

# Chapter J3: Work-related requirements

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# Chapter J3: Work-related requirements

## Introduction

J3001 Depending on which work-related group a claimant falls into, the Secretary of State can impose work-related requirements on a claimant<sup>1</sup>. ADM Chapter J2 provides guidance on the work-related groups.

**Note:** when imposing work-related requirements consideration **must** be given to the public law principles established in case law<sup>2</sup>. In every case the claimant can be in no doubt as to what is expected of them and the consequences of failing to comply. Record keeping and the availability of evidence about the imposition of a work-related requirement will be crucial to show a work-related requirement was validly imposed. Therefore when imposing a work-related requirement details of the what, why when and where **must** be recorded in system records in every case. For full guidance see ADM Chapter K1 – Sanctions general principles.

*1 WR Act 12, s 13(1) & (3);  
2 R(Reilly) v SSWP [2014] AC 453; R (Reilly 2) v SSWP [2016] EWCA Civ 413*

J3002 If a claimant, without good reason, does not comply with their work-related requirements then their UC may be reduced<sup>1</sup>. ADM Chapters K1 – K9 provide guidance on the sanctions which may apply to claimants who do not comply with a work-related requirement.

**Note:** For guidance on how work-related requirements are validly imposed see ADM Chapter K1 – Sanctions general principles.

*1 WR Act 12, s 26 & 27*

J3003 The work-related requirements are<sup>1</sup> the

1. work-focused interview requirement (see J3030 et seq)
2. work preparation requirement (see J3040 et seq)
3. work search requirement (see J3050 et seq)
4. work availability requirement (see J3110 et seq).

*1 WR Act 12, s 13(2)*

J3004 A work-related requirement when imposed on a claimant can be subject to change and can be revoked. The Secretary of State has the power to change or revoke what has been specified or imposed on a claimant<sup>1</sup>.

*1 WR Act 12, s 24(3)*

J3005 The claimant has to be aware of any work-related requirement that has been imposed on them. Where a claimant is subject to a work-related requirement then this should be recorded on the claimant's claimant commitment. If not, it should be

notified to the claimant in a manner that the Secretary of State sees fit. This includes where a work-related requirement has been changed or revoked<sup>1</sup>.

**Note:** For full guidance on imposing and adequately notifying work-related requirements see ADM Chapter K1 – Sanctions general principles.

*1 WR Act 12, s 24(4)*

J3006 A claimant may be subject to one or more work-related requirements across all four categories. It depends on which work-related group the claimant is in. The work-related groups<sup>1</sup> are

1. no work-related requirements
2. work-focused interview requirement only
3. work preparation requirement and work-focused interview
4. all work-related requirements.

See ADM Chapter J2 for guidance on the work-related groups and to whom they apply.

*1 WR Act 12, s 13(3)*

J3007 Any reference in this guidance to obtaining paid work includes<sup>1</sup>

1. more paid work **or**
2. better-paid work.

Work includes self-employment.

*1 UC Regs, reg 87*

J3008 – J3019

## **General**

### **Connected requirements**

J3020 The Secretary of State can require<sup>1</sup> that a claimant participate in an interview for any purpose relating to any or all of

1. the imposition of a work-related requirement on a claimant
2. verifying the claimant's compliance with a work-related requirement
3. helping the claimant to comply with a work-related requirement.

*1 WR Act 12, s 23(1)*

J3021 The Secretary of State may specify<sup>1</sup>

1. how **and**
2. when **and**
3. where

the interview should take place. This applies to claimants where interviews form part of their conditionality regime.

*1 WR Act 12, s 23(2)*

J3022 Failure by the claimant to participate without good reason in the interview may result in a sanction<sup>1</sup>.

*1 WR Act 12, s 27(2)(b)*

J3023 In order to verify that the claimant has complied with a work-related requirement, the Secretary of State can require<sup>1</sup> a claimant to

1. provide information and evidence as specified **and**
2. confirm compliance as specified.

ADM Chapters K1 – K9 provide guidance on the sanctions which may apply to claimants who do not comply with a work-related requirement.

*1 WR Act 12, s 23(3)*

### **Example**

Gillian is in receipt of UC and she is subject to all work-related requirements. As part of her work-search requirement, she was asked to draw up an up to date CV. This action was recorded on Gillian's claimant commitment. Gillian's adviser at the Jobcentre arranges an interview for Gillian to attend to discuss her work search and to bring with her the up-dated CV. The adviser asks Gillian to bring the up to date CV with her to the interview so that compliance with that work-related requirement can be confirmed.

J3024 – J3027

J3028 A claimant can be required<sup>1</sup> to report to the Secretary of State any specified changes in their circumstances which are relevant to either or both of the

1. imposition of work-related requirements on them
2. claimant's compliance with a work-related requirement.

*1 WR Act 12, s 23(4)*

### **Example**

Hadi is working and is entitled to UC; his adviser decides to impose a connected requirement and this is recorded on the claimant commitment. This tells Hadi that if, without good reason, he does not report within 5 working days that he has left his job, his UC payments may be reduced.

J3029

# The work-focused interview requirement

## Introduction

J3030 The work-focused interview requirement is a requirement that a claimant take part in one or more work-focused interviews as specified by the Secretary of State<sup>1</sup>.

*1 WR Act 12, s 15(1)*

## What a work-focused interview is

J3031 A work-focused interview is an interview for the prescribed purposes set out in J3032 which the claimant is required to participate in and which relates to work or work preparation<sup>1</sup>. The Secretary of State may specify

1. how
2. when **and**
3. where

a work-focused interview is to take place<sup>2</sup>.

