	Have they been treated as available and actively seeking employment	Y N	TaS Refer to AO DM

Confirmation of Treated as Straightforward

53. Where it is identified that a case can be TaS, details of the DART referral will be sent to a Team Leader or other designated officer.

54. Upon receipt of the DART referral the Team Leader or designated officer must review the details and confirm whether or not TaS applies.

Case can be Treated as Straightforward

55. If the team leader or designated officer agrees with the TaS decision they must record the following on the LMS 'View referral/decision details' screen in 'Notes':

- TaS Authorised;
- the team leader or designated officer name; and
- the date that TaS was authorised.

Case cannot be Treated as Straightforward

56. If the team leader or designated officer does not agree with the TaS decision, the following action must be taken:

Step	Action
1	On the LMS 'View referral/decision details' screen, amend the 'Ref To' field to [LM DMA Office] and in 'Notes' enter the reason why TaS was not applicable.
2	Copy the information from DART into the LMS Decision Notes box for the relevant decision to ensure that details of the referral are maintained for reconsideration or appeal purposes.
3	Send a submission to the LMDM using DART for a good reason decision.
4	Provide feedback to the person who identified possible TaS to confirm why TaS was not applicable.

AO Decision Making

57. There has been a significant rise in the volume of labour market decision making and appeals (LM DMA) referrals from both jobcentres and providers, which has significantly increased the pressure on LMDMA Teams. Therefore some LMDMA work is being transferred to Jobcentres to help ease this burden.

58. Local AO Decision Making will deliver quicker, more efficient decision making by reducing handoffs and freeing resource in LMDMA teams to focus on more complex decisions.

59. As part of the Local AO Decision Making process, a new role, Local AO Decision Maker is being introduced. Local AO Decision Makers will triage FTA cases and determine if a case can be considered complex or non complex.

60. Non complex JSA Fail to Attend decisions will be made by Local AO Decision Makers within the Jobcentre.

61. AO Decision Makers will not be responsible for providing detailed explanations of their decisions, or progressing claimant reconsideration/appeal requests. Therefore, detailed explanations, reconsiderations and appeals must be forwarded to a LMDM for action.

62. It is essential that the claimant is not made aware at any stage that some decisions are made locally.

Consideration by AO Decision Makers

63. Where it is identified that a case cannot be TaS, details of the DART referral will be sent to an AO Decision Maker for consideration.

64. Upon receipt of the DART referral the AO Decision Maker must review the claimants' record in JSAPS Dialogue JA504.

65. If the claimant is in receipt of their National Insurance credits only, a decision on the FTA is not required. This is because the credit regulations do not support the disallowance of credits solely because a claimant failed to attend.

66. If the claimants' JSA has not been rated (it will show 'LIVE NP' in Dialogue JA504) the case must be referred to a LMDM for consideration. The following action must be taken :

Step	Action
1	Create a new DMA referral on LMS via the 'View referral/decision details' screen using AR code JSA 719S . The 'Ref To' field must be set to [LM DMA Office]. See the LMS User Guide for further information;
2	Copy the information from DART into the LMS Decision Notes box for the relevant decision to ensure that details of the referral are maintained for reconsideration or appeal purposes.
3	Send a submission to the LMDM using DART for a good reason decision.

67. If the claimants' JSA has been rated the AO Decision Maker must determine whether the case is complex or non complex.

Determining whether a case is complex or non complex

68. Non complex cases are those cases where there can only be one possible outcome i.e. a sanction is imposed. These cases must be processed in the Jobcentre by the AO Decision Maker.

69. Complex cases require further consideration as they could have more than one possible outcome i.e. allowed or disallowed; therefore complex cases must be sent to a LMDM for consideration.

70. Examples of complex and non complex cases are:

Non Complex	Complex
I forgot	I forgot because my mum was rushed into hospital and I had to accompany her
I missed my bus	The bus was late because of an accident
I overslept	I overslept due to a medical condition
I overslept because I had a late night	I overslept because I had a late night as a result of staying in hospital with my sick child

Note: This list is not exhaustive.

Complex Cases

71. If the AO Decision Maker determines that a case is complex they must take the following action:

Step	Action
1	create a new DMA referral on LMS via the 'View referral/decision details' screen using AR code JSA 719S . The 'Ref To' field must be set to [LM DMA Office]. See the LMS User Guide for further information;
2	Copy the information from DART into the LMS Decision Notes box for the relevant decision to ensure that details of the referral are maintained for reconsideration or appeal purposes.
3	Send a submission to the LMDM using DART for a good reason decision.

Non Complex Cases

72. If an AO Decision Maker determines that a case is non complex they must apply a sanction on the claimant JSA, by taking the following action:

Step	Action
1	<p>create a new DMA referral on LMS via the 'View referral/decision details' screen using AR code JSA 719S(LO). The 'Ref To' field must be set to [LM DMA Office]. See the LMS User Guide for further information;</p> <p>Note: It is essential that the correct AR Code is used for decisions that are made by AO Decision Makers. Failure to use the correct AR Code will result in these cases being attributed to LMDMs not AO Decision Makers.</p>

2	Copy the information from DART into the LMS Decision Notes box for the relevant decision to ensure that details of the referral are maintained for reconsideration or appeal purposes. All of the relevant decision information needs to be included, not just the claimant's reasons for failure. As there is a limit to how much data that can be saved in LMS, if it cannot be tailored to fit, the DART information must be either printed out and sent to remote storage or scanned and saved in DRS with LMS being noted accordingly.
3	Determine the length of the sanction applicable and the start and end dates of the sanction. JSAPS Dialogue JA513 can be used to determine what sanctions a claimant has previously received. Further information about the length of sanctions and appropriate start date is available within the Labour Market Conditions Guide and the Labour Market DMA Procedural Guide.
4	<p>Input the sanction decision into LMS via the 'View referral/decision details' screen:</p> <ul style="list-style-type: none"> • The 'Sanction Applies' option must be selected from the drop down list in the 'Decision' field; • The start and end dates of the sanction must be entered into the 'Period from' and 'Period to' fields; • The date that the decision was made must be entered into the 'Date Made' field; • The 'Made By' field must be left blank. It is essential that the AO Decision Makers details are not entered into this field. <p>See the LMS User Guide for further information on inputting DMA decisions into LMS.</p>
5	<p>Input the sanction decision into JSAPS Dialogue JA210. The following information must be entered:</p> <ul style="list-style-type: none"> • The appropriate AR Code (CSL001 or CSL002) must be entered into the 'AR Code' field. CSL001 should be used when a claimant FTA on the correct day, where as CSL002 should be used when a claimant FTA on the correct day but at the wrong time after being issued with an ES19. • The start and end dates of the sanction must be entered into the 'AR Period in Doubt' field; • 'DISD' must be entered into the 'Decision' field; • '1' must be entered into the 'Source' field; • The date that the claimant failed to attend must be entered into the 'Date of Transgression' field. • The date that the decision was made must be entered into the 'Decision Date' field.
6	As good practice, complete the AO Decision Explanation Letter with the appropriate information and issue it to the claimant by post. There is no need to store or keep a copy of the letter; however issue of the decision letter must be recorded in LMS Conversations.

	Note: The decision explanation letter is not the official decision notification. It is essential that the JSAPS produced Single Outcome Decision notification (SODn) is also issued to claimants as this provides information on appeal rights etc.
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73. A quality check of AO Decision Makers decisions may be conducted by Adviser Team Managers, further information about the checks is included in Appendix 1.

JSAPS Input for non-complex cases

74. After inputting the sanction decision into Dialogue JA210, AO Decision Makers are usually responsible for imposing the appropriate sanction via Dialogues JA200 and JA405. See the Sanction, Suspensions and Disallowances Chapter of the JSA Procedural Guide for further information on the action required.

75. However there are some situations where an AO Decision Maker should not impose the sanction via Dialogues JA200 and JA 405:

- **Joint Claim** - The sanction decision for joint claims should be handed over to the BC JSA processing team for them to impose the sanction.
- **Mortgage Interest Deductions (MID)** - The sanction decision for a claim with MID should be handed over to the BC JSA processing team. These cases can be identified by via JSAPS Dialogue JA501, if there is a [Y] in the 'Home Loan' field then Mortgage Interest Deductions are being applied.
- **Hardship** – If JSA Hardship is in payment and a subsequent sanction is applicable, the sanction decision should be handed over to the BC JSA processing team.

Note: Handovers should be made via e-mail to the linked BC and not via HOTT.

Labour Market Decision Maker Submission action

76. Access LMS and check the 'View Referral / Decision Details' screen.

77. To ensure that details of the referral are maintained for reconsideration or appeal purposes, ensure that all of the information from the DART referral has been copied into the LMS notes box for the relevant decision.

78. Check the submission is complete and then send the details to the LMDM using DART to enable them to make a good reason decision. See the DMA Referrals Guide for further information on what must be included in the submission.

79. Explain to the claimant that a decision will be made on whether they had sufficiently good reasons for FTA. Inform them that if it is decided that their reasons were not sufficient, their JSA will be affected.

Decision made by Labour Market Decision Maker

80. The details of the decision will be automatically entered into the LMS 'Referral/Decision Details' screen once the LMDM has input their decision into DMAS.

81. The LMDM will email their decision notification direct to the JSA Maintenance team for action; therefore no further action is required in the Jobcentre.

Note: If copies of the decision notification and/or case papers are received at the Jobcentre these should be retained for monitoring purposes.

82. If a claimant fails to attend an interview or intervention they will receive a lower level sanction of either 4 or 13 weeks. Further information around the sanction is available within the Sanctions and DMA Guidance.

83. Some claimants may be able to claim JSA Hardship when a sanction has been imposed on their JSA following FTA. See JSA Hardship Awards for further information on hardship.

Reserved Decisions

84. A LMDM may decide to reserve a decision. This will normally be when a sanction is appropriate, but cannot be imposed because the claimant is no longer receiving JSA.

85. In these cases the DM will send a DMAS produced notification to the Jobcentre advising them of this, and at the same time, LMS will be automatically updated with this decision.

86. There is no input to JSAPS for reserved decisions.

87. The case must be re-referred to the DM if the claimant reclaims within:

- four weeks if this is the first time the claimant has committed a lower level failure; **or**
- thirteen weeks if this is the second or subsequent time the claimant has committed a lower level failure.

Note: This is done as a new referral on LMS.

88. If a case is re-submitted and the claim was originally a joint claim for JSA, it is important to ensure that the details held on LMS are up to date. It should be established whether the claimant is still part of a joint claim and if so, full details of the other member at the time that the decision was made, must be indicated in the referral.

Additional Information

Invitation to attend issued by telephone

89. Claimants who are asked to attend the Jobcentre for an interview by telephone and subsequently FTA are subject to the same conditions as any claimant. Therefore, if the claimant FTA that interview, they have 5 working days to show good reason. The 5 working days will begin the day after they FTA and not the day the telephone conversation took place.

90. Take the appropriate action if the claimant:

- makes contact within 5 working days; or
- fails to make contact within 5 working days.

Failure to attend interview requested by claimant

91. There may be occasions when a claimant requests an interview. This could be to change their Jobseeker's Agreement or request information about Jobcentre Plus services.

92. Depending on the purpose of the interview a decision must be made whether to make attendance mandatory or not.

93. If it is determined that the interview should be mandatory, it must be booked accordingly and the claimant notified that it is a mandatory interview and that they will be sanctioned if they fail to attend without good reason.

94. If it is determined that the interview does not need to be mandatory a note must be made on LMS to show this when booking the interview. If the claimant subsequently FTA, no FTA action is required.

Availability or Actively Seeking Employment doubt

95. It is not necessary to ask a claimant to prove that they were available and ASE if they sign form ES24. However, if the reason for FTA raises a doubt on the claimants availability or ASE, a referral to the LMDM must be made, unless they can be treated as available and/or ASE.

