

# Switching-off work availability and work-related activities

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## What is switched-off?

In some circumstances, a claimant's work-related requirements may need to be 'switched-off' for a period. This can be due to:

- compulsory easements, where there is a legal requirement (circumstances with specific switching-off requirements)
- discretionary easements, where it is unreasonable to expect the claimant to complete their requirements for a period

Unless there is another reason for doing so, the claimant stays in the same Labour Market regime while any work-related requirements are switched-off.

In each case, what the claimant has accepted in their Claimant Commitment is reviewed to determine whether it is appropriate to switch-off all requirements, or tailor the Claimant Commitment to meet the claimant's current circumstances. The Claimant Commitment must be reviewed when the work-related requirements are restarted.

## Compulsory switching-off of requirements (easements)

Work search and availability requirements must be switched-off for the period the claimant is:

- treated as having limited capability for work, treated as having limited capability for work and work-related activities or is terminally ill
- receiving or accompanying their child for medical treatment abroad
- suffering bereavement following the death of partner, child or qualifying young person
- receiving treatment for drug and alcohol dependency

- a victim of domestic abuse
- the main carer of a child in considerable distress
- in witness protection – arrangements have been made for them under section 82 of the Serious Organised Crime and Police Act 2005 for a period of up to 3-months
- attending court or a tribunal as a party to any court proceedings or as a witness
- accepted as being engaged in an approved public duty, where necessary
- a prisoner

### **Conditionality and work-related requirements for claimants with a health condition or disability**

When a claimant first reports they are unfit for work, the requirement for them to be available to take up work (work availability) must be switched-off.

If this is the claimant's first or second period of sickness in a rolling 12-month period, any mandatory work search requirements are removed from the Claimant Commitment for up to 14 days (depending on the length of the fit note). However, the 'Work preparation and search' section of the commitment is not switched-off.

Claimants are still expected to take part in Work Focused Interviews and realistic work preparation activities during this time if this is deemed appropriate following a one-to-one conversation. They can also agree to complete voluntary activities.

The commitment will be tailored, and work preparation and voluntary activities will be agreed with the claimant depending on their current capabilities.

An exception to this is if the claimant can be treated as having Limited Capability for Work and Work-Related Activity and all requirements are switched-off in these cases. For more information, see Treated as having limited capability for work and work-related activity and day 1 WCA referrals.

If the claimant reports 3 or more periods of sickness in a rolling 12-month period or the sickness continues beyond 14 days, work search requirements can be applied if it is considered reasonable to do so based on the claimant's health condition or disability. There is no automatic switch-off after 14 days. Refer to the Switch-off and tailoring table

A claimant is not required to immediately be available to take up work while they have a valid fit note. They can have a work focused interview and / or work preparation requirements applied at any time. See Discretion to switch-off requirements (easements).

Any work-related requirements will be tailored to reflect the claimant's capabilities. For more information, see Health conditions and disabilities - day 1 to day 29.

### Switch-off and tailoring table

The table below shows the what is switched-off, what the tailoring options are and what to consider in the first 14 days and 15 plus days of a claimant's health condition or disability.

	<b>Mandatory switch-off</b>	<b>Tailoring options</b>	<b>To consider</b>
Day 1 - 14	<ul style="list-style-type: none"> <li>●availability</li> <li>●work search</li> </ul>	<ul style="list-style-type: none"> <li>●work preparation</li> <li>●Work Focused Interview</li> </ul>	Day 1 referral
Day 15+	<ul style="list-style-type: none"> <li>●availability</li> </ul>	<ul style="list-style-type: none"> <li>●work search</li> <li>●work preparation</li> <li>●Work Focused Interview</li> </ul>	

Tailoring is reflected on the Claimant Commitment.

All claimants will remain in their current regime until after the Work Capability Assessment.

### Receiving or accompanying a child for medical treatment abroad

Work search and availability requirements are switched-off for a period not exceeding 6 months if:

- a claimant is temporarily absent from Great Britain for medical treatment or convalescence
- the claimant is accompanying their partner, child or qualifying young person or young people (for whom they are responsible) for medical treatment or convalescence

Other work-related requirements can be switched-off if this is reasonable. If a claimant has a terminal illness, see Terminal illness.