In every case the claimant can be in no doubt what is expected of them. The reason for the interview **must** be notified to the claimant in basic terms in addition to the date, time and place so they are able to prepare for it, as well as the consequences of failing to comply. This is to meet the public law principles of fairness as established in case law<sup>3</sup>.

**Note:** See ADM Chapter K1 – Sanctions general principles for full guidance on the public law principles of fairness.

*1 WR Act 12, s 15(2); 2 s 15(4);*

*3 R (Reilly) v SSWP [2014] AC 453; R (Reilly 2) v SSWP [2016] EWCA Civ 413*

## Example

Chris is in receipt of UC. He is in the work-focused interview requirement group. Chris is notified by an officer of Jobcentre Plus to attend a work-focused interview on 15.7.13 at 10 a.m. in person at his local Jobcentre Plus office.

J3032 The purposes<sup>1</sup> of a work-focused interview for a claimant are any or all of

1. assessing the claimant's prospects for remaining in or obtaining work
2. assisting or encouraging the claimant to remain in or obtain work
3. identifying activities that the claimant may undertake that will make remaining in or obtaining work more likely
4. identifying
  - 4.1 training **or**
  - 4.2 educational **or**

#### 4.3 rehabilitation

opportunities that may make the claimant more likely to remain in or obtain work or be able to do so

5. identifying current or future work opportunities that are relevant to the claimant's needs and abilities
6. ascertaining whether a claimant is in gainful self-employment or meets the conditions of the S/E start-up period (see ADM Chapter H4).

*1 WR Act 12, s 15(2), 15(3) & UC Regs, reg 93*

#### Example

Chris attends his work-focused interview at his local Jobcentre Plus office. At the interview Chris's adviser discusses obtaining the paid work that fits within Chris's capabilities and circumstances and whether there are any issues which require addressing in order for Chris to be able to successfully find work. Chris says that he would like to work in an office environment but has little recent experience of this. Chris and his adviser discuss the activities that will make it more likely that Chris will be successful in obtaining paid work. These include a programme of work experience and also a basic IT course.

J3033 The activities discussed in a work-focused interview are activities that will make it more likely that the claimant will obtain

1. paid work **or**
2. more paid work **or**
3. better-paid work.

The activities may be actions to be taken by the claimant immediately or in the future.

**Note:** Paid work includes self-employment.

J3034 Examples of such activities include

1. employment programmes
2. work experience
3. voluntary work
4. gaining relevant qualifications.

J3035 – J3039

# The work preparation requirement

## Introduction

J3040 The Secretary of State can require that a claimant take particular action for the purpose of making it more likely that the claimant will obtain

1. paid work **or**
2. more paid work **or**
3. better-paid work<sup>1</sup>.

This is known as the work preparation requirement.

**Note:** It is the Secretary of State's opinion that matters as to whether the particular action will enable the claimant to obtain **1.**, **2.** or **3.**

*1 WR Act 12, s 16(1)*

J3041 The amount of time that has to be spent on any particular action can be specified by the Secretary of State<sup>1</sup>. See J3053 et seq and J3065.

*1 WR Act 12, s 16(2)*

## Types of action

J3042 The kinds of action which may be specified by the Secretary of State include<sup>1</sup>

1. attending a skills assessment
2. improving personal presentation
3. taking part in training
4. taking part in an employment programme
5. undertaking
  - 5.1 work experience **or**
  - 5.2 a work placement
6. developing a business plan
7. any other prescribed action.

**Note:** Taking part in work experience in **5.1** under a work-related requirement remains voluntary but where the claimant has agreed to work experience as a work-preparation requirement, they will be expected to comply, otherwise a sanction may apply. For more information see ADM chapters K1, K2, and K5.

*1 WR Act 12, s 16(3);*



### **Example 1**

Joan works for a few hours a week on a S/E basis as a free-lance web designer and wishes to make this work her main employment. At the moment, the work is ad-hoc. For the purposes of UC, she has not been determined to be gainfully S/E (see ADM Chapter H4 for guidance on gainful self-employment). Joan's adviser at the Jobcentre advises that in order to have a better chance of getting more of this work, Joan should develop a business plan setting out who she sees as her potential clients, how these clients should be approached, how her work can be marketed and how her resources should be best employed. This is Joan's work preparation requirement and is recorded on her claimant commitment. If Joan doesn't develop this business plan within timescales agreed with her adviser then her UC could be reduced.

### **Example 2**

Norman has claimed UC following his release from prison. His employment history is made up mainly of temporary jobs and casual work. Upon making his claim for UC, it was agreed with his adviser at the Jobcentre that Norman undertake a skills assessment in order to clarify what work Norman would be best placed to look for. This is part of a work preparation requirement and is recorded on Norman's claimant commitment.

### **Example 3**

Diane is homeless and has been sleeping rough for the last week. Diane's adviser has decided to temporarily lift the requirement to comply with her work availability and work search requirement. Having reviewed Diane's circumstances, her adviser also concludes that the fact Diane has no fixed address is making it difficult for her to find paid work. In order to improve her chances of finding paid work, Diane's adviser at the Jobcentre advises her that she should register with the LA on the housing waiting list. This is Diane's work preparation requirement and is recorded on her claimant commitment.

## **Claimants with limited capability for work**

J3043 Where a claimant has LCW, a work preparation requirement can include taking part in a WFHRA<sup>1</sup>.

*1 WR Act 12, s 16(4)*

J3044 A WFHRA is an assessment carried out by a HCP approved by the Secretary of State for the purpose of assessing

1. the extent to which the claimant's capability for work can be improved by taking steps with regard to their

**1.1 physical or**

1.2 mental

condition **and**

2. any other matters with regard to their

2.1 physical **or**

2.2 mental

condition and the likelihood of obtaining or remaining in work or being able to do so as may be specified in regulations<sup>1</sup>.

