

Chapter U3: ESA claimant responsibilities – the claimant commitment

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Chapter U3: ESA claimant responsibilities - the claimant commitment

What the claimant commitment is

Introduction

U3001 It is a condition of entitlement to ESA that a claimant has accepted a claimant commitment¹. Unless a claimant commitment

1. has been accepted **or**
2. can be treated as having been accepted

then there can be no entitlement to ESA.

1 WR Act 07, s 1(3)(aa)

U3002 A claimant commitment is a record of a claimant's responsibilities in relation to an award of ESA¹. In order to receive ESA without a reduction the claimant is expected to carry out what is required of them as recorded on their claimant commitment.

1 WR Act 07, s 11A(1)

U3003 It is the responsibility of the Secretary of State to prepare for an ESA claimant a claimant commitment. A claimant commitment can be

1. reviewed **and**
2. updated

at such times as the Secretary of State sees fit¹.

1 WR Act 07, s 11A(2)

Information included in the claimant commitment

U3004 A claimant commitment must include¹

1. a record of the requirements that the claimant must comply with in connection with an award of ESA, or such of them as the Secretary of State considers it appropriate to include **and**
2. any information specified in regulations **and**
3. any other information that the Secretary of State considers appropriate.

1 WR Act 07, s 11A(4)

U3005 The claimant commitment can be in any form as the Secretary of State sees fit¹. The claimant commitment will be a written document which can be accepted in various ways (see U3007).

1 WR Act 07, s 11A(3)

Accepting the claimant commitment

U3006 In order to be entitled to ESA, a claimant can only be said to have accepted a claimant commitment where it is

1. the most up-to-date version **and**
2. accepted by the claimant in the manner specified in regulations and further by the Secretary of State¹.

1 WR Act 07, s 11A(5); ESA Regs 13, reg 44(4)

Example

Josie is in receipt of ESA. Her claimant commitment recorded that Josie had to complete some specific actions with regard to a work preparation requirement. Josie has now completed those actions so a new claimant commitment needs to be drawn up reflecting the new actions which are required of her.

U3007 The methods by which a claimant commitment can be accepted by a person is set out in regulations as

1. electronically **or**
2. by telephone **or**
3. in writing¹.

The Secretary of State then specifies which of these methods are to be used by a person to accept their claimant commitment.

1 ESA Regs 13, reg 44(4)

Date of acceptance of the claimant commitment

U3008 There will often be a gap of time between the date of

1. claim **and**
2. acceptance

of the claimant commitment.

U3009 Where there is such a gap then the claimant can be treated as having accepted the claimant commitment on the first day in respect of which the claim has been made. However, the claimant commitment has to be accepted within a time specified by the Secretary of State¹. This may be referred to as a “cooling off” period.

1 ESA Regs 13, reg 44(1)

U3010 The claimant commitment is generated as a result of a conversation with the claimant. There may be occasions where the claimant refuses to accept their claimant commitment. The claimant must be offered a cooling off period so that they can reconsider. The cooling off period should be a maximum of seven calendar days.

Example 1

Jim made his claim to ESA on 20.5.13. However, he was unable to be seen by the Jobcentre to discuss and accept his claimant commitment straightaway. An appointment was made for 28.5.13. When Jim attends the Jobcentre on 28.5.13, he accepts his claimant commitment and is treated as having accepted it on 20.5.13. This therefore allows Jim to meet that particular condition of entitlement for ESA from the date of claim.

Example 2

Christian made his claim for ESA on 20.5.13. A claimant commitment is drawn up but Christian is not entirely happy with the requirements recorded on it. Christian's adviser allows Christian time to consider the contents of the claimant commitment and the consequences for Christian of not accepting the claimant commitment. Christian is given up to seven calendar days to consider this. After four days, Christian decides to accept the claimant commitment and so it takes effect from 20.5.13.

Example 3

Mandy made her claim for ESA on 20.5.13. A claimant commitment is drawn up but Mandy is not entirely happy with the requirements recorded on it. Mandy's adviser allows Mandy time to consider the contents of the claimant commitment and the consequences for Mandy of not accepting the claimant commitment. She is given up to seven calendar days to consider this. Seven days pass and Mandy makes no contact regarding the claimant commitment. The DM decides that in respect of the claim for ESA made on 20.5.13, Mandy is not entitled. This is because a claimant commitment has not been accepted.

U3011

U3012 Where an award of ESA has been made

1. without the claimant making a claim **and**
2. where the claimant commitment has been accepted by the claimant within the time specified by the Secretary of State

the claimant commitment is treated as having been accepted on the first day of the first benefit week of that award¹.

Note: ADM Chapter A2 provides guidance on circumstances where an award of ESA can be made without a claim being required.