96. See the Availability and Actively Seeking Employment and the Treated as Available and Actively Seeking Employment chapters of the Labour Market Conditions Guide for further information.

Evidence gathering

97. When taking a statement from the claimant care must be taken not to lead them into answers that would be acceptable reasons for the case to be TaS or the decision maker to allow good reason.

98. Ask the claimant what caused them to be late and tell them to provide as much information as possible. The claimant only has 5 working days from the date they FTA to show they had good reason for their failure.

99. Any evidence the claimant supplies after 5 working days cannot be taken into account.

FTA and credits only claimants

100. Credit regulations do not support the disallowance of credits solely because a claimant failed to attend. Providing a claimant is:

- Available;
- Actively Seeking Employment;
- under the age they can get Pension Credit; **and**
- not in remunerative work or relevant education

they can be awarded a National Insurance credit.

101. A submission to a LMDM for an opinion decision must not be made for 'credits only' claimants who FTA.

102. However, the reasons claimants give for FTA should be checked to identify any availability and/or ASE doubts. Where a doubt exists, an availability and/or ASE referral should be made to the LMDM as appropriate.

Failure to attend and parents

103. If the claimant FTA their Jobsearch Review, and it is identified by using LMS that the claimant is a parent, the Assistant Adviser will make at least one attempt to contact them, by telephone, on the day they FTA.

104. If the claimant responds to the phone call they should be

- reminded that they were due to attend the Jobcentre;
- asked for the reason they did not attend;
- asked if they are able to attend on a future date and
- asked if they wish their claim to continue.

105. If the claimant cannot be contacted by telephone a letter must be sent on the same day, to advise them of the need to make contact within five working days of the day they should have attended, and that their benefit may be affected.

Appendix 1 – AO Decision Making Checklist

As part of the AO decision making process, Adviser Team Managers are required to undertake a quality check of a sample of decisions made by AO Decision Makers. This quality check will provide assurances that:

- the claimants actual date of attendance is within 5 working days of the date they FTA;
- the appropriate information has been correctly captured through DART;
- the correct process has been followed for TaS;
- the claimants JSA claim is 'live in payment';
- the case has been correctly identified as complex or non complex;
- complex cases have been sent to a LMDM for consideration;
- decisions on non complex cases are made and recorded within 24 hours;
- decisions for non complex cases are input into LMS correctly, including the correct AR Code and sanction dates;
- decisions for non complex cases are input into JSAPS correctly;
- basic explanation letters are sent to claimants by an AO Decision Maker following a non complex decision.

Neglect to avail employment

Introduction

1. JSA is not payable if claimants have, without good reason, neglected to avail themselves of a reasonable opportunity of employed earner's employment.
2. A sanction can only be imposed if the claimant is entitled to JSA **and** the vacancy was for a qualifying former employer **and** the claimant does not have good reason for the neglect.

Qualifying former employment

3. Qualifying former employment is:
 - employment with an employer for whom the claimant has previously worked; or
 - where a company has been taken over, the employment is with the employer who has succeeded the original employer; and
 - not more than a year has elapsed between the date the claimant last worked for the employer and the date when the question of neglect arises; and
 - the terms and conditions of the employment offered are not less favourable than those which the claimant had in their previous job with the employer.

Note: The above explanation is for information only. It is up to the LMDM to decide if the job offered was from a former qualifying employer.

Circumstances in which neglect to avail is likely to arise

4. The circumstances in which neglect to avail cases are most likely to occur are where:
 - a claimant behaves in such a way that they lose a reasonable opportunity of employment, for example they act in such a way which offends the employer or deliberately arrives late for the interview;
 - a claimant is temporarily laid off due to shortage of work but fails to return to that job when work becomes available;
 - a claimant fails to exercise their right to return to work, for example:
 - a woman who fails to exercise her right to return after maternity leave;
 - an employer withdraws an offer of employment because of a claimant's behaviour.
5. Most cases will come to light either from a telephone call from an employer or on form ES85.
6. The claimant must always be advised at the time neglect to avail action is taken that their neglect may result in loss of JSA. This ensures that the claimant has full knowledge of the consequences of their actions.
7. Neglect to avail action must still be taken even if the claimant is within their permitted period. However, action is not appropriate when the employment opportunity was vacant owing to a trade dispute.

Failure to return to work following maternity leave

8. With ex-maternity cases, it may be more appropriate to consider leaving voluntarily or both leaving voluntarily and neglect to avail when submitting to the Labour Market Decision Maker (LMDM).

9. The LMDM will decide when the claimant's statutory maternity pay period has ended and the date when the neglect occurred.

Offers of alternative employment when a claimant is made redundant

10. Employers may give employees the option of choosing between redundancy or taking an alternative job. If the claimant declines the offer of alternative employment, and the employer reports this to Jobcentre Plus, neglect to avail action is appropriate.

11. Contact the employer and ask the relevant questions to enable form ES195(NTA) to be completed.

12. If the terms and conditions of the employment offered are less favourable than those which the claimant had in their previous job with the employer, the claimant may have good reason for their neglect. However, if the terms are not less favourable than those which the claimant had in their previous job with the employer, the claimant will have to show good reason in order to avoid being sanctioned for their neglect.

13. Either case **must** be referred to the LMDM.

Claimant's behaviour

14. A sanction may be appropriate if the claimant behaves in such a way that they lose a reasonable opportunity of employment with the qualifying former employer.

15. Examples of such conduct are where a claimant:

- 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 job;
- behaves in such a manner at an interview that the employer decides not to offer them a job;
- delays acceptance of a job until it has been taken by somebody else;
- accepts a job but then fails to start on the agreed day.

16. In such circumstances, the claimant's conduct may amount to neglect to avail. It is possible that a reference to the LMDM on refusal or failure to apply for or accept employment may be more appropriate.

17. However, if there is a doubt about the correct question to be referred, check beforehand with the LMDM.

ES195(NTA)

18. Where a claimant has neglected to avail themselves of a reasonable opportunity notify them of this on Form ES195(NTA).

19. Form ES195(NTA) is a clerical form. The front is completed after obtaining details of the vacancy from the employer; the reverse provides space for the claimant to give reasons for their neglect.

Obtaining information to complete ES195 report form

20. In neglect to avail cases the information required about the vacancy will not be recorded on the Labour Market System (LMS).

21. Contact the employer who made the opportunity known to the claimant and record the following information on the ES195N.

22. The information you require is:

- The name and address of a contact in the company to whom enquiries may be despatched;
- The terms and conditions of the job the claimant had held previously, including: hours, salary, job title and location;
- The terms and conditions of the job offered now, including: hours, salary, job title and location;
- How, if at all, the terms and conditions of the job offered differ from those in the job the claimant held previously;
- The date the claimant last worked for the employer;
- The date that the claimant was made aware of the opportunity;
- The reasons the claimant gave the employer for their neglect;
- Details of any training opportunities the claimant may have undertaken recently.

23. The information entered on the ES195N can be used to populate the ES195(NTA).

24. The ES195N should be retained in the claimant's Labour Market Unit (LMU) pending the return of the ES195(NTA).

Claimant Neglects to Avail

25. If a claimant Neglects to Avail themselves for employment, the case must be referred to a LMDM for a good reason decision.

26. To make a DMA referral take the following action on LMS:

Step	Action
1	Click the [Dec] or [NoDec] button in the Client Details window. Note: If no previous DMA action has been taken, you will automatically get a New Referral/Decision Details window. If one or more is already held, click [New]
2	Click the [Question] hotspot and select 'Avail/RE/ASW' then 'Neg to Avail - Emp' from the drop down menu
3	Record the Source as appropriate
4	Record the Ref to as 'LM DMA Office'
5	Click [Save]

27. In addition to taking the appropriate steps on LMS, action must be taken to prepare the submission before the case can be referred to the LMDM:

Step	Action
1	complete form ES195(NTA) using the information on ES195N;
2	print Referral Notification Letter (ES48S) from LMS;
3	post the ES195(NTA) together with leaflet ESL48JP and the ES48S to the claimant and ask them to provide a statement of the reasons why they neglected to avail themselves of employment
4	on the appropriate LMS 'View referral/decision details' screen, record the date of issue of the ES195(NTA) in the Notes and initial and date the entry.
5	where the ES195(NTA) is not returned immediately, input a workflow on LMS for 7 days from the date of issue;
6	advise the claimant that the case will be referred to the LMDM, either on the day they return form ES195(NTA) or in 7 calendar days, whichever is earlier.

Action on return of ES195(NTA)

28. Claimants are allowed, by law, one week to return form ES195(NTA). On its return take the following action:

Step	Action
1	select the appropriate DMA screen on LMS and record receipt of ES195(NTA) in the notes area;
2	ensure all relevant information is gathered for the submission;
3	Send the submission to the LMDM to enable them to make a good reason decision

Action when ES195(NTA) is not returned within one week of issue

29. If the claimant has not returned form ES195(NTA) after one week take the following action:

Step	Action
1	select the appropriate DMA screen on LMS and in LMS notes screen enter [ES195(NTA) Not Returned];
2	ensure all relevant information is gathered for the submission;
3	Send the submission to the LMDM to enable them to make a good reason decision

30. If the claimant has not returned the ES195(NTA) within 7 days but they are no longer claiming JSA, reference to the LMDM is not appropriate at that stage. Note the LMU and LMS Conversations that DMA action remains outstanding if the claimant subsequently reclaims.

31. The case must be referred to the LMDM if the claimant reclaims within 26 weeks of the last day paid

32. In such cases, you will need to let the LMDM know why there was a delay in submission and the reason why the claim was terminated initially.

Submission action

33. Prior to submitting the case to the Labour Market Decision Maker (LMDM), it should be established using JSAPS dialogue JA504: General Enquiry whether or not the claimant is claiming credits only.

Credits only claimants

34. A submission to the LMDM for an opinion decision must not be made for 'credits only' claimants who NTA. However, Jobcentres should check the reasons claimants give for NTA to identify any availability and/or ASE doubts. Where a doubt exists, an availability and/or ASE referral should be made to the LMDM as appropriate.

35. The following action is required on LMS:

Step	Action
1	on the LMS 'View referral/decision details' screen amend the 'Ref To' field for the appropriate NTA doubt to [N/A – Lifted]
2	in the 'Notes' field enter the reason why the doubt has been lifted as Credits only claim.

JSA Claimants

36. If a claimant in receipt of JSA neglected to avail themselves of a reasonable opportunity of employment, the case must be referred to a LMDM for a good reason decision.

37. Access LMS and check the 'View Referral / Decision Details' screen.

38. The following steps must be taken before making the submission:

- Ensure all relevant information is gathered for the submission; and
- Prepare the Sector Referral Form on LMS and add any additional clerical entries where appropriate; and
- Enter the claimant's details on an ES66

39. Send the submission to the LMDM to enable them to make a good reason decision. See the DMA Referrals Guide chapter for further information on what must be included in the submission.

Decision made by the Labour Market Decision Maker

40. The details of the decision will be automatically entered into the LMS 'Referral/Decision Details' screen once the LMDM has input their decision into DMAS.

41. The LMDM will email their decision notification to JSA Maintenance team from DMAS for action; therefore no further action is required in the Jobcentre.

Note: If copies of the decision notification and/or case papers are received at the Jobcentre these should be retained for monitoring purposes.

42. If a claimant neglects to avail themselves of employment prior to 22 October 2012, they will receive a variable sanction of between 1 and 26 weeks regardless of when the LMDM determines that a sanction is applicable.

43. However, if a claimant neglects to avail on or after 22 October they will receive a higher level sanction of 13 weeks, 26 weeks or 156 weeks. Further information around the new sanctions regime is available within the Sanctions and DMA Guidance.

Hardship

44. When a claimant has been sanctioned for neglect to avail, JSA will not be payable under the normal rules for the period of the sanction. In these circumstances, the claimant may wish to apply for a hardship payment.