**Note:** Nothing has yet been specified in regulations under 2.

*1 WR Act 12, s 16(5)*

J3045 A HCP means<sup>1</sup>

1. a registered medical practitioner **or**

2. a registered nurse **or**

3. an

3.1 occupational therapist **or**

3.2 physiotherapist

registered with a regulatory body established under relevant legislation<sup>2</sup> **or**

4. a member of such other profession registered with a body established under relevant legislation<sup>3</sup> as may be specified in regulations.

*1 WR Act 12, s 16(6); 2 Health Act 1999, s 60;*

*3 National Health Service Reform and Health Care Professions Act 2002, s 25(3)*

J3046 – J3049

## The work search requirement

### Introduction

J3050 The work search requirement is a requirement that a claimant takes

1. all reasonable action **and**

2. any particular action that has been specified by the Secretary of State

to obtain paid work or more paid work or better paid work<sup>1</sup>.

**Note:** Paid work includes self-employment (see ADM Chapter H4).

*1 WR Act 12, s 17(1)*

J3051 The amount of time that a claimant has to spend on any particular action can also be specified by the Secretary of State<sup>1</sup>. See J3053 et seq and J3065.

*1 WR Act 12, s 17(2)*

J3052 When deciding if the work search “all reasonable action” requirement has been met, DMs should have regard to the

1. time spent by the claimant searching for work **and**
2. quality of the claimant’s work search including the range of actions that they have taken (for example, contacting employers, registering with employment agencies, investigating self-employment opportunities etc).

## **Expected hours of work**

J3053 When determining all reasonable action in a work search requirement, the DM has to have regard to the expected number of hours of work per week.

J3054 The general rule is that, unless an exception applies, the expected number of hours of work per week is normally 35<sup>1</sup>.

*1 UC Regs, reg 88(1)*

### **Example**

Pete is a single unemployed man. He has made a claim for UC and he is subject to all work-related requirements. Pete’s expected hours of work are normally 35 per week. This is recorded on his claimant commitment. Pete is normally expected to spend 35 hours per week on his work search.

## **Exceptions to the expected number of hours of work**

J3055 The expected hours of work for a claimant

1. who is a
  - 1.1 relevant carer **or**
  - 1.2. responsible carer **or**
  - 1.3. responsible foster parent **and**
2. where the Secretary of State is satisfied that the claimant has reasonable prospects of obtaining paid work

are the number of hours that the Secretary of State considers is compatible with those caring responsibilities<sup>1</sup>.

**Note:** See chapter J2 for more information on the expected number of hours for carers.

*1 UC Regs, reg 88(2)(a); reg 88(2)(aa)*

J3056 When considering whether a claimant has reasonable prospects of obtaining paid work for the hours that meet their caring responsibilities, circumstances which should be taken into account include

1. the type and number of vacancies within 90 minutes normal travelling distance of their home
2. their skills, qualifications and experience
3. how long it is since they last worked
4. the job applications that they have made and the outcomes.

J3057 Where there are no current vacancies which fit the claimant's caring responsibilities in their particular locality, it should be considered whether the claimant has done all that they can (and continue to do so) to give themselves reasonable prospects of finding work when it is available in their locality.

J3058 Where a claimant is a responsible carer for a child aged under the age of 13, the expected hours of work are the lower number that the Secretary of State considers is compatible with the child's normal school hours (including the normal time it takes the child to travel to and from school)<sup>1</sup>. The expectation is that this safeguard will be 25 hours a week. Where the child is aged three to four, the expectation is that this safeguard will be 16 hours a week. The claimant does not have to show that they have reasonable prospects of obtaining paid work.

*1 UC Regs, reg 88(2)(b)*

### **Example**

Jermaine is the responsible carer for his son who is aged 12 years old. It has been agreed with Jermaine's adviser at the Jobcentre that Jermaine's expected hours of work should be 25 hours a week. This is considered by Jermaine's adviser as being compatible with Jermaine's son's normal school hours including the time it takes to travel to and from school.

J3059 Where a claimant is the responsible carer of a child aged 13 or over then J3058 does not apply. The claimant's work search and work availability requirements can however be limited to fit in with those caring responsibilities. The DM should take into account any mental or physical impairments of the child (see J3055). The claimant has to show reasonable prospects of obtaining work notwithstanding those limitations<sup>1</sup>.

*1 UC Regs, reg 88(2)(a)*

J3060 The expected hours of work for a claimant who has a

1. physical **or**
2. mental

impairment are the lower number of hours that the Secretary of State considers is reasonable as a result of the impairment<sup>1</sup>. The claimant does not have to show that they have reasonable prospects of obtaining paid work.

*1 UC Regs, reg 88(2)(c)*

### Example

Carl has claimed UC. He suffers from rheumatoid arthritis which can cause him a degree of pain and discomfort but he does not have LCW. Carl's adviser considers the evidence and decides that Carl cannot be expected to work for 35 hours a week but that it is not unreasonable for him to work for ten hours a week. Carl's expected number of hours a week for the purposes of UC are therefore ten per week.

J3061 A claimant may have their hours of work limited in any way provided the limitations are reasonable in the light of their physical or mental condition.

### Example

Cliff suffers from emphysema. He asks that the type of work that he can do should be limited

1. to avoid working in smoke or fumes
2. regarding the number of hours of work in a week or the number of hours in a shift due to fatigue/limitations.

This is determined to be reasonable in the light of Cliff's condition.