### Bereavement

Switch-off all work-related requirements for 6 months following the death of:

- the claimant's partner
- a child (where the claimant was the child's parent)
- a child or qualifying young person(s) for whom the claimant, or where the claimant is a couple, the other member has caring responsibilities

At 3 months, a telephone call is made to the claimant to check if they want any support or not. If they do not, no action is taken until the end of the switch-off period. If they do require support, invite them to a Work Focused Interview. At this point, all requirements are voluntary (including attending the Work Focused Interview) until the end of the 6-month period.

If the claimant's child is in considerable distress, they may be eligible to have their requirements switched-off for a further 3 periods of one-month.

It is optional for a claimant suffering bereavement to look for work following the death of a partner or child. Sanctions can only apply after 6-months where relevant.

### **Drug and alcohol dependency**

It is the department's policy to support claimants with drug and / or alcohol dependency to engage with structured treatment and recovery services as part of an active route way into work.

Under this provision, the switching-off of work availability and search requirements only occurs following validated written evidence from the treatment provider.

Work availability and work search requirements will be switched-off for up to 6 months from the start date of treatment to enable the claimant to recover. A claimant may only have one period in any rolling 12-month period and this is calculated from the last day of any previous drug or alcohol related switch-off.

Claimants are still required to participate in Work Focused Interviews while requirements are switched-off. They may also be required to undertake work preparation activity. These requirements are arranged in consultation with the treatment provider to allow the claimant to participate.

The claimant's requirements must be switched back on if they do not remain in treatment. Work availability and work search requirements must be switched back on 6 months from the start date of treatment.

### **Structured treatment**

This is treatment in the community with attendance at regular sessions undertaken as part of a care plan. The care plan prescribes structured day programmes and structured psychosocial interventions (counselling and therapy).

As part of the care planning process during treatment, people are encouraged to address the needs that relate to their substance misuse and agree goals (including those related to education and employment).

## **Domestic abuse**

All work-related requirements must be, temporarily switched-off for 13 weeks if the claimant is or has been a victim of domestic abuse, providing the:

- incident or pattern of domestic abuse occurred within the previous 6 months
- incident or pattern meets the definition of domestic abuse
- claimant is not living at the same address as the abuser
- claimant has not had requirements switched-off as a result of previous domestic abuse within the last 12 months
- claimant provides written evidence within one month of the date they discussed the matter

If the claimant provides the relevant evidence and is responsible for a child, children or qualifying young person(s), the switch-off period is extended to 26 weeks from the date the claimant discussed the matter.

Claimants can attend voluntary Work Focused Interviews after the first 13 weeks of the switch-off period. Those in the Intensive Work Search and Light Touch regimes are offered voluntary Work Focused Interviews after the first 13 weeks, if they have children and are eligible for the 26 week switching-off.

Further switching-off of requirements must be applied if the claimant is the main carer of a child in considerable distress due to domestic abuse, as long as the claimant is not the offender.

This switching-off requirement can be applied for 1 month in each 6-month period in the first 2 years of the event. If they have already accessed the 6-month domestic abuse switching-off requirements, this will cover the first month of the child in distress switching-off requirements (easement). A further 3 switching-off requirements of 1 month can be considered in the next 18 months with further tailoring as required.

After the switch-off period has expired, if the claimant requires further switching-off of requirements, for reasons directly or indirectly related to their experience of domestic abuse, discretion to switch-off must be considered. If necessary, this may be treated as temporary circumstances in which work search and availability requirements can be temporarily switched-off for a further short period, allowing the claimant to deal with the immediate situation.

If the claimant remains in the same household as the person who inflicted or threatened the domestic abuse, they are not eligible for the domestic abuse switching-off of requirements. In these circumstances, if the claimant has provided the relevant evidence of the domestic abuse, the domestic emergency switching off requirements easement can be used where it is appropriate to switch-off all requirements for a period.