Reserved Decisions

45. A Decision Maker may decide to reserve a decision. This will normally be when a sanction is appropriate, but cannot be imposed because the claimant is no longer claiming JSA.

46. In these cases the LMDM will send a DMAS produced notification to the Jobcentre advising them of this, and at the same time LMS will be automatically updated with this decision.

47. There is no input to JSAPS for reserved decisions.

48. The case must be re-referred to the LMDM, as a new referral on LMS, if the claimant reclaims within a timescale:

- as specified by the LMDM in their reserved decision; or
- equal to the maximum sanction period applicable for the case.

49. If a case is re-submitted and the claim was originally a joint claim for JSA, it is important to ensure that the details held on LMS are up to date. It should be established whether the claimant is still part of a joint claim and if so, full details of the other member at the time that the decision was made, must be indicated in the referral.

Additional Information

NTA and credits only claimants

50. Credit regulations do not support the disallowance of credits solely because a claimant neglected to avail themselves of a reasonable opportunity of employed earner's employment. Providing a claimant is:

- Available;
- Actively Seeking Employment;
- under the age they can get Pension Credit; **and**
- not in remunerative work or relevant education

they can be awarded a National Insurance credit.

51. Therefore, a submission to the LMDM for an opinion decision must not be made for 'credits only' claimants who NTA.

52. However, Jobcentres should check the reasons claimants give for NTA to identify any availability and/or ASE doubts. Where a doubt exists, an availability and/or ASE referral should be made to the LMDM as appropriate.

Joint Claims

53. In a joint claim both claimant's are subject to the same JSA entitlement conditions, unless they fall within one of the exempt categories.

54. One or both claimants in a joint claim can be sanctioned for Neglect to Avail, take the same action for one or both claimants, as appropriate.

Redundancy situations

Introduction

1. The term redundant includes an agreement between employers and employees to reduce the workforce.
2. The following paragraphs set out:
 - the arrangements that must be followed where possible; and
 - the basic information that must be obtained from the employer when offices become aware of a redundancy situation existing in a business in their locality.
3. If the number of redundant employees is likely to cause difficulties for a Jobcentre, or the employer asks, special arrangements can be made either locally or regionally to deal with the redundancies.
4. Jobcentre Plus must always offer advice and guidance to employers who are involved in reducing their workforce, and the employer's wishes must be met as far as is practicable.

Awareness of a redundancy situation and liaison

5. Offices usually become aware of a redundancy when:
 - an announcement is made in the national or local press, or as a news item on television;
 - an employer notifies a Jobcentre that a redundancy situation is pending;
 - a claimant indicates on when claiming Jobseeker's Allowance (JSA) that their job ended because of redundancy.
6. Once a Jobcentre knows about a redundancy situation they must pass the information to other offices in their district that may be affected.
7. Arrange for the employer to be contacted to establish:
 - the extent of the workforce reduction, if this has not already been done; and
 - which of the employer's establishments will be handling the redundancies.
8. If the employer's establishment handling the redundancies is in the same district, then the Jobcentre that identifies the redundancy situation will become the parent office and will arrange to obtain all the necessary information.
9. If the employer's establishment handling the redundancies is in another Jobcentre Plus district, that district will identify which office will become the parent office
10. If the redundancies are imminent, the parent region may need to provide other affected regions with full written details.

Essential Information

11. In order for JSA claims to be dealt with promptly and consistently, the following information must be obtained from the employer as quickly as possible:
 - Full name of employer;
 - address and telephone number;

- a named contact and telephone extension;
- Extent of employer's business, for example, national, regional, area or local;
- Is there a need to reduce the total workforce?
- How many employees are to be made redundant;
- Will employees be asked to volunteer for redundancy?
- Will there be any compulsory redundancies?
- What date the redundancies will become effective;
- start and end date of any consultation period;
- Will the redundant employees receive notice? If so, on what date will it be received and for what period?
- will the period and date of notice apply:
 - individually; or
 - across the whole of the redundant workforce?
- If a common date of notice is applicable, how much notice will apply under the redundancy arrangements?
- Has a statutory redundancy payment been paid?
- What are the terms and conditions of the redundancy scheme?

12. In the case of large scale redundancies, copies of relevant correspondence and examples of letters must be sent to the Rapid Response team on an information only basis. This will keep them informed of progress, and enable them to advise any Jobcentre that may contact them.

Gathering evidence

13. When large numbers are made redundant the employer may not have sufficient time available to arrange for the completion of form ES85 (the usual way to obtain information) for each individual claimant.

14. In such cases, agreement may be reached with an employer to use an alternative method to provide the required information, such as a termination letter or a redundancy list.

Termination letter

15. In some cases agreement may be reached with an employer to issue each employee with a termination letter. This replaces the need for form ES85. This arrangement can be agreed locally between the Jobcentre and the Labour Market Decision Maker (LMDM) if referral is necessary.

16. Advise the employer that ex-employees must hand in their termination letter when they first attend the Jobcentre.

17. In some cases there may be a complete close down of the employer's business so that there is no contact point for the issue of form ES85. Issuing a termination letter in these circumstances will benefit both the ex-employees and the Jobcentre.

Termination letter produced

18. When a termination letter is produced by the claimant ensure that all relevant information is held, if so, issue of form ES85 will not be necessary.

19. Photocopy the letter and keep it for at least the same period as form ES85.
20. If the claim is referred for DMA action the original termination letter must be attached to the case papers.

Termination letter not produced

21. If the claimant does not produce a termination letter ask if they have received one. If so, ask them to bring or send it in urgently. Explain that without a termination letter payment of JSA may be delayed.
22. If they have not received a termination letter, form ES85 must be issued with a covering note saying 'no termination letter/statement was produced.'

Lists of Redundant Employees

23. The employer may prefer to provide a list of redundant employees, showing details for each individual. Whilst a list can be accepted, it has the following disadvantages:

- it is not an easy way of circulating information over several regions or nationally;
- it would have to be copied for each Jobcentre; and
- there could be delays if a person claimed at a Jobcentre where the redundancy situation was not known

Voluntary Redundancy

24. When it is clear from the information provided by the employer or in a termination letter that there was a need to reduce the workforce, any claimant who has volunteered to accept redundancy will not be treated as having left voluntarily.
25. The information must include the employer's need to reduce the workforce and the agreed date for the end of employment.
26. If this information is not given but a Statutory Redundancy payment has been made, this is a clear indication that there was a redundancy situation.
27. These cases no longer need to be referred to the LMDM for a determination on leaving voluntarily.

Civil Service Early Retirement and Severance Schemes

28. There are 5 categories under which staff can retire or be retired early. These are:
- Compulsory Early Retirement or Severance (CER/CES);
 - Flexible Early Retirement or Severance (FER/FES);
 - Retirement on Medical Grounds;
 - Approved Early Retirement (AER) schemes A and B; and
 - Actuarially Reduced Early Retirement (ARER).
29. The term Early Retirement applies to people aged 50 or over and Early Severance applies to people aged under 50.

Voluntary Severance

30. Where the schemes are operated to achieve a reduction in the workforce, or used as a pre-redundancy measure, where management calls for volunteers to avoid a declaration of redundancy, claimants who leave under the terms of the following schemes will not be subject to a sanction;

- CER;
- CES;
- FER;
- FES; and
- AER scheme A.

31. There may be a labour market doubt, such as leaving voluntarily, on the claims of people who leave under the following schemes:

- AER scheme B; and
- ARER.

32. There is a mutually agreed period of notice for those leaving under the above schemes and, provided claimants are employed to the agreed date, claims will not be affected by compensation payments.

33. If there has been liaison with the Personnel Manager of a Government Department or Agency, there will usually be an agreed termination letter or statement which claimants will be asked to present when making their claims.

Compulsory Severance

34. Compulsory severance will apply where management has declared a redundancy situation. Normally the terms of the CER or CES schemes will apply.

35. In a compulsory severance situation, people are entitled to receive 6 months notice of termination of employment, except for certain staff over the age of 60 who have:

- less than 10 years service where 12 months notice is due; and
- between 10 and 25 years service where 9 months notice is due.

36. Any period of notice must not extend beyond the 65th birthday.

37. Where the minimum period of notice is not given, people will be paid compensation in lieu of the unexpired period of notice. Refer these cases to the benefit processing section for consideration of DMA action.

38. Payment of compensation does not apply if a sanction is imposed where:

- the person leaves voluntarily with the agreement of the department before the end of the period of notice; or
- the person is dismissed for disciplinary reasons

Appendix 1 - Termination Letter

Name of employee Type of work

National Insurance number

Place of employment

Period of employment from to

1 The above employee was dismissed as redundant (within the meaning of Section 81(2) of the Employment Protection (Consolidation) Act), under the company's redundancy/early retirement/severance scheme.

2 Payment because of employment ending was/will be paid on

The total payment before deductions was/will be £

redundancy pay under the Employment Protection (Consolidation) Act 1978 £

refund of contributions from an occupational pension £

any normal earnings fordays/weeks/months £

Subtotal £

3 Notice of.....weeks/months was due. This is the longer of contractual or statutory notice

4 Formal notice of the date on which employment would end was received by the employee on

5 The last working day was

6 The full period of notice was/was not worked.

This statement is provided for use in place of form ES85

In case of any query please contact

Telephone number

Signed Date

Name Position in Company

Data Protection Act. The information provided will be put on computer. It will only be used to help a decision to be made about the person's entitlement to receive benefit.

Appendix 2 – Welsh Termination Letter

Enw'r Gweithiwr Math o waith

Rhif Yswiriant Gwladol

Man gwaith

Cyfnod yn gyflogedig o tan

1 Cafodd y gweithiwr uchod ei (d)diswyddo (yn unol ag ystyr Adran 81(2) y Ddeddf Amddiffyn Gweithwyr (Atgyfnerthiad)), o dan gynllun diswyddo/ymddeoliad cynnar/tâl diswyddo'r cwmni

2 Talwyd/telir y taliad a roddwyd/roddir am fod y swydd wedi dod i ben ar

Cyfanswm y tâl heb gynnwys tyniannau oedd/fydd £

tâl diswyddo o dan y Ddeddf Amddiffyn Gweithwyr (Atgyfnerthiad) 1978 £

ad-daliad o gyfraniadau cynllun pensiwn galwedigaethol £

unrhyw enillion arferol am diwrnod/wythnos/mis £

Isgyfanswm £

3 Roedd rhybudd o wythnos/mis yn ddyledus. Y rhybudd contract neu statudol, pa un bynnag sydd fwyaf

4 Hysbyswyd y gweithiwr yn ffurfiol o'r dyddiad y deuai ei swydd i ben ar

5 Y dyddiad gweithio olaf oedd

6 Ni wnaeth/Fe wnaeth y gweithiwr weithio'r cyfnod rhybudd yn llawn.

Darparwyd y wybodaeth yma yn lle ffurflen ES85

Os bydd unrhyw ymholiad, cysylltwch â

Rhif ffôn

Llofnod Dyddiad

Enw Swydd yn y Cwmni

Deddf Diogelu Data. Bydd y wybodaeth a ddarperir yn cael ei rhoi ar gyfrifiadur. Bydd yn cael ei defnyddio'n unig i'n helpu i benderfynu a oes gan y person hawl i dderbyn budd-dâl.

Sanctions and DMA Guidance

Guidance Queries and Help

1. If you are unable to find an answer to a particular question regarding policy within this guide you must contact the Jobcentre Plus Live Support Advice Line. Do not give the Advice Line number to claimants or outside bodies under any circumstances, it is for the use of Jobcentre Plus staff only. Details of how to contact them can be found by clicking on the following hyperlink, Advice Line Home Page.
2. Please do not use the 'E-mail page owner' and 'Page information' links at the bottom of each page of guidance to raise policy queries. These should only be used to report broken hyperlinks.