J3062 Where it is agreed with the claimant that there are acceptable limitations due to their physical or mental impairments then they do not have to show they have reasonable prospects of getting paid work. However, the claimant must show that all the limitations are reasonable and are directly connected with their physical or mental impairment.

## All reasonable action

J3063 A claimant who has not taken all reasonable action to obtain paid work has to be treated as not having complied with a work search requirement<sup>1</sup>.

*1 UC Regs, reg 95(1)*

J3064 In order to meet the requirement to take all reasonable action in any week

1. a claimant must
  - 1.1 take action to get paid work for their expected hours of work per week minus any relevant deductions<sup>1</sup> **or**
  - 1.2 satisfy the Secretary of State that they have taken all reasonable action despite the time spent doing this being less than the claimant's expected hours of work<sup>2</sup> **and**
2. the claimant's action must be action which gives them the best prospects of obtaining work<sup>3</sup>.

*1 UC Regs, reg 95(1)(a)(i); 2 reg 95(1)(a)(ii); 3 reg 95(1)(b)*

J3065 Relevant deductions means<sup>1</sup> the total of any time agreed by the Secretary of State for the claimant to

1. carry out in that week
  - 1.1 paid work **or**
  - 1.2 voluntary work **or**
  - 1.3 a work preparation requirement **or**
  - 1.4 voluntary work preparation **or**
2. deal with
  - 2.1 temporary childcare responsibilities **or**
  - 2.2 a domestic emergency **or**
  - 2.3 funeral arrangements **or**
  - 2.4 other temporary circumstances.

**Note 1:** Voluntary work preparation in **1.4** is action taken by the claimant and agreed by the Secretary of State for the purpose of making it more likely they will obtain paid work but which has not been specified by the Secretary of State as part of a work preparation requirement<sup>2</sup>. See also J3074.

**Note 2:** A relevant deduction should also include the travel time it takes for a person to travel to and from the place to under **1.1**, **1.2**, **1.3** and **1.4**.

**Note 3:** See J3070 et seq for guidance on temporary circumstances.

*1 UC Regs, reg 95(2); 2 reg 95(4)*

### **Example 1**

Paul is in receipt of UC and is unemployed. With his adviser, it was agreed that Paul's expected hours of work a week are 35 and that he would spend 35 hours a week on his work search requirement. This is recorded on his claimant commitment. Including travel time, Paul spends five hours a week helping out at his local youth club on a voluntary basis. This was agreed with his adviser. For the purposes of all reasonable action in searching for work, Paul's relevant deductions are five hours a week. This means that Paul should spend 30 hours a week on his work search requirement taking action that gives him the best prospects of finding paid work.

### **Example 2**

Gaynor is in receipt of UC. She has a son who has just started primary school. Prior to having a child, Gaynor was a trainee hairdresser but finished this work when her son was born. It has been agreed with Gaynor's adviser at the Jobcentre that Gaynor's expected hours of work should be 25 hours a week because this fits in with her son's normal school hours. Gaynor has just started re-training to become a hairdresser as part of a work preparation requirement. She spends 10 hours a week

on this. This means that Gaynor should normally spend 15 hours a week on her work search requirement taking action that gives her the best prospects of finding paid work.

### **Example 3**

Jonty's expected hours of work are 35 a week. He has just started working for a few hours a week on a S/E basis as delivery driver and wishes to make this work his main employment. At the moment, the work is sporadic. For the purposes of UC, Jonty has not been determined to be gainfully S/E (see ADM Chapter H4 for guidance on gainful self-employment). Jonty's adviser at the Jobcentre advises that in order to have a better chance of getting more of this work, Jonty should develop a business plan setting out who he sees as his potential clients, how these clients should be approached and how his work can be advertised. This is Jonty's work preparation requirement and is recorded on his claimant commitment. It has been agreed that Jonty should spend five hours a week on the work preparation requirement. This means that Jonty should normally spend 30 hours a week on his work search requirement taking action that gives him the best prospects of finding paid work.

J3066 – J3067

## **Temporary circumstances**

J3068 As explained at J3055, in addition to the matters referred to at J3055 **2.** the Secretary of State may agree a relevant deduction from the claimant's expected hours to allow the claimant to deal with "other temporary circumstances"<sup>1</sup>. A temporary circumstance is any relevant change affecting the claimant that is likely to be for a limited period of time only and is a question of fact.

*1 UC Regs, reg 95(2)(b)*

J3069 The regulations do not expand on the meaning of temporary. In the absence of a statutory definition it will normally be understood to mean for a limited period of time. What is considered temporary will depend on the circumstances but for the purposes of a relevant deduction it would be unusual for a temporary circumstance to last longer than a month.

J3070 In some cases it will be difficult at the outset to predict how long a situation might be expected to last. The fact that there may be no end date for the temporary circumstance does not prevent the change being temporary but it does mean that the situation be kept under review. It is possible in time for a temporary circumstance to become a permanent circumstance.

J3071 Claimants need to report relevant changes in their circumstances. Where this happens the claimant's adviser will need to consider with the claimant new work-

related requirements. An updated claimant commitment would also be required to reflect their new circumstances.

### **Example 1**

When Ashraf claimed UC it was agreed with his adviser that his weekly expected hours of work were 35 and that he would spend 35 hours a week on his work search requirement. This is recorded on his claimant commitment. Ashraf is to move house in the week commencing 20 April. Ashraf's adviser agrees that during this week, Ashraf need only spend 20 hours a week on his work search requirement because 15 hours a week can be a relevant deduction to take account of the time spent moving house. The act of moving from one house to the other is a temporary circumstance for Ashraf.