## **Evidence**

The claimant must provide written evidence from a person acting in an official capacity showing that:

- the claimant's circumstances are consistent with a person who has had domestic abuse inflicted upon them (or which has been threatened) in the 6 months before the claimant notified Universal Credit
- the claimant has contacted the person acting in an official capacity in relation to the event which occurred during that period

A person 'acting in an official capacity' means a:

- health care professional
- police officer
- registered social worker
- claimant's employer or a representative of their trade union
- public, voluntary or charitable body which has had direct contact with the claimant in connection with domestic abuse

## **Carrying out a public duty**

Work search and work availability requirements can be switched-off for any period during which a claimant is engaged in public duties as a:

- juror
- volunteer fire fighter
- lifeboat crew member
- volunteer coastguard
- councillor
- United Kingdom Reserve Forces (including army reserves, Royal Navy and Royal Marines reserves, Royal Auxiliary Air Force and Special Forces (reserves))
- core participant in a Public or Independent Inquiry
- attending court or a tribunal as a party to any proceedings or as a witness
- where the claimant is undertaking an Open University course and attending a residential camp as a requirement of that course

## **Public or Independent Inquiry**

Public or Independent Inquiries may be commissioned to establish an account of the facts, circumstances and reasons as to why something went wrong, such as

the independent inquiry into child sexual abuse or the Grenfell Tower and Hillsborough tragedies.

Claimants who have been a victim, survivor or witness of such events can be asked to participate in these investigations and are designated as core participants in the inquiry.

Core participant's activity in a Public or Independent Inquiry is a public duty and as such, work search and work availability requirements are switched-off for the period the claimant is required to attend the inquiry.

### **Evidence**

The inquiry will provide evidence of participation and the claimant is responsible for sharing this information.

The evidence will be a personalised letter headed document, and will as far as possible, indicate peak periods of activity of each claimant. Participation either side of the hearing is likely to be more intense.

On receipt of the evidence, the requirements are to be switched-off for the period of attendance.

In some circumstances, the claimant could be a victim and supporting the inquiry, which may result in them being traumatised and distressed. They may need requirements to be switched-off for a longer period than a person who is just giving evidence or attending occasional hearings.

A claimant must not be asked to recount the trauma they were subject to, or to justify the current impact upon their psychological and physical well-being. Doing so will cause additional distress due to their ongoing involvement in the investigations focusing on the same life events.

Having switched-off requirements for the period of attendance, discretion must be used in deciding whether further easements should be applied beyond the attendance.

Once done, you may also want to include brief telephone contact with the claimant to confirm any improvement in their wellbeing and to consider setting an incremental set of requirements.

Details of the claimant's participation in the inquiry, switching-off requirements and the easements applied are recorded on Universal Credit in 'Claimant history'.

## **Prisoners**

If a single claimant is in prison, the Universal Credit claim remains open where housing costs apply. Any work search and work-related requirements are switched-off whilst a claimant is in prison. Refer to prisoners for more information.

## **Discretion to switch-off requirements (easements)**

Work search and availability requirements must be reasonable and can be switched-off for a short, temporary period if the claimant has an emergency, or temporary circumstances making it unreasonable for them to comply with their requirements.

Circumstances which might result in the discretionary switching-off of requirements are not defined in legislation. This allows for a flexible and appropriate response on a case by case basis. Circumstances may include:

- temporary childcare responsibilities including the usual carer being unavailable, paternity leave or a legal order to provide care for a child a domestic emergency, including:
  - a claimant becoming homeless or at risk of homelessness
  - a claimant having suffered domestic abuse but is still living with the abuser
  - where a claimant's child is not in school – either excluded or awaiting a school place, and the claimant cannot reasonably be expected to make childcare arrangements
  - where a close relative of the claimant is ill in hospital
  - a claimant attending the funeral of a relative or close friend
- a claimant organising funeral arrangements
- a claimant undertaking an agreed or voluntary work preparation requirement, where it would be unreasonable to impose work search/availability requirements (this is likely to apply only in exceptional circumstances)
- other temporary circumstances where staff are satisfied that it would be unreasonable to require the claimant to comply with those requirements

Work search and availability requirements are only switched-off for as long as is considered essential for the claimant to deal with what has happened.

The decision to switch-off requirements must be reviewed regularly to determine if it is still appropriate, or that the claimant is taking steps to resolve the issue.

There is no maximum time limit for temporarily switching off requirements but the guideline is one month.