Background

3. The Jobseeker's Allowance (Sanctions) (Amendment) Regulations 2012 introduce a revised sanctions regime for all Jobseeker's Allowance (JSA) claimants aged 18 and over.
4. This revised sanctions regime is intended to strengthen the link between receipt of benefits and the requirement for people to fulfil all of their responsibilities as a claimant. In addition, the new sanctions regime will help prepare claimants for the introduction of Universal Credit.
5. The new regime should directly deter people from failing to meet their obligations as a benefit claimant as the threat of longer, escalating sanctions should encourage them to do all they can to comply. However, this will only work if staff fully understand and can explain in detail the new sanctions regime and the effects of non compliance.

Summary of the changes

6. The revised JSA sanctions regime will come into effect from 22 October 2012, and will introduce 3 levels of sanctions:
 - Higher level – Higher level failures will lead to claimants being sanctioned for a period of 13 weeks, 26 weeks or 156 weeks.
 - Intermediate level – Intermediate level failures will lead to a claimants' award ending followed by a sanction. In total claimants will lose benefit for a period of 4 weeks or 13 weeks.
 - Lower level – Lower level failures will lead to claimants being sanctioned for a period of 4 weeks or 13 weeks.

Note: The length of the sanction imposed will depend on whether the claimant has already been sanctioned for a doubt of the same level, and if so, the number of times.

7. The new sanctions will apply to failures committed on or after 22 October 2012. If a claimant committed a failure before 22 October (regardless of when the Labour Market Decision Maker makes their determination) this will be dealt with under the old (pre 22 October) rules.
8. From 22 October 2012, claimants no longer have to show they had good cause or just cause for their failure to avoid a sanction; instead, claimants have to show that they had good reason. Good reason is not defined in legislation, however Decision Makers (DMs) should take into account all of

the claimant's circumstances and their reasons when determining whether or not a sanction is applicable.

9. The revised sanctions regime will also introduce changes to the start date of a sanction. Sanctions have previously been applied from the start of the next benefit week after the DM made their determination. However, to ensure that claimants see the consequences of their actions/inactions sooner, the revised sanctions legislation will enable DMs to impose sanctions closer to the date of failure.

Higher level sanctions

When will a higher level sanction be applied?

10. Higher level sanctions will be applied where a claimant:

- loses employment through misconduct;
- leaves a job voluntarily without good reason;
- refuses or fails to apply for a job or refuses to accept a job if offered without good reason;
- neglects to avail themselves of a reasonable opportunity of employment without good reason; or
- fails to participate in the Mandatory Work Activity (MWA) scheme without good reason.

Sanction period

11. Subject to certain exceptions, the higher level sanctions period will be:

- 13 weeks for a first higher level failure;
- 26 weeks for a second higher level failure committed within 52 weeks of a previous higher level failure; **or**
- 156 weeks for a third or subsequent higher level failure where the claimant has committed two or more previous higher level failures the most recent of which occurred within 52 weeks of the date of the claimant's current higher level failure.

Note: it is the date of the claimant's failure/transgression that is used to determine the length of the sanction applicable.

12. However, to ensure that claimants do not accumulate lengthy sanctions for failures that occur within a short space of time, where a claimant commits multiple higher level failures, the period of the sanction will not escalate for failures that occur within the same two week period.

Note: The two week period relates to calendar weeks rather than benefit weeks, therefore the failures could occur within separate signing periods.

Example 1

- Alan is a JSA claimant, and refuses to apply for a notified vacancy on 30 November 2012. This is Alan's first high level sanction therefore the failure attracts a 13 week sanction.
- On 30 December 2012, Alan fails to participate in the MWA scheme. This is Alan's second high level sanction within 52 weeks of a previous high level sanction, therefore the failure attracts a 26 week sanction.

Example 2

- Mark is a JSA claimant, and refuses to apply for a notified vacancy on 30 November 2012. This is Mark's first high level sanction therefore the failure attracts a 13 week sanction.
- On 5 December 2012, Mark fails to participate in the MWA scheme. This is Mark's second high level sanction, however as these failures occurred within the same two week period, this failure attracts a 13 week sanction.

Exceptions

13. There are several exceptions to the higher level sanction period for claimants who commit a failure prior to claiming JSA (known as 'pre-claim failures') such as:

- losing employment due to misconduct,
- leaving employment voluntarily, or
- neglecting to avail themselves of a reasonable opportunity of employment.

14. If a claimant commits a pre-claim failure, that failure will be disregarded by a DM when determining the applicable sanction period for a subsequent higher level sanction.

Note: Even though pre-claim failures are disregarded when determining the sanction length for a subsequent higher level failure, the length of the sanction imposed when a claimant commits a pre-claim failure will be affected by any previous higher level sanctions the claimant has had imposed.

Example 3

- On 16/11/12 Paula is sacked from her job. She claims JSA on 28/11/12.
- The DM determines that Paula lost her job due to misconduct and imposes a higher level sanction
- The DM imposes a 13 week sanction for a first failure (Misconduct).
- On 4/9/13 Paula refuses employment.
- The DM determines that Paula did not have good reason for the failure so imposes a higher level sanction. The second higher level failure is within 52 weeks of the first failure, however as the first failure occurred before Paula made a claim to JSA (i.e. it is a pre-claim failure) it is not counted when determining the sanction period for the second failure.
- The DM imposes a 13 week sanction for the second failure (RE).

Example 4

- On 16/11/12 Carl refuses employment.
- The DM determines that Carl did not have good reason for the failure so imposes a higher level sanction.
- The DM imposes a 13 week sanction for a first failure (RE).
- On 28/3/13 Carl terminates his JSA claim as he has found Work.
- On 14/6/13 Carl is sacked from his job. He claims JSA on 17/6/13.
- The DM determines that Carl lost his job due to misconduct and imposes a higher level sanction
- Even though the second failure is a pre-claim failure it is within 52 weeks of a previous higher level failure.
- The DM imposes a 26 week sanction for a second failure (Misconduct).

15. If a claimant commits a pre-claim failure, the applicable sanction period will be reduced by the period between the date of the claimant's failure and the date they claimed JSA. For example, if a claimant voluntarily left employment without good reason, and this was their first higher level sanction, they would normally receive a 13 week sanction, however if that claimant delayed their claim to JSA for 4 weeks, the applicable sanction period would be 9 weeks (ie the 13 week sanction period less the 4 weeks that the claimant delayed their claim).
16. Where a claimant leaves temporary employment voluntarily or through misconduct, the applicable sanction period will be affected by the length of time the claimant had remaining in that temporary employment. The maximum sanction period applicable will equal the period between the date of the failure and the end date of the period of employment. For example, if the employment was due to end 10 weeks after the person left that employment the maximum sanction which could be imposed would be for 10 weeks.
17. In addition to the exceptions for pre-claim failures, if a claimant leaves JSA during the period of a high level sanction and then reclaims after being in employment for 26 weeks or more, any outstanding balance remaining of the original sanction period should **not** be applied to the new claim. In this case, employment includes both employed earners employment and self employment which, because of the weekly hours involved or the level of remuneration, would make the claimant ineligible for any employment related benefits (such as Income Support, JSA, or ESA).

Note: the 26 weeks of work do not need to be continuous but can comprise of several shorter periods, However in all cases, only employment since the date of the most recent sanctionable failure counts towards the 26 weeks period.

When will the higher level sanction period begin?

18. The revised sanctions regime will introduce changes to the start date of a sanction to ensure that claimants see the consequences of their failures sooner.
19. The start date for a higher level sanction will be affected by whether or not, at the time that the DM makes their determination, the claimant had been paid JSA for the benefit week in which the failure occurred. Consequently, the sanction period will begin:
- On the first day of the benefit week in which the failure occurred if the claimant has **not** been paid JSA for that week; **or**
 - On the first day of the benefit week following the date to which the claimant was last paid JSA.

Misconduct

20. The revised sanction regime will affect the sanction a claimant will receive for losing employment through misconduct.
21. If a claimant loses employment through misconduct prior to 22 October 2012 (regardless of when the Labour Market Decision Maker makes their determination), they will receive a variable sanction of between 1 and 26 weeks depending upon their circumstances.

22. If a claimant loses employment through misconduct on or after 22 October, they will receive a higher level sanction of 13 weeks, 26 weeks or 156 weeks (subject to the various exceptions for pre-claim failures).
23. Despite the change to the sanctions regime, the operational processes that must be followed when a claimant loses employment through misconduct are unchanged. See the End of Employment chapter for further information on the actions to take.

Leaving Voluntarily

24. The revised sanction regime will affect the sanction a claimant will receive for leaving employment voluntarily.
25. If a claimant leaves employment voluntarily prior to 22 October 2012 (regardless of when the Labour Market Decision Maker makes their determination), they will receive a variable sanction of between 1 and 26 weeks depending upon their circumstances.
26. If a claimant leaves voluntarily without good reason on or after 22 October, they will receive a higher level sanction of 13 weeks, 26 weeks or 156 weeks (subject to the various exceptions).
27. Despite the change to the sanctions regime, the operational processes that must be followed when a claimant leaves employment voluntarily are unchanged. See the End of Employment chapter for further information on the actions to take.

Refusal of Employment

28. The revised sanction regime will affect the sanction a claimant will receive for refusing or failing to apply for a job or refusing to accept a job when offered.
29. If a claimant refuses employment prior to 22 October 2012, (regardless of when the Labour Market Decision Maker makes their determination) they will receive a variable sanction of between 1 and 26 weeks depending upon their circumstances.
30. If a claimant refuses employment without good reason on or after 22 October, they will receive a higher level sanction of 13 weeks, 26 weeks or 156 weeks.
31. Despite the change to the sanctions regime, the operational processes that must be followed when a claimant refuses employment are unchanged. See the Refusal and failure to apply for or accept employment chapter for further information on the actions to take.

Neglect to Avail

32. The revised sanction regime will affect the sanction a claimant will receive for neglecting to avail themselves of a reasonable opportunity of employment.
33. If a claimant neglects to avail themselves prior to 22 October 2012 (regardless of when the Labour Market Decision Maker makes their determination), they will receive a variable sanction of between 1 and 26 weeks.
34. If a claimant neglects to avail themselves without good reason on or after 22 October, they will receive a higher level sanction of 13 weeks, 26 weeks or 156 weeks.

35. Despite the change to the sanctions regime, the operational processes that must be followed when a claimant neglects to avail themselves are unchanged. See the Neglect to avail employment chapter for further information on the actions to take.

Mandatory Work Activity

36. The revised sanction regime will affect the sanction a claimant will receive for failing to participate in the Mandatory Work Activity Scheme.
37. If a claimant fails to participate in MWA prior to 22 October 2012 (regardless of when the Labour Market Decision Maker makes their determination), they will receive a fixed sanction of 13 or 26 weeks depending upon the number of occasions they have been sanctioned for failing to participate in MWA.
38. If a claimant fails to participate in MWA on or after 22 October, they will receive a higher level sanction of 13 weeks, 26 weeks or 156 weeks. The length of the sanction imposed will depend on whether the claimant has already been sanctioned for a higher level doubt, and if so, the number of times.
39. Despite the change to the sanctions regime, the operational processes that must be followed when a claimant fails to participate in MWA are unchanged. DMA referrals will continue to be made directly by the MWA provider to the LMDMA team. See the Mandatory Work Activity Procedural Guidance for further information on the actions to take.

Intermediate level sanctions

When will an intermediate level sanction be applied?