### **Example 2**

Susie is in receipt of UC and her weekly expected hours of work are 35. Her daughter Amelia is at secondary school but has been excluded for a week due to her bad behaviour. As a result of Amelia's exclusion and other issues associated with it, Susie has not been able to devote 35 hours a week to her work search and has spent about 10 hours on this. Susie's adviser agrees that for the week this work search is sufficient because Amelia's exclusion from school is a temporary circumstance for Susie.

J3072 A temporary circumstance, such as sudden homelessness, is not always a one-off event and the fact that a person has gone from rough sleeping to staying in a hostel does not mean that their temporary circumstances have come to an end.

## **Voluntary work**

J3073 Where the Secretary of State has agreed that the claimant can carry out voluntary work in a week then for the purposes of calculating the relevant deduction, the time agreed cannot exceed 50% of the number of the claimant's number of expected hours of work<sup>1</sup>.

*1 UC Regs, reg 95(3)*

J3074 Claimants can do as much voluntary work as they wish but for the purposes of UC, only 50% of their expected hours of work can be a relevant deduction against their work search activities for the week.

### **Example**

Caroline is in receipt of UC. It has been agreed that she should be looking for paid work of 35 hours a week. Caroline also performs voluntary work at her daughter's school. The amount of time that will be allowed as a maximum deduction in respect of the voluntary work cannot exceed 17.5 hours a week even if Caroline performs voluntary work in excess of 17.5 hours a week.



## Time spent on work search which is less than the claimant's expected hours of work

J3075 There will be times where a claimant has spent less time on work search than their expected hours of work. In such cases, where a claimant has taken all reasonable action to find paid work, then the work search requirement is satisfied<sup>1</sup>. What all reasonable action will be will depend on the claimant's circumstances.

*1 UC Regs, reg 95(1)(a)(ii)*

### Examples of reasonable action

J3076 Activities such as

1. verbal or written or on-line applications for employment to persons who
  - 1.1 have advertised job vacancies **or**
  - 1.2 who appear to be able to offer employment **and**
2. looking for information on job vacancies
  - 2.1 in advertisements **or**
  - 2.2 from people who have placed advertisements indicating employment is available **or**
  - 2.3 from employment agencies and employment businesses **or**
  - 2.4 from employers
  - 2.5 on-line **and**
3. registering with an employment agency or employment business **and**
4. appointing someone else to help the claimant find employment **and**
5. seeking specialist advice which will help the claimant to get employment, taking into account the claimant's
  - 5.1 needs **and**
  - 5.2 mental or physical impairments **and**
6. drawing up a curriculum vitae **and**
7. seeking a reference or testimonial from a previous employer **and**
8. drawing up a list of employers who may be able to offer employment with a view to seeking information from them on possible job vacancies **and**
9. seeking information about employers who may be able to offer employment to the claimant **and**
10. seeking information on an occupation with a view to getting employment in that occupation

are examples of reasonable action to obtain work. The better the quality of the activity, the more likely that the action that the claimant has taken has provided the best prospects of obtaining paid work.

**Note:** see chapters K3 & K5 for more information on Universal Jobmatch

### **Example**

Dave is in receipt of UC. His expected number of hours of work are 35 a week. On a typical day, Dave spends

1. two hours on-line looking through recruitment sites
2. one hour reading the "situations vacant" pages in the press (local papers, national papers and trade journals)
3. one hour and a half completing a job application and covering letter
4. half an hour reviewing and updating his CV
5. half an hour pursuing further information on suitable advertised vacancies
6. half an hour speaking to friends, family and former colleagues about possible employment opportunities
7. one hour researching the possibility of setting up in business as self-employed.

J3077 Where a claimant has done all that could be reasonably be expected of them in terms of

1. applying for all suitable vacancies
2. undertaking all the activities set out in their work search and work preparation plan
3. suitable work search action in addition to 1. and 2.

then this will normally be sufficient even where the time taken was less than the claimant's expected hours of work.

### **Any particular action**

J3078 The Secretary of State can specify that the claimant takes particular action as part of a work search requirement in order for the claimant to get

1. paid work **or**
2. more paid work **or**
3. better-paid work<sup>1</sup>.

J3079 The types of action that may be specified includes<sup>1</sup>

1. carrying out work searches
2. making job applications
3. creating and maintaining an online profile in connection with finding work
4. registering with an employment agency
5. seeking references
6. any other action as the Secretary of State thinks fit.

**Note:** See chapters K3 & K5 for more information on the online profile and Universal Jobmatch

*1 WR Act 12, s 17(3)*

### **Example**

Jonny's previous work experience is in IT. He is searching for further work in this profession. There are a number of employment agencies which specialise in finding work for IT professionals but Jonny has not yet approached them. As part of Jonny's work search requirement, his adviser now specifies that Jonny must register with these specialist employment agencies.

## **Best prospects of obtaining work**

J3080 What is the best chance of getting paid work will vary from claimant to claimant. Claimants must take such action that offers them their best chance of getting

1. paid work **or**
2. more paid work **or**
3. better-paid work.

J3081 – J3082

J3083 Claimants are not required to take any action that does not offer them any chance of getting an offer of paid work. If they do take such action it cannot help them satisfy the work search requirement.

### **Example**

Zac is in receipt of UC and is subject to all work-related requirements. Zac's claimant commitment records that he is looking for office work and retail work. He is a keen video gamer and spends a considerable amount of time playing these games at home and at friends' houses. Ideally, Zac would like to be a games designer and says that the time spent playing games is good experience and could help him get paid work. There is no evidence that Zac has applied for any jobs in that field and there is no evidence that Zac's time spent playing games has made him more

attractive to any would be employer. The time that Zac spends playing video games does not help him to satisfy the work search requirement.

J3084 The type of work that claimants are or should be looking for is taken into account when deciding which actions would give them their best chance of getting paid work.