¹ ESA Regs 13, reg 44(2)

U3013 – U3014

Extending the period of time to accept the claimant commitment

U3015 The period of time within which a person is required to accept

1. a claimant commitment **or**
2. an updated claimant commitment

can be extended.

U3016 The extended period of time applies where the claimant has requested an extension and the Secretary of State considers the request as reasonable¹.

1 ESA Regs 13, reg 44(3)

U3017 – U3019

Exceptions to the requirement to accept the claimant commitment

U3020 A claimant is not required to meet the basic condition of entitlement of having to accept a claimant commitment if¹

1. they lack capacity to do so **or**
2. exceptional conditions apply and it would be unreasonable to expect the claimant to accept one.

1 ESA Regs 13, reg 45

Lacking capacity

U3021 A claimant does not have to meet the basic condition of accepting a claimant commitment where they lack the capacity to do so¹.

1 ESA Regs 13, reg 45(a)

U3022 In this context, “lack the capacity” primarily relates to those claimants with an appointee acting on their behalf. However, a decision should be made based on the available evidence as to whether or not a claimant lacks the capacity to accept a claimant commitment.

Example 1

Pippa has severe learning disabilities. She has made a claim to ESA with an appointee completing the claim on Pippa’s behalf. After a discussion with the appointee, Pippa’s adviser at the Jobcentre decides that Pippa is not required to accept a claimant commitment because her learning disabilities mean that Pippa cannot understand the expectations or requirements in connection with a claim to ESA.

Example 2

Don makes a claim for ESA with the help of his neighbour. The neighbour isn’t Don’s appointee but is helping him with the claiming process. During the new claim

interview with his adviser, it becomes apparent that Don does not understand what is required of him with regards to entitlement to ESA. The adviser decides that Don should be referred for appointee action. An appointee is later authorised to act on Don's behalf. Don is not required to accept a claimant commitment.

U3023 Where it is accepted that a claimant lacks capacity then the requirement to accept a claimant commitment is lifted. An appointee is not required to accept a claimant commitment on the claimant's behalf and should not be asked to do so.

U3024

Exceptional circumstances

U3025 The claimant is not required to accept a claimant commitment where¹

1. exceptional circumstances apply **and**
2. it would be unreasonable to expect the claimant to accept a claimant commitment.

1 ESA Regs 13, reg 45(b)

U3026 Examples of when exceptional circumstances apply may include where

1. the claimant is incapacitated in hospital and is likely to be there for several weeks
2. the Jobcentre is closed due to an emergency, for example, a fire or a flood
3. there is a domestic emergency preventing the claimant from accepting the claimant commitment.

This list is not exhaustive. When determining whether or not exceptional circumstances apply, the DM should remember that the normal everyday meaning of "exceptional" is "unusual; not typical".

Note: Once the exceptional circumstances have passed then the claimant is required to accept a claimant commitment.

U3027 The DM has to take into account the circumstances of each individual case in deciding whether it is also unreasonable to expect the claimant to accept the claimant commitment.

Example 1

Natasha made a claim to ESA but due to a fire at the Jobcentre was unable to attend the meeting with her adviser to accept her claimant commitment. The DM treated Natasha as having accepted her claimant commitment and so Natasha became entitled to ESA. Now that the Jobcentre is re-opened, Natasha is required to accept a claimant commitment drawn up by her adviser.

Example 2

Rae has made a claim to ESA. On the day that she is due to meet her adviser to accept her claimant commitment she is, at short notice, given an appointment at her hospital to have a long awaited operation. Rae is expected to be in hospital for some time but is unsure for exactly how long at this stage. It would be unreasonable to expect Rae to cancel her operation in order to accept her claimant commitment. Once she has been discharged from hospital, another appointment can be booked with her adviser to accept her claimant commitment.

Example 3

Keith has made a claim to ESA. On the day that he is due to accept his claimant commitment, he phones the Jobcentre to say that he cannot attend because his washing machine has broken and an engineer is due to fix it that day. However, Keith lives with his retired mother and she can be at home for the engineer. The DM does not treat Keith as having accepted his claimant commitment because it is not unreasonable to expect Keith to arrange with his mother to deal with the engineer.

U3028 – U3029

Reviewing the claimant commitment

U3030 A claimant commitment can be reviewed and updated at such time as the Secretary of State sees fit¹.

1 WR Act 07, s 11A(2)

Example

Rod has been in receipt of ESA for 6 months. During that time Rod's health has improved and although he isn't yet ready for employment, he is at a stage where he can attempt some voluntary work for a few hours a week, perhaps working for a charity. Rod's adviser at the Jobcentre decides that Rod's claimant commitment is updated to reflect this. Rod has to accept the updated claimant commitment in order to retain entitlement to ESA.

U3031 Where a claimant commitment has been reviewed and updated then the claimant must accept it in order to maintain entitlement to ESA¹.

1 WR Act 07, s 11A(5)

U3032 – U3999

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