40. Where a DM determines that a claimant was not available and/or actively seeking employment (ASE), their claim to JSA will be disallowed.
41. An additional sanction (an intermediate level sanction) can be imposed on those claimants who have their JSA award disallowed for not being available for or actively seeking employment.
42. Following a disallowance decision, most claimants have to reclaim JSA in order to re-establish their benefit entitlement. However in a small number of cases this is not applicable.
43. If a claimant's benefit was suspended because of an availability/ASE doubt and they re-comply before the suspension ends, the regulations allow the claimant's JSA entitlement to resume without them having to reclaim benefit. This will occur where the claimant attends fortnightly and the availability/ASE doubt relates to the first week of the fortnight but not the second. For example:

Example 5

- George attends for his regular 'fortnightly' Jobsearch Review on 17 April 2013. Although he has met the ASE requirement for the week 11 to 17 April, there is a doubt for the period 4 to 10 April. Therefore, George's payment of JSA is suspended whilst the doubt is investigated.
- The LMDM decides that George did not actively seek employment for the week 4 to 10 April and nor could he be treated as actively seeking

- employment. Therefore, George's entitlement to JSA ends for that week.
- As the second week of the fortnight was not in doubt, George has re-complied with the JSA conditions of entitlement before the DMs decision was made, therefore George is not required to reclaim JSA in order to re-establish his benefit entitlement.
44. Regardless of whether or not a claimant has to actually reclaim JSA, an intermediate level sanction should be applied if appropriate.

Sanction period

45. Subject to certain exceptions, the maximum sanction period for an intermediate level failure will be:
- 4 weeks for a first intermediate failure; **or**
 - 13 weeks for a second or subsequent intermediate level failure where the claimant has committed one or more previous intermediate level failures within 52 weeks of the date of the claimant's current intermediate level failure.
- Note:** it is the date of the claimant's failure/transgression that is used to determine the length of the sanction applicable.
46. However, to ensure that claimants do not accumulate lengthy sanctions for failures that occur within a short space of time, where a claimant commits multiple intermediate level failures, the period of the sanction will not escalate for failures that occur within the same two week period.
- Note:** The two week period relates to calendar weeks rather than benefit weeks, therefore the failures could occur within separate signing periods.
47. When determining the actual length of the sanction applicable for an intermediate level failure, the maximum sanction period (either 4 or 13 weeks) will be reduced by the length of time between the disallowance and the date that the claimant reclaims JSA.

Exceptions

48. For intermediate level failures there are times when it would be unfair to further penalise the claimant following the disallowance. Therefore a DM has some flexibility to decide that a sanction is not appropriate even though a claimant has had their JSA award terminated for not being available and/or ASE.
49. For example, if a claimant has previously been treated as available/ASE due to undertaking an employment related course, they could not be treated as available/ASE again if they undertook another course within a 12 month period. Whilst the claimant would have their benefit disallowed if they undertook an additional course, it would be unreasonable to further penalise them for taking steps to move themselves closer to the labour market. Therefore the DM can decide not to impose a sanction.
50. If a DM decides that a sanction is not applicable for an intermediate level failure, that failure will be disregarded by a DM when determining the applicable sanction period for a subsequent intermediate level sanction.

When will the intermediate level sanction period begin?

51. The sanction period for an intermediate level sanction will begin on the date that the claimant reclaims JSA after having their benefit disallowed for not being available for or actively seeking employment.

Example 6

- Mary has reclaimed JSA on 29 November 2012 following a disallowance on the grounds that she was not ASE and could not be treated as such.
- The DM determined that Mary did not ASE for the benefit weeks commencing 15 November and 22 November, therefore Mary was disallowed from 15 November to 28 November 2012. Mary was last paid JSA for the benefit week ending 14 November.
- As this is her first such disallowance, the DM determined that a four week reduction would apply in Mary's case. However the four week reduction is reduced by 14 days (the period from 15/11 to 28/11). This means that Mary's JSA will be reduced for 14 days.
- The 14 day reduction will commence on 29 November, the date that she reclaimed JSA.

Work Programme participants

52. Work Programme participants who receive an intermediate level disallowance and who renew their claim **must in all cases** be re-issued with a WP05 to re-refer them to the WP. The issue of the WP05 **must** be recorded in LMS.

Available for or actively seeking employment

53. The revised sanction regime affected the penalty that a claimant received for not complying with the availability or ASE conditions.

54 If a DM determines that a claimant was not available or ASE prior to 22 October 2012, their claim to JSA will be disallowed.

55 If a DM determines that a claimant was not available or ASE on or after 22 October, they will receive a disallowance and an additional intermediate level sanction (subject to the various exceptions).

56 As a direct result of the new sanctions regime, the operational processes that must be followed when an availability/ASE doubt is identified have changed.

57 Where an availability/ASE doubt is identified the claimants JSA claim must be suspended and a referral made to a DM for consideration.

58 If the DM subsequently determines that the claimant was not available and/or ASE, their claim to JSA will be disallowed.

59 Following a disallowance decision, claimants have to re-engage with Jobcentre Plus in order to re-establish their benefit entitlement. Most claimants will have to reclaim JSA, by completing a clerical JSA1(ILS), to re-engage, however in the small number of cases where the claimant is not required to reclaim JSA, they can re-engage by attending their next scheduled interview/intervention.

60 When a DM determines that a claimants' benefit should be disallowed, they will also make a recommendation as to whether or not a sanction should

be imposed. From 13 May 2013, the recommended sanction can be applied to the claimant's JSA claim when they re-engage without a separate sanction referral being made.

61 See the Availability and Actively Seeking Employment chapter of the Labour Market Conditions Guide for further information.

Availability/ASE doubts raised by Work Programme Providers

62 Work Programme Providers raise entitlement queries with the Jobcentre (JC) using form WP10. Subsequently, at their next jobsearch review the claimants continuing entitlement to JSA is reviewed and if appropriate a referral made to a DM for consideration of availability/ASE. This process will continue despite the changes to the sanctions regime, however from 22 October 2012 extra actions must be undertaken if the DM decides that an intermediate level sanction is applicable.

63 If the DM decides that a sanction is applicable for an intermediate level failure for a claimant on the Work Programme, form WP10a must be used to notify the Work Programme Provider of the sanction decision. Advisers will be required to check the LMS decision history for all applicable claimants regularly, so that the provider is notified of the sanction decision as soon as possible.

New JSAPS Codes for actively seeking/availability doubts

64 There are three new codes that can be used to input suspensions into JSAPS:

- CSN001 – for all Availability doubts
- CSN013 – for all 'regarded as....' doubts
- CSN015 – for all Actively seeking doubts

Lower level sanctions

When will a lower level sanction be applied?

65 Lower level sanctions will be applied where a claimant:

- fails to attend an interview without good reason;
- fails to participate in a Scheme for Assisting Persons to Obtain Employment without good reason;
- refuses or fails to carry out a jobseeker's direction without good reason;
- voluntarily leaves a place on a training scheme or employment programme without good reason;
- neglects to avail themselves of a reasonable opportunity of a place on a training scheme or employment programme without good reason;
- Refuses, fails to attend or loses through misconduct a place on a training scheme or employment programme without good reason;

Sanction period

66. The lower level sanction period will be:

- 4 weeks for a first lower level failure; **or**
- 13 weeks for a second or subsequent lower level failure where the claimant has committed one or more previous lower level failures the most recent of which occurred within 52 weeks of the date of the claimant's current lower level failure.

Note: it is the date of the claimant's failure/transgression that is used to determine the length of the sanction applicable.

67. However, to ensure that claimants do not accumulate lengthy sanctions for failures that occur within a short space of time, where a claimant commits multiple lower level failures, the period of the sanction will not escalate for failures that occur within the same two week period.

Note: The two week period relates to calendar weeks rather than benefit weeks, therefore the failures could occur within separate signing periods.

Example 7

- Daniel is a JSA claimant, and fails to attend an interview on 30 November 2012. This is Daniel's first lower level sanction therefore the failure attracts a 4 week sanction.
- On 30 January 2013, Daniel fails to comply with a Jobseeker's Direction. This is Daniel's second lower level sanction within 52 weeks of a previous lower level sanction; therefore the failure attracts a 13 week sanction.

Example 8

- Mohammed is a JSA claimant, and fails to attend an interview on 30 November 2012. This is Mohammed's first lower level sanction therefore the failure attracts a 4 week sanction.
- On 03 December 2012, Mohammed fails to comply with a Jobseeker's Direction. This is Mohammed's second lower level sanction, however as these failures occurred within the same two week period, this failure also attracts a 4 week sanction

68. A lower level sanction will not be applied to any failure that can also be sanctionable at the higher level. For example, a claimant can be issued with a Jobseeker's Direction to apply for a specific vacancy. If they subsequently fail to apply for the vacancy the claimant will have committed a lower level failure (ie failing to comply with a jobseekers direction) and a higher level failure (ie refusing employment), in these cases the higher level failure will take precedence.

When will the lower level sanction period begin?

69. The revised sanctions regime will introduce changes to the start date of a sanction to ensure that claimants see the consequences of their failures sooner.

70. The start date for a lower level sanction will be affected by whether or not, at the time that the DM makes their determination, the claimant had been paid JSA for the benefit week in which the failure occurred. Consequently, the sanction period will begin:

- On the first day of the benefit week in which the failure occurred if the claimant has **not** been paid JSA for that week; **or**
- On the first day of the benefit week following the date to which the claimant was last paid JSA.

Failing to attend/Fail to participate in an interview

71. The revised sanction regime will affect the sanction a claimant will receive for failing to attend (FTA) an interview. In addition, under the new regime,

claimants will be required to participate in an interview rather than just attend one. Consequently sanctions will be applicable for those claimants who fail to participate in an interview.

- 72. If a claimant fails to attend an interview prior to 22 October 2012 (regardless of when the Labour Market Decision Maker makes their determination), they will receive a fixed sanction of 1 or 2 weeks.
- 73. If a claimant fails to participate in an interview without good reason on or after 22 October, they will receive a lower level sanction of 4 or 13 weeks.
- 74. Despite the change to the sanctions regime, the operational processes that must be followed when a claimant FTA are unchanged. See the Failure to Attend Interviews and Jobsearch Reviews chapter for further information on the actions to take.

Scheme for Assisting Persons to Obtain Employment failures

- 75. The revised sanction regime will affect the sanction a claimant will receive for failing to participate in a Scheme for Assisting Persons to Obtain Employment (SAPOE), i.e. Work Programme, Skills Conditionality etc.
- 76. If a claimant fails to participate in a SAPOE scheme prior to 22 October 2012 (regardless of when the Labour Market Decision Maker makes their determination), they will receive a fixed sanction of 2, 4, or 26 weeks depending upon the number of occasions they have previously been sanctioned for failing to participate in a SAPOE scheme.
- 77. If a claimant fails to participate in SAPOE scheme on or after 22 October, they will receive a lower level sanction of 4 or 13 weeks. The length of the sanction imposed will depend on whether the claimant has already been sanctioned for a lower level doubt, and if so, the number of times.

Impact upon operational processes

- 78. The changes being introduced as part of the new sanctions regime will have an impact upon the operational processes followed when a claimant fails to participate in the SAPOE scheme.
- 79. Prior to 22 October 2012, a claimant can have a 26 week sanction lifted (after they have served at least 4 weeks of that sanction) if they re-comply, however this will no longer apply from 22 October. From this date, once a sanction is imposed on a claimant for failing to participate in the SAPOE scheme, it will continue to run regardless of whether or not the claimant recomplies. Consequently, providers will no longer use form WP09 to notify recompliance.
- 80. To ensure that claimants are not adversely impacted by this, access to JSA hardship will be extended to include all claimants who are participating on an SAPOE scheme. Further information on JSA Hardship is available within the JSA Hardship Awards chapter of the JSA Procedural Guidance.

Jobseeker's direction

- 81. The revised sanction regime will affect the sanction a claimant will receive for refusing or failing to comply with a Jobseeker's Direction (JSD)
- 82. If a claimant refuses or fails to comply with a JSD prior to 22 October 2012, they will receive a fixed sanction of 2 or 4 weeks.

83. If a claimant refuses or fails to comply with a JSD without good reason on or after 22 October (regardless of when the Labour Market Decision Maker makes their determination), they will receive a lower level sanction of 4 or 13 weeks.
84. Despite the change to the sanctions regime, the operational processes that must be followed when a claimant refuses or fails to comply with a JSD are unchanged. See the Refusal or failure to carry out a Jobseeker's Direction chapter for further information on the actions to take.