## **Interviews**

J3085 A work search requirement may require a claimant to apply for a particular vacancy. Failure to participate in an interview in connection with that vacancy means that the claimant has to be treated as having not complied with a work search requirement<sup>1</sup>.

*1 UC Regs, reg 94*

### **Example 1**

Hannah has been required by her adviser to apply for a vacancy at the local nursery. Hannah applied for the vacancy but when offered an interview, she declined to attend on the grounds that she had heard from family and friends that the nursery has a poor reputation. Hannah has not complied with a work search requirement.

### **Example 2**

Damon has been required by his adviser to apply for a vacancy as a credit controller. Damon applied for the post and completed a satisfactory application but was not short listed for an interview. Damon has complied with a work search requirement.

## **Community orders, community disposals or anti-social behaviour orders**

J3086 If claimants are subject to

1. community orders **or**
2. community disposals **or**
3. anti-social behaviour orders

that require them to be at home during the day, then this should be taken into account when the work-search requirement is set. Examples of searching for work from home are reading newspapers, accessing the internet, using the phone and writing to employers.

## **Skills, qualifications, abilities and limitations**

J3087 Claimants'

1. skills **and**
2. qualifications **and**

3. abilities **and**
4. limitations

may affect the type of action that they can reasonably be expected to take.

J3088 Claimants with

1. mental impairments **or**
2. physical impairments **or**
3. communication difficulties **or**
4. learning difficulties

may not be able to cope with the amount or type of job search that could reasonably be expected of a claimant without these disabilities or difficulties.

J3089 Some may not be able to make many personal visits to employers or employment agencies because

1. of travelling difficulties **or**
2. they may need to make travelling arrangements well in advance.

However they should still take whatever action they can reasonably be expected to take, allowing for their impairments and the facilities available to them.

J3090 If claimants are illiterate they cannot reasonably be expected to write to employers or read advertisements. But they could

1. arrange for someone else to help them search for work, for example by passing on information about suitable job advertisements **and**
2. take other action that they can reasonably be expected to take, for example visiting or telephoning employers' premises or sites.

### **Action taken in previous weeks**

J3091 The action that claimants took in previous weeks to search for work often affect what they can reasonably be expected to do in the week in question. For example, if claimants have already written to employers enquiring about vacancies, and they

1. are still awaiting a reply **or**
2. have been told that no work is available

they cannot reasonably be expected to write to that employer again until a reasonable time has passed.

J3092 If claimants

1. have already registered with an employment agency or business **and**
2. they have promised to let them know of any suitable vacancies

it is reasonable for claimants to wait, for a time, for the agency to contact them. But there will usually be other action that they could reasonably be expected to take.

J3093 As vacancies are constantly being filled and new vacancies advertised, it may be reasonable to expect claimants to

1. continue to make use of Universal Jobmatch
2. visit a local Jobcentre Plus office in the week in question to check whether any new vacancies have been advertised, even if they visited in previous weeks
3. apply for a vacancy newly advertised by an employer, even if they are waiting for the result of other applications they have made to that employer.

J3094

## Homeless claimants

J3095 If claimants have nowhere to live

1. it may be difficult for them to be contacted by
  - 1.1 employers **or**
  - 1.2 employment agencies **or**
  - 1.3 those who may be able to help them find employment
2. they may have to spend much of their time in the week in question looking for somewhere to live
3. they may not have access to a reliable means of communication (for example, a telephone or internet access)
4. a lack of washing or laundry facilities may affect personal presentation.

These factors should be taken into account in deciding what it was reasonable to expect them to do in any week.

J3096 Some homeless claimants may be able to arrange for friends or relatives to receive their mail. But all the facts must be taken into account when deciding whether this is reasonable in the claimant's case.

J3097 Being homeless may limit the action claimants can take. However homeless claimants may still be able to search for work by

1. reading advertisements **and**
2. making personal calls on
  - 2.1 employers **and**
  - 2.2 employment agencies **and**
3. making use of services in
  - 3.1 the Jobcentre **or**

**3.2** their local library

to apply for jobs and create CVs.

The above is not exhaustive.

J3098 J3042, J3072 and J3226 also provide guidance on homelessness and work-related requirements.

J3099

## **Evidence**

J3100 Where there is a doubt about whether a claimant is meeting their work search requirement, the case will usually be referred to the DM with

1. a copy of the claimant commitment **and**
2. details of any other action to seek work that an officer of the Jobcentre Plus office suggested the claimant take in the week or weeks in question **and**
3. evidence of what action the claimant took to seek work in those weeks **and**
4. evidence of what action the claimant took in previous weeks **and**
5. evidence of any advice about searching for work that the Jobcentre Plus office had previously given the claimant.

J3101 The DM does not have to accept that the action suggested by the Jobcentre Plus office is the action that the claimant can reasonably be expected to take to give them their best chance of getting work. For example, the DM may have, or obtain, other evidence that suggests

1. it was not reasonable to expect the claimant to take the action expected by the Jobcentre Plus office and that action did not offer the claimant their best chance of getting work **or**
2. it would have been reasonable to expect the claimant to take other action (whether or not the claimant took them) and that they offered the claimant their best chance of getting work.

In the absence of such evidence, the DM should accept that the actions expected by the Jobcentre Plus office were reasonable and offered the claimant their best chance of obtaining work.

J3102 Evidence of work search includes

1. evidence from employers, employment agencies or other bodies that the claimant has contacted
2. the claimant's activity on Universal Jobmatch
3. copies of letters or applications that the claimant has sent to employers online, by post or in person

4. the claimant's uncorroborated written evidence (claimants should keep a record of their job search and other efforts to find work)
5. the claimant's own verbal evidence, recorded by an officer of the Jobcentre Plus office.