Voluntarily leaves a place on a training scheme or employment programme

85. The revised sanction regime will affect the sanction a claimant will receive if they voluntarily leave a place on a training scheme or employment programme.
86. If a claimant voluntarily leaves prior to 22 October 2012 (regardless of when the Labour Market Decision Maker makes their determination), they will receive a fixed sanction of 2, 4, or 26 weeks.
87. If a claimant voluntarily leaves without good reason on or after 22 October, they will receive a lower level sanction of 4 or 13 weeks.
88. Despite the change to the sanctions regime, the operational processes that must be followed when a voluntarily leaves a place on a training scheme or employment programme are unchanged. See the Training schemes and employment programmes chapter for further information on the actions to take.

Neglects to avail a place on a training scheme or employment programme

89. The revised sanction regime will affect the sanction a claimant will receive for neglecting to avail themselves of a place on a training scheme or employment programme.
90. If a claimant neglects to avail themselves prior to 22 October 2012 (regardless of when the Labour Market Decision Maker makes their determination), they will receive a fixed sanction of 2, 4, or 26 weeks.
91. If a claimant neglects to avail themselves without good reason on or after 22 October, they will receive a lower level sanction of 4 or 13 weeks.
92. Despite the change to the sanctions regime, the operational processes that must be followed when a claimant neglects to avail themselves are unchanged. See the Training schemes and employment programmes chapter for further information on the actions to take.

Refuses, fails to attend or loses through misconduct a place on a training scheme or employment programme

93. The revised sanction regime will affect the sanction a claimant will receive for refusing, failing to attend or losing through misconduct a place on a training scheme or employment programme
94. If a claimant refuses, fails to attend or loses through misconduct a place on a training scheme or employment programme prior to 22 October 2012 (regardless of when the Labour Market Decision Maker makes their determination), they will receive a fixed sanction of 2, 4, or 26 weeks.

95. If a claimant commits the failure without good reason on or after 22 October, they will receive a lower level sanction of 4 or 13 weeks.
96. Despite the change to the sanctions regime, the operational processes that must be followed when a claimant refuses, fails to attend or loses through misconduct a place a training scheme or employment programme are unchanged. See the Training schemes and employment programmes chapter for further information on the actions to take.

Supplementary Guidance

Entitlement conditions

1. In order to receive JSA, a claimant must satisfy the basic entitlement conditions. They must:
 - be available for employment;
 - have entered into a JSAg which remains in force;
 - be actively seeking employment;
 - satisfy either the contribution conditions for JSA; and/or the conditions for income based JSA;
 - not be engaged in remunerative work or involved in a trade dispute;
 - be capable of work;
 - not be receiving relevant education;
 - be under pensionable age; and
 - be in Great Britain.

Reserved Decisions

2. A Decision Maker may, in certain circumstances, decide to reserve a decision. This will normally be when a sanction is appropriate, but cannot be imposed because the claimant does not have a current claim.
 3. In these cases the DM will send a DMAS produced notification to the Jobcentre advising them of this, and at the same time, LMS will be automatically updated with this decision.
 4. There is no input to JSAPS for reserved decisions.
 5. The case must be re-referred to the DM by the Jobcentre if the claimant reclaims within a timescale:
 - as specified by the DM in their reserved decision; or
 - equal to the maximum sanction period applicable for the case.
- Note:** This is done as a new referral on LMS.
6. If there is any doubt about whether or not a case should be re-referred, then the case must be re- submitted to the DM.
 7. If a case is re-submitted and the claim was originally a joint claim for JSA, it is important to ensure that the details held on LMS are up to date. It should be established whether the claimant is still part of a joint claim and if so, full details of the other member at the time that the decision was made, must be indicated in the referral.

Labour Market doubts for determination by Jobcentre Plus

Question	AR code	AR code for an opinion decision
Refusal to enter into a JSAg	JSA/540	JSA/540O
Whether JSAg reasonable – dispute	JSA/541	JSA/541O
Proposed variation to JSAg	JSA/543	JSA/543O
Termination of JSAg	JSA/544	JSA/544O

Availability:	JSA/550	JSA/550O
Study 16 hours or less	JSA/550S	JSA/550SO
Time Limits	JSA/550A	JSA/550AO
Restrictions-hours	JSA/550B	JSA/550BO
Restrictions-nature	JSA/550C	JSA/550CO
Actively seeking employment	JSA/552	JSA/552O
Not regarded as available - prisoner on temp release/women in receipt of MA/MP	JSA/553	JSA/553O
Not regarded as available - full time student	JSA/553S	JSA/553SO
Exemption from satisfying certain JSA entitlement conditions* (joint claims for JSA)	JSA/557	N/A
Discharge from HM forces	JSA/650	N/A
Leaving employment voluntarily	JSA/660	N/A
Losing employment through misconduct	JSA/680	N/A
Neglect to avail of employment	JSA/690	N/A
Refusal of employment	JSA/710	N/A
Giving up a place on a training scheme /employment programme	JSA/713	N/A
Losing a place on training / employment programme through misconduct	JSA/714	N/A
Refusing or failing to apply for a place on a training/employment programme	JSA/715	N/A
Failing to accept a place on a training /employment programme	JSA/715	N/A
Neglect to avail of a place on a training/ employment programme	JSA/716	N/A
Failure to attend a training/employment programme	JSA/717	N/A
Refusal/failure to carry out a jobseeker's direction	JSA/718	N/A
Refusal/failure to carry out a jobseeker's direction to create a profile and public CV in Universal Jobmatch	JSA/718UJ	N/A
Failure to attend an advisory interview or Jobsearch review	JSA/719S	N/A
Failure to attend an advisory interview or Jobsearch review – decision made by local AO Decision Maker	JSA/719S(LO)	N/A
Failure to provide a signed declaration	JSA/719A	N/A
Trade dispute - stoppage of work	JSA/720	JSA/720O

Trade dispute – withdrawal of labour	JSA/721	JSA/721O
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8. Opinion decisions may be given by LMDMs on most entitlement questions other than JSA/719A and JSA/557. However, a submission to the LMDM for an opinion decision must not be made for 'credits only' claimants who committed a sanctionable 'offence'. This is because the credit regulations do not support the disallowance of credits solely because a claimant committed a sanctionable 'offence'.

Retention of documents

FORM	RETENTION PERIOD
ES19	14 months from date of LMDM's decision
ES66	14 months from last case is decided
ES84	14 months from date of LMDM's decision
ES85	6 months ineffective, otherwise 14 months from the date of LMDM's decision
ES85A	6 months ineffective, otherwise 14 months from the date of LMDM's decision
ES85AS	6 months ineffective, otherwise 14 months from date of LMDM's decision
ES85M	6 months if ineffective, otherwise 14 months from date of LMDM's decision.
ES85SF	6 months if ineffective, otherwise 14 months from date of LMDM's decision.
ES85Y	6 months if ineffective, otherwise 14 months from date of LMDM's decision.
ES86LV	14 months from date of LMDM's decision
ES86MSF	14 months from date of LMDM's decision
ES86T	14 months from date of LMDM's decision
ES86Y	14 months from date of LMDM's decision
ES95	14 months from date of LMDM's decision
ES122	14 months from date of LMDM's decision
ES133	14 months from date of LMDM's decision
ES195(E)	14 months from date of LMDM's decision
ES195(N)	14 months from date of LMDM's decision
ES195(NTA)	14 months from date of LMDM's decision
ES195(RE)	14 months from date of LMDM's decision
ES195(T)	14 months from date of LMDM's decision
GL24	14 months from date of LMDM's decision
ES541	14 months
ES567	14 months from the date the last case is decided

ES567V	keep in unit while voluntary work is being undertaken and for 14 months after extraction
ES567S	keep in unit while study being undertaken and 14 months after extraction
ES589	no general rule, however keep those relating to possible fraud indefinitely and those supporting other forms as long as the form in question
ES673	14 months from date on form
ES674	12 months after last date on form

Trade disputes

Background

1. Decision making on trade disputes is undertaken at central locations within each region. For ease of reference, this chapter will refer to the Trade Dispute Decision Maker.
2. The owning region is the one in which the 'employer' Jobcentre is based, regardless of whether there is more than one region involved.
3. When making their decision no account of the merits of the dispute or whether the loss of employment is caused by the action of the employer or the claimant is taken by the Decision Maker.

Definitions

Trade Dispute

4. Trade dispute means any dispute between:
 - employers and employees;
 - employees and employers; or
 - employees and employees which is in connection with:
 - the employment or non-employment; or
 - the terms or conditions of employment;
 - any people, whether or not they work for the employer with whom the dispute starts.
5. For example, if there is a trade dispute involving employees at one place of employment, and employees at another place strike in sympathy, the dispute is extended to the other location even if employees there are not affected by the matter in dispute.
6. Based on information provided by the Jobcentre office Decision Maker will establish the existence of a trade dispute before any consideration is given to whether or not employees are involved.

Place of work

7. Place of work means the premises or place at which people are employed.
8. When a place of work consists of several buildings on one or more adjoining sites, but which are all parts of one business, they are still usually considered to be one place of employment. Ask for advice from your Decision Maker where there is any doubt.

Stoppage of work due to a trade dispute

9. Stoppage of work does not necessarily mean a complete standstill of work. It can simply be that work that could have been done is not being done because of action such as an overtime ban, work to rule or attendance at meetings.
10. A stoppage of work may still be due to a trade dispute whether it is caused by the actions of the employer or the employees.

11. If the Decision Maker is satisfied that there is both a trade dispute and a stoppage of work at the employees place of work they will then decide if the stoppage is due to the dispute and not for some other reason.

The 12-day rule

12. If the employment is indefinitely suspended and a stoppage of work due to a trade dispute occurs at the place of employment there is a doubt about whether the lack of employment is due to the dispute. To decide this question the Decision Maker will apply the 12-day rule.

13. The effect of the 12 day rule is that employment indefinitely suspended within 12 working days, excluding days of recognised or customary holiday, of a stoppage is treated as having been suspended because of the stoppage and disallowance of JSA will apply.

Lost employment because of a stoppage

14. If the Decision Maker decides that there is stoppage of work due to a trade dispute at an employee's place of work the next step is to decide if the employee lost employment because of that stoppage.

15. An employee personally involved in the strike or lockout has lost employment directly because of a stoppage of work.

16. In other cases, the loss of employment can also be because of a stoppage of work. For example:

- people laid off because a dispute at their place of employment causes production difficulties;
- intermittent workers who are not actually at work when the stoppage begins, for example:
 - casual shipyard workers;
 - printers; and
 - newspaper workers;

who do not satisfy the 12-day rule.

- people dismissed as a result of the stoppage;
- people due to terminate employment, for reasons other than the stoppage, whose employment is suspended earlier because of the stoppage;
- people who voluntarily leave their employment in anticipation of the stoppage of work;
- people indefinitely suspended from employment, for reasons unconnected with the dispute, within 12 working days of the stoppage at their place of employment;
- people whose employment is suspended for a definite period and who are prevented from resuming work at the due date because of the stoppage of work at their place of employment; and
- under some circumstances, people absent from work through illness when the stoppage of work begins at their place of employment and who become fit for work during the stoppage but cannot resume work.

Directly interested

17. An employee can escape disallowance if they can show that they are not directly interested in the outcome of the dispute.

18. People are normally held to have a direct interest in a trade dispute if they will benefit directly from the outcome of the dispute.

19. The following have resulted in employees being regarded as directly interested in a dispute:

- pay or superannuation;
- method of calculating bonus earnings;
- conditions governing payment of bonus;
- time allowed for un-penalised lateness;
- tea breaks;
- redundancy;
- interchangeability or demarcation of duties;
- heating arrangements;
- trade union membership;
- safety procedures.

Withdrawal of labour

20. A person withdraws their labour if they:

- do not attend for work;
- go to work but refuse to do any of the work they are expected to do, even if the employer lays them off because of this;
- refuse to return to work after a period of lay-off.

21. When deciding if an employee has withdrawn their labour the Decision Maker will consider:

- what the claimant was asked to do;
- what duties the claimant was obliged to do under their contract of employment;
- what, if anything, the claimant did;
- what the claimant was prepared to do.

Identification of dispute

22. The existence of trade disputes may be identified from:

- Media:
 - Newspapers;
 - television; or
 - radio;
- employees;
- ES85;
- other Jobcentres;
- employers;
- trade unions (TUs).

Roles and responsibilities

Jobcentre Manager's Role

23. Jobcentre Managers should personally direct Jobcentre Plus action in trade dispute cases but may delegate the collection of evidence and immediate supervision of other action to a nominated officer.

Responsibility of 'employer' Jobcentre

24. An 'employer' Jobcentre is the one in whose area the place of employment is located. If there is any doubt about which is the 'employer' Jobcentre, consult the District Manager (DM).

25. In the case of offshore rigs the 'employer' Jobcentre is that of the main port supplying the rig.

26. The 'employer' Jobcentre is responsible for:

- completing a stencil to initially report the stoppage from information given by the employer and passing it to the benefit processing section. A copy should also be given to the Jobcentre manager and DM.
- informing and advising any other Jobcentres affected, about all action on claims arising from the trade dispute; seeking Regional Office (RO)/Office for Wales (OW) and Scotland (OS) assistance to do so if necessary;
- collecting further evidence at the request of the Decision Maker.
- referring to the Decision Maker, and implementing decisions on individual claims at the 'employer' Jobcentre;
- publicising the outcomes of these claims or agreeing that this will be done by RO/OW/OS.

Responsibility of other Jobcentres

27. The responsibilities of Jobcentres not identified as the 'employer' Jobcentre are:

- informing the 'employer' Jobcentre of any trade dispute in the 'employer' Jobcentre area as soon as it is identified;
- referring cases to the Decision Maker of the 'employer' Jobcentre irrespective of the Jobcentre's own region and implementing the decisions on individual claims when received.

Identification of claims

28. Claims which may be affected by a trade dispute are made by people;

- laid-off by the employer at the location of the dispute;
- sick when the stoppage begins but become fit for work during the stoppage and cannot resume work;
- involved in an indefinite lay-off within 12 working days of a stoppage of work;
- who are intermittent workers not actually working on the day the stoppage begins and who have had no days of work within the 12 days preceding the start of the stoppage of work;

- who have been laid-off by the employer for a definite period but the dispute prevents them going back to work;
- dismissed because of the stoppage of work;
- due to terminate employment for reasons other than the stoppage of work but who are suspended from work earlier because of the stoppage. For example, those under notice of redundancy;
- leaving employment voluntarily in anticipation of the stoppage;
- who have withdrawn their labour.

Suspension of JSA

29. Where a claim may be affected by a trade dispute suspend JSA indefinitely, from the earlier of:

- the date of claim; or
- the first unpaid day if JSA has been paid; or
- the Sunday of the week in which employment was first lost because of the stoppage;

30. Do not take overpayment action in respect of paid JSA days. Issue form ES48/ESL48 worded 'you may have lost employment as a result of a trade dispute'. All DMA action must also be recorded onto the Labour Market System (LMS).

31. If any claimant wishes to make an individual claim, they must be allowed to do so.

32. Advise the claimant that by making an individual claim they become personally responsible for any appeal action on their claim.

33. Individual cases must always be submitted to the DRT of the 'employer' Jobcentre irrespective of the region of the referring Jobcentre. Later claims must be referred as soon as all the information is gathered.

Reference to Decision Maker

34. The following forms and documents are used to refer cases to the Decision Maker. Amend forms if the dispute concerns a lock-out instead of a withdrawal of labour:

- ES567 - a report form for each claimant;
- ES133 - giving details of the claimant;
- any other documents, for example:
 - form ES85;
 - copies of notices issued by the parties to the dispute;
 - statements by the:
 - employer;
 - trade union; or
 - claimant.

35. Refer on report form ES567 to the Decision Maker

36. Invoice the case on form ES66 and record on LMS using the following AR Codes:

- JSA/720:

- trade dispute - stoppage of work;
- JSA/721:
 - trade dispute - withdrawal of labour.

37. A statement, if in writing, must be signed and dated by the person making it. Information obtained orally must be recorded, signed and dated by the interviewing officer and contain:

- the name of the source;
- the date; and
- circumstances of the conversation.

Action on receipt of decision

38. On receipt of decision:

Step	Action
1	record and implement those decisions relating to your office;
2	note the decision on LMS;

39. The payment decision maker will make the decisions about whether the claimant is entitled to JSA based on the outcome of the labour market referrals.

Dissatisfaction with a decision

40. If any claimant is not happy with, or does not understand the basis of, a decision made on their claim to JSA, they may ask for an explanation of that decision. After receiving the explanation, they may apply for a revision of the decision.

41. If the claimant asks to have the decision explained, Jobcentre Plus staff must first provide a basic explanation of it and, if necessary, contact the Decision Maker that gave the decision for them to provide a detailed explanation.

42. If the claimant does not require an explanation at all, or if after receiving the required explanation(s) they still do not agree with the decision, it must be explained that they may, if required, apply for a revision of the decision.

43. This means that a decision maker, not necessarily the one who gave the original decision, will look at the case again, taking into account any new evidence or information provided since the decision was given.

44. Any claimants who have received a formal single outcome decision notification relating to their claim to JSA has the right to apply for a revision of it.

45. If a letter is received, it may be possible to accept this as an application for revision. Due to the time limit involved, it is vital that prompt action is taken to contact the claimant, where appropriate, to clarify any details.

Appeal to the Appeal Tribunal

46. Any claimant who has received an outcome decision on their claim has the right of appeal to an appeal tribunal.

47. Take further action if an employee enquires about appealing against an outcome decision incorporating a Labour Market component concerning a trade dispute or if form GL24 is received.

Appeal to the Social Security Commissioner

48. An employee can appeal against the appeal tribunal's decision either:

- when leave to appeal is granted by the tribunal chairman. This is done either at the hearing or on written application by the claimant; or
- if the chairman refuses leave but application is made to a Commissioner who grants leave.

49. Employees enquiring about appealing to the Commissioner may be advised in general terms but must be referred to the clerk to the tribunal if enquiries are made about a specific case.

Any other communication received in connection with an appeal, or leave to appeal, to the Commissioner must be sent urgently to the Decision Maker with a covering note.

50. If an employee, or their union, makes an appeal to the Commissioner, decisions on the claims of those people who had agreed to await the outcome of the test claim will be deferred until the result of the appeal to the Commissioner.

End of stoppage

51. It is for the Decision Maker to decide the date on which the stoppage of work can be treated as having come to an end. In cases where there is no doubt the Decision Maker will notify the employer Jobcentre.

52. In these circumstances there is no need to refer cases back to the Decision Maker. However, if an employee wishes to claim JSA the claim must be treated as a completely new claim

Claims made by the dependant of an employee involved in an industrial dispute

53. Dependants of employees involved in a trade dispute can claim JSA in their own right. Any dependant wishing to claim JSA must be made aware that they will have to satisfy all the usual JSA entitlement conditions.

Credits only cases

54. Submit all cases to Decision Maker for decision in the same way as JSA claims. Note form ES567 that the claimant is not entitled to JSA.

Training schemes and employment programmes

Responsibilities

1. The training scheme or employment programme place offered to the claimant must be one that they could do and which would help to enhance their job prospects.
2. It would not be in the claimant's or Jobcentre Plus' interest to submit claimants to an inappropriate training scheme or employment programme.
3. Referral to training schemes and employment programmes and subsequent cases of refusal, failure, giving up, misconduct or neglect may arise from any intervention that takes place with the claimant.
4. This means action on refusal, failure, giving up, misconduct or neglect may be an appropriate outcome for any intervention that covers jobsearch activity.

Implications of a claimant's actions

5. It must be made clear to the claimant, at the time they are formally notified of a place on a training scheme or employment programme, that their:
 - refusal;
 - failure;
 - giving up;
 - misconduct; or
 - neglect;

may result in loss of JSA. This ensures that the claimant can make their decision in the full knowledge of the consequences.

Notifying the claimant of the place

6. In refusal and failure to apply cases the place on the training scheme or employment programme must be notified to the claimant by an Employment Officer.
7. In neglect to avail employment cases the job must be offered by the qualifying former employer, however, the claimant can be notified of a training scheme or employment programme by any training provider and neglect to avail can still apply.
8. Only the reasonable opportunity of a place need exist, not necessarily an actual place. This place does not need to be offered by an Employment Officer for neglect to avail to apply.
9. For example, a claimant may be advised, either by an Employment Officer or someone else, about an opportunity of a place on a course or programme which is to be filled on a first come first served basis. If the claimant does not attend and all the available places are subsequently taken up, the claimant may have neglected to avail themselves of an opportunity of a place.

Claimant's behaviour

10. A sanction may be appropriate if the claimant behaves in such a way that they lose the chance of a place. Examples of such conduct are where the claimant:

- 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;
 - accepts a place but then fails to start on the agreed day.
11. If a provider makes it known to Jobcentre Plus that such conduct has occurred, the claimant's behaviour may amount to refusal, failure or neglect. If you are not sure of which question is to be decided, check with your LM Decision Maker.
12. If it becomes apparent that a claimant may be deliberately avoiding the chance of a place, for example on receipt of information from a provider or at an intervention:

Step	Action
1	prepare a written report on ES589 and/or ES195T which details: <ul style="list-style-type: none"> • the facts of the case; and • details of the claimant's comments and/or actions/inactions;
2	link the report with the Jobseeker's Agreement (JSAg);
3	consider whether the evidence provided raises a doubt on additional questions, for example: <ul style="list-style-type: none"> • availability; and • actively seeking;
4	submit the case to the L M DM on: <ul style="list-style-type: none"> • refusal; • failure; or • neglect.

When refusal or failure action is not appropriate

13. Refusal or failure to apply action is not appropriate when the:
- training scheme is not deemed appropriate as described in the Responsibilities paragraph above;
 - place has not been notified to the claimant by an Employment Officer.
14. Although a sanction is not appropriate, still look at the reason given by the claimant for their refusal or failure. Where the reason(s) given cast doubt on the claimant's availability, refer the case to the LMDM.

When neglect to avail action is not appropriate

15. Neglect to avail action is not appropriate when the:
- training scheme is not deemed appropriate as described in the Responsibilities paragraph above;
16. Although a sanction is not appropriate, still look at the reason given by the claimant for their refusal or failure. Where the reason(s) given cast doubt on the claimant's availability, refer the case to the LMDM.

Identification of doubt

17. In cases of:

- refusal; or
 - failure to apply;
- the doubt will be identified during the advisor interview.
18. Cases where the claimant;

- fails to attend;
 - neglects to avail;
 - gives up; or
 - loses a place through misconduct;
- will be identified from information sent to Jobcentre Plus by the provider.

Providers' Information

19. All providers are contracted to tell Jobcentre Plus when claimants:

- neglect to avail;
 - fail to attend;
 - give up; or
 - lose a place through misconduct;
- on a mandatory training scheme or employment programme.
The information supplied by the provider will depend on which training scheme or employment programme the claimant attended.

Action when a doubt has been identified

Claimant refuses or neglects to avail

20. Where a claimant has been notified by an Employment Officer about a training scheme or an employment programme place, and they subsequently refuse or neglect to avail themselves of a place offered by a provider, notify them of this on form ES195(RE/NTA).
21. Form ES195(RE/NTA) is a clerical form. The front is completed from the provider/adviser and LMS Opportunity screen, or after obtaining details of the training scheme or an employment programme from the provider/adviser.
22. The reverse provides space for the claimant to give reasons for their refusal, failure or neglect.