J3103 Corroboration of the claimant's evidence is not essential (see ADM Chapter A1). DMs should note that

1. claimants will not always be able to obtain corroborative evidence if they state that they have
  - 1.1 "asked around" **or**
  - 1.2 applied for jobs that are normally advertised and filled by word of mouth **and**
2. employers do not always reply to written enquiries.

J3104 If the DM has reason to doubt whether a claimant has contacted certain employers or agencies those employers or agencies may be asked whether they

1. keep a record of enquiries by job seekers **and**
2. are able to confirm that a particular person approached them for employment.

But such enquiries should only be necessary if the evidence before the DM is inconsistent or seems unlikely.

## **Proof**

J3105 Before determining whether the claimant was meeting the work search requirement in any week the DM

1. must decide what the claimant did in that week to search for work **and**
2. may also have to decide what they did to search for work in previous weeks.

The onus is on the claimant to show what steps have been taken<sup>1</sup>.

*1 UC, PIP, JSA & ESA (C&P) Regs, reg 38(2) & (3) & WR Act 12, s 23(3)*

J3106 Determining whether claimants were meeting the work search requirement in any week requires a comparison between

1. what they in fact did to search for work in that week **and**
2. what the law required them to do.

J3107 Claimants must take the work search actions that give them the best prospects of securing work; it will not be enough just to spend time looking for a job. They must be doing so in an effective manner.

J3108 – J3109



# The work availability requirement

## Introduction

J3110 A work availability requirement is a requirement that a claimant be available for work<sup>1</sup>.

*1 WR Act 12, s 18(1)*

J3111 To be available for work, a claimant must be

1. able **and**
2. willing

immediately to take up paid work or more paid work or better-paid work<sup>1</sup>.

*1 WR Act 12, s 18(2)*

## Willing and able immediately to take up paid work

J3112 To be available for employment claimants must

1. be available in an active, positive sense **and**
2. draw attention to their availability.

Claimants will not be available for paid work if they are passive and merely wait for someone to find and offer them work<sup>1</sup>. See also J3141.

*1 R(U) 5/80*

J3113 In order to demonstrate that they are willing and able immediately to take up paid work, claimants should

1. be physically able to take up work within the appropriate timescale
2. be contactable (through mail, e-mail or phone) for interviews or work
3. be willing and able to give up any commitments which may interfere with their ability to start work
4. attend all interviews that have been offered to them
5. consider their appearance and behaviour to ensure this does not reduce their prospects of finding paid work.

### Example

Karl is in receipt of UC and has a work availability requirement with no limitations. In order to improve his prospects of finding work as an IT engineer, Karl has enrolled at his own expense on a training course. He did not discuss this with his adviser at the Jobcentre. The training course has cost Karl a significant amount of money in fees and Karl says that he is not prepared to take time off the course or give it up in order

to attend any job interviews that may arise. The DM determines that Karl is not complying with his work availability requirement.

J3114 The DM determines whether the

1. type **or**
2. types of employment

that the claimant is available for are paid work<sup>1</sup>.

*1 R(U) 14/51*

J3115 The DM can decide that claimants are not available for paid work, even if they have not refused an offer of work<sup>1</sup>.

*1 R(U) 44/53*

J3116 Whether claimants are available for paid work depends on their intentions and attitude towards taking paid work. It should generally be accepted that people are available for paid work if

1. they say they are available **and**
2. they do all that is required of them to prove their availability **and**
3. they give the promises that are normally accepted as proving availability **and**
4. there is nothing in their statements or actions to suggest they are not available<sup>1</sup>.

**Note:** There may be evidence that claimants have taken action to seek paid work. However they may not be able and willing to start work at once, for example because they are engaged in some other activity that they are unable or unwilling to leave (see J3142).

*1 R(U) 3/65*

J3117 – J3127

### **Forbidden by law to take paid work**

J3128 To be available for paid work a claimant must be able to take up employment in accordance with the law of the UK<sup>1</sup>.

*1 R(U) 13/57; R(U) 1/82(T)*

#### **Example 1**

Hassan who does not have a right to live in the UK, is granted a work permit that is valid for one particular type of employment. He is not allowed to take other employment without permission of the HO. When his employment ends he claims UC. Any offer of employment made to Hassan is subject to a work permit being obtained, from the HO, first. Without obtaining a work permit he is not able to take

employment, at once, in accordance with UK legislation. Hassan is not available for work.

### **Example 2**

Maria from Brazil has a permit to stay in the UK and take up employment. She does not comply with the conditions of the permit and it is withdrawn. Maria is ordered to leave the country by a certain date in a deportation order. She is not available for paid work unless the deportation order is revoked and the permit reinstated.

J3129 – J3140

### **Interviews**

J3141 A claimant has to be treated as having not complied with a work availability requirement if the claimant is not

1. willing **and**
2. able

immediately to attend an interview in connection with getting paid work<sup>1</sup>.

*1 UC Regs, reg 96(1)*

### **Example 1**

Joff is reluctant to immediately attend a job interview that could result in him getting paid work. He takes the view that he needs to spend time on preparation and research before attending any interview in order to give himself the best chance of success. In any case, Joff thinks that he has a decent prospect of a job interview in about a fortnight's time – he is just waiting for an employer to get back to him - and he wants to concentrate his efforts on that possible interview. Despite being advised by the Jobcentre about the requirement to be willing and able to immediately attend an interview, Joff won't change his mind. The DM determines that Joff does not comply with a work availability requirement.