Additional information required to complete ES195(RE/NTA)

23. In the majority of training scheme or employment programme refusal or neglect cases, the information required for completing ES195(RE/NTA) can be extracted from LMS 'View Opportunity' window. However, some additional information is also required for the submission.
24. Where the claimant refuses, fails or neglects a training scheme or employment programme, input the doubt to LMS by selecting the appropriate question. This determines the wording on the Referral Notification Letter ES48S.
25. The question options available include:
- Refuse Trg;
 - Refuse Emp Prog;
 - FTA - Trg;
 - FTA - Emp Prog;
 - Neg to Avail - Trg;

- Neg to Avail - Emp Prog;
 - Give up - Trg;
 - Give up Emp Prog;
 - Misc Trg;
 - Misc Emp Prog.
26. Having selected the appropriate question option, record the following information in the relevant LMS screen:
- the date the training scheme or employment programme was notified to the claimant and by whom;
 - the reasons the claimant gave the provider and/or you for refusing, failing or neglecting to take the training scheme or employment programme place.
27. With this information, ES195(RE/NTA) can be completed. Also, when the question is submitted for a decision, a copy of LMS Opportunity and LMS Notes screens will be included with the submission.

Completing ES195(RE/NTA) when the training scheme or employment programme is not on LMS View Opportunity' window

28. A provider may advise that the claimant has neglected to avail themselves of a training scheme or employment programme place.
29. When discussing such cases with the provider, establish the same amount of information had the training scheme or employment programme been advertised by Jobcentre Plus.
30. Where the claimant then refuses, fails or neglects the training scheme or employment programme place, input the doubt to LMS by selecting the appropriate question option and completing form ES195T using information obtained from the provider.
31. Form ES195T is retained in the labour market unit (LMU) pending return of ES195(RE/NTA) by the claimant. Also, where applicable, any additional information received after ES195(RE/NTA) has been issued is to be recorded in LMS DMA Notes.

Claimant has failed to attend, given up or lost a place through misconduct

32. In order to decide whether the claimant has good reason for failing to attend or giving up a place on a training scheme or employment programme the LM Decision Maker needs information from both the provider and the claimant.
33. If the provider has indicated, during follow up action that the claimant failed to start Work Based Training For Young People (WBTFYP) or Modern Apprenticeship (MA), issue form ES86(T) to the claimant.
34. This form gives them the opportunity to explain why they gave up the place. Record the issue of form ES86(T). In failure to attend cases, also complete ES195T.
35. Where the provider has indicated that the claimant gave up the place and gave the provider specific reasons, or was asked to leave because of absence issue form ES86(T) to the claimant.
36. Ensure that the reasons the claimant gave the provider/advisor for giving up the place are copied onto ES86(T). Record the issue of ES86(T).

37. If the claimant was asked to leave because of misconduct do not issue ES86(T). Misconduct, and any other doubts relating to the termination by the provider, are decided by the LMDM.

Preparing the submission

38. In cases where JSA is payable and the claimant is still attending:

Step	Action
1	input the doubt to LMS selecting the appropriate question option and corresponding AR Code: <ul style="list-style-type: none"> • JSA/713 Giving up a place; • JSA/714 Losing a place through misconduct; • JSA/715 Refusal or failure to apply; • JSA/716 Neglect; or • JSA/717 Failure to attend;
2	complete form ES195(RE/NTA)/ES86(T) using the: <ul style="list-style-type: none"> • information in LMS 'View Opportunity' window; • LMS Notes; • information supplied by the provider; or • ES195T;
3	open the LMS 'Notes' screen and record: <ul style="list-style-type: none"> • the date of issue of ES195(RE/NTA)/ES86(T); • whether ES195(RE/NTA)/S86(T) was issued by hand or post; • initial and date the entry;
4	print a Sector Referral form (ES567) from LMS;
5	Issue: <ul style="list-style-type: none"> • ES195(RE/NTA)/ES86(T); • ES48S; and • leaflet ESL48; as soon as possible. Where refusal arises at a Jobcentre Plus interview, this action is to be carried out before the interview with the claimant has ended;
6	where ES195(RE/NTA)/ES86(T) is not completed during the adviser's interview; <ul style="list-style-type: none"> • input a workflow for 7 days from the date of issue.
7	advise the claimant that: <ul style="list-style-type: none"> • the case will be referred to a Decision Maker, either: <ul style="list-style-type: none"> ◦ on the day they return ES195(RE/NTA)/ES86(T); or ◦ 7 days from now, whichever is earlier; and • during that time JSA will continue to be paid and, if a sanction is imposed, they may wish to apply for a hardship payment.

Action on return of ES195(RE/NTA)/ES86(T)

39. Claimants are allowed, by law, 1 week to return form ES195(RE/NTA)/ES86(T).

40. On its return:

Step	Action
1	link it with the labour market unit (LMU);
2	select the appropriate LMS screen and record receipt of ES195(RE/NTA)/ES86(T) in the Notes area;
3	pass the LMU and ES195(RE/NTA)/ES86(T) to the Team Leader;
4	ensure that all relevant information is gathered for the submission;
5	refer to the LMDM as soon as possible.

Action when ES195(RE/NTA)/ES86(T) is not returned 1 week after issue and claimant is still attending

41. If the claimant has not returned ES195(RE/NTA)/ES86(T) after 1 week:

Step	Action
1	obtain the LMU;
2	select the appropriate LMS screen and in 'Notes' enter [ES195(RE/NTA)/ES86(T) Not Returned];
3	initial and date the entry;
4	pass the LMU to the Team Leader;
5	ensure that all relevant information is gathered for the submission;
6	refer to the LMDM as soon as possible.

Action when ES195(RE/NTA)/ES86(T) is not returned within one week of issue and claimant is no longer attending

42. If the claimant has not returned form ES195(RE/NTA)/ES86(T) after one week and they are no longer attending:

Step	Action
1	select the appropriate LMS screen and in 'Notes' enter [ES195(RE/NTA)/ES86(T) Not Returned];
2	initial and date the entry;
3	note the Labour Market Unit for DMA action to be resumed if a further claim is made within the 4 weeks, 13 weeks for New Deal, after the day following the last day for which JSA has been paid.

Submission to the Labour Market Decision Maker

Credits only claimants

43. Prior to submitting the case to the Labour Market Decision Maker (LMDM), it should be established using JSAPS dialogue JA504: General Enquiry whether or not the claimant is claiming credits only.

44. A submission to the LMDM for an opinion decision must not be made for 'credits only' claimants. However, Jobcentres should check the reasons claimants give to identify any availability and/or ASE doubts. Where a doubt exists, an availability and/or ASE referral should be made to the LMDM as appropriate.

45. The following action is required on LMS:

Step	Action
1	on the LMS 'View referral/decision details' screen amend the 'Ref To' field for the appropriate LV or Misconduct doubt to [N/A – Lifted]
2	in the 'Notes' field enter the reason why the doubt has been lifted as Credits only claim.

Proof required by the LM Decision Maker for refusal, giving up or neglect

46. Before the Decision Maker can decide a sanction is appropriate for refusal, failure, giving up or neglect, they must be satisfied:

- That the claimant was notified of a prescribed training scheme or employment programme place by an employment officer; and
- That the claimant:
 - refused;
 - failed to apply for;
 - failed to accept;
 - neglected to avail themselves of the place when it was offered or made known to them;
 - failed to attend after agreeing to start; or
 - gave up the place.

Proof required by the LM Decision Maker for misconduct.

47. In misconduct cases, the LMDM will need to be satisfied that:

- the training scheme or employment programme was prescribed;
- the claimant acted or failed to act as alleged;
- these acts or omissions amounted to misconduct; and
- the claimant lost their place on the training scheme or employment programme as a result.

Submitting the case

48. The case must be referred to the LMDM as soon as possible, preferably on the day the doubt arose. This is vital as delays in obtaining a decision can cause problems in imposing a sanction. The claimant's details must be entered on form ES66.

49. The following forms and information are to be submitted to the LMDM:

- Sector Referral Form (ES567) with clerical entries made where applicable under DMA Details and Additional Information;
- on the Sector Referral Form (ES567) record in the Additional Information section, details of sanctions imposed in the last 13 months. This information can be accessed through LMS List of DMA Actions screen. Send a copy of the referral form to the benefit processing section;
- where the submission relates to a training scheme or employment programme notified by Jobcentre Plus, include a print of the associated LMS 'View Opportunity' window;
- ES195T and, if returned, ES195(RE/NTA)/ES86(T);
- the latest JSAg. This will assist the LMDM in deciding whether the claimant has placed restrictions on the hours they are willing to work;

- and to establish the claimant's usual occupation and the permitted period;
- the latest ES2 if appropriate;
- the associated LMS Client Conversation screen where entries relate to the submission;
- details, if any, of the training opportunity the claimant previously undertook with the provider; and
- evidence, comments and/or cross references to any simultaneous submissions to back up statements made on ES195(RE/NTA)/ES86(T) and/or ES195T to the SDM as soon as possible.

Decision made by the Labour Market Decision Maker

50. The details of the decision will be automatically entered into the LMS 'Referral/Decision Details' screen once the LMDM has input their decision into DMAS.

51. The LMDM will email their decision notification to JSA Maintenance team from DMAS for action; therefore no further action is required in the Jobcentre.

Note: If copies of the decision notification and/or case papers are received at the Jobcentre these should be retained for monitoring purposes.

52. If a claimant refuses, neglects to avail themselves, fails to attend, gives up or loses a place through misconduct on or after 22 October they will receive a lower level sanction of either 4 or 13 weeks. Further information around the new sanctions regime is available within the Sanctions and DMA Guidance.

Hardship

53. Some claimants may be able to claim JSA Hardship when a Sanction has been imposed on their JSA. See JSA Hardship Awards for further information.

Reserved Decisions

54. A Decision Maker may decide to reserve a decision. This will normally be when a sanction is appropriate, but cannot be imposed because the claimant is no longer claiming JSA.

55. In these cases the LMDM will send a DMAS produced notification to the Jobcentre advising them of this, and at the same time LMS will be automatically updated with this decision.

56. There is no input to JSAPS for reserved decisions.

57. The case must be re-referred to the LMDM, as a new referral on LMS, if the claimant reclaims within a timescale:

- as specified by the LMDM in their reserved decision; or
- equal to the maximum sanction period applicable for the case.

58. If a case is re-submitted and the claim was originally a joint claim for JSA, it is important to ensure that the details held on LMS are up to date. It should be established whether the claimant is still part of a joint claim and if so, full details of the other member at the time that the decision was made, must be indicated in the referral.

Forms

The following forms may be used during the DMA process:

Form	Usage
ES85(Y)	despatched clerically whenever a claimant indicates on the JSA claim form that they have left/completed either WBTfYP or a Modern Apprenticeship scheme. This form is used in conjunction with form ES86(T).
ES86(T)	issued by the adviser to the claimant. It is used in cases where the claimant either failed to attend, gave up the place or was asked to leave because of poor attendance. It gives the claimant the opportunity to give their comments. The form must be amended as appropriate. If the provider/advisor has supplied reasons on other form that the claimant gave for giving up a place these must be copied exactly into the relevant space on ES86(T).
ES195(NTA)	issued by the adviser to the claimant so that they can give any reasons for neglecting to avail themselves of a place on a training scheme or employment programme. It is used in conjunction with form ES195T. As the form is also used for neglecting to avail employment, ensure that it is suitably amended.
ES195(RE)	issued by the adviser to the claimant so that they can give any reasons for refusing a training scheme or employment programme. As the form is also used for refusal of employment, ensure that it is suitably amended. It is used in conjunction with form ES195T.
ES195T	used in cases of refusal or failure to apply, failure to attend and neglect to avail and is a record of information about the training scheme or employment programme and the claimant's comments. It must accompany all submission to the Decision Maker on these doubts. This form is used in conjunction with forms ES195(RE), ES195(NTA) and ES86(T).
SL2	this is a referral and notification of start to the relevant training scheme or programme.