### **Example 2**

Rory is in receipt of UC. His adviser at the Jobcentre has spotted a vacancy which Rory would be suitable for. The employer wishes to fill the vacancy as quickly as possible and can interview applicants straight away. Rory's adviser contacts Rory about the vacancy and tells him that the employer can see him that afternoon. Rory says he will not attend the interview because he thinks it's too short notice and in any case, he was planning on completing an application form for another vacancy that afternoon. The DM determines that Rory does not comply with a work availability requirement.

## Treated as having complied with a work availability requirement

J3142 Even though a claimant is not actually able to immediately take up paid work, a claimant has to be treated as having complied with a work availability requirement where<sup>1</sup> they are

1. a responsible or relevant carer **or**
2. engaged in voluntary work **or**
3. employed under a contract of service.

However certain conditions apply and the following paragraphs provide guidance on those conditions.

*1 UC Regs, reg 96(2)*

### Carers

J3143 Where the

1. claimant is a
  - 1.1 responsible carer **or**
  - 1.2 relevant carer **and**
2. Secretary of State is satisfied that as a result the claimant needs
  - 2.1 a period of up to one month to take up paid work **or**
  - 2.2 up to 48 hours to attend an interview in connection with obtaining paid worktaking into account alternative care arrangements  
**and**
3. claimant is able and willing to
  - 3.1 take up paid work **or**
  - 3.2 attend an interviewon being given notice for the period in **2.1** or **2.2**

then the claimant is to be treated as having complied with a work availability requirement<sup>1</sup>.

**Note:** ADM Chapter J2 provides guidance on the nomination of responsible carer and responsible foster parent.

*1 UC Regs, reg 96(3)*

### Example

Jules and Jim are in receipt of UC. They have a child aged 14 at secondary school. For the purposes of their award of UC, Jules has been nominated as the responsible carer. In order to satisfy her work availability requirement, Jules is not required to be

able and willing to immediately take up work. She must, however, be able and willing to attend an interview on 48 hours' notice and take up paid work on one month's notice. If Jules is not able and willing to do this then she does not satisfy the work availability requirement. Jim is required to be able and willing immediately to take up work.

J3144 A relevant carer means<sup>1</sup>

1. a parent of a child who is not the responsible carer but has caring responsibilities for the child **or**
2. a person who has caring responsibilities for a person who has a
  - 2.1 physical **or**
  - 2.2 mentalimpairment which requires such care.

*1 UC Regs, reg 85*

### **Example**

Savvi lives with her mother. Savvi's mother is elderly and is becoming quite forgetful and frail. She needs Savvi's help occasionally through the day. Savvi usually cooks her mother's meals and accompanies her if she has to go anywhere. She also helps her mother in dealing with any official communications, for example, sorting out doctor's appointments and completing benefit forms. Savvi's adviser has agreed that Savvi does not need to be able and willing to immediately take up paid work. Instead she only needs to be able to take up paid work given a month's notice and to attend an interview given 48 hours notice. This is recorded on Savvi's claimant commitment. Savvi is a relevant carer and satisfies the work availability requirement.

### **Voluntary work**

J3145 Where the

1. claimant is doing voluntary work **and**
2. Secretary of State is satisfied that as a result the claimant needs
  - 2.1 a period of up to one week to take up paid work **or**
  - 2.2 up to 48 hours to attend an interview in connection with obtaining paid work **and**
3. claimant is able and willing to
  - 3.1 take up paid work **or**
  - 3.2 attend an interviewon being given notice as in **2.1** or **2.2**

then the claimant is to be treated as having complied with a work availability requirement<sup>1</sup>.

*1 UC Regs, reg 96(4)*

### **Example**

Elizabeth is the secretary of the local sports association. The work is unpaid. As part of her voluntary duties, Elizabeth is heavily involved in all aspects of the administration of the sports association and is often at the club doing paperwork, attending meetings, taking enquiries and tidying up. In addition, Elizabeth helps run the local junior football league. Elizabeth says that, although she can't always immediately take up paid work due to commitments to the sports association, she could attend a job interview if given the appropriate notice of up to 48 hours and take up paid work if given the appropriate notice of up to a week. Elizabeth does comply with a work availability requirement.

J3146 – J3149

### **Employed under a contract of service**

J3150 Where the claimant is

1. employed under a contract of service **and**
2. required to give notice to end their contract
  - 2.1 under relevant legislation<sup>1</sup> **or**
  - 2.2 under the contract of employment **and**
3. able and willing to take up paid work once the notice period has expired **and**
4. able and willing to attend an interview on being given 48 hours notice

then the claimant is to be treated as having complied with a work availability requirement<sup>2</sup>.

*1 ER Act 96, s 86; 2 UC Regs, reg 96(5)*

### **Example**

Chris works 16 hours a week for a supermarket. He is not immediately available for other paid work because under his contract of employment Chris is required to give one week's notice. However, he is willing and able to take up other paid work on the expiry of this notice period. Chris is also able and willing to attend a job interview on being given 48 hours' notice. Chris is treated as complying with a work availability requirement so long as he is subject to his contract of employment.

J3151 – J3159

# Limitations on the work search and work availability requirement

## Introduction

J3160 In certain circumstances limitations can be imposed on a claimant's

1. work search requirement **and**
2. work availability requirement<sup>1</sup>.

*1 WR Act 12, s 17(4) & 18(3)*

## Location

J3161 A work search requirement and a work availability requirement must be limited to work that is in a location which would normally take the claimant a maximum of 90 minutes each way to travel from

1. home to the location **and**
2. the location to home<sup>1</sup>.

**Note:** Travelling time **includes** the time spent waiting for transport connections after the journey has started.

*1 UC Regs, reg 97(3)*

J3162 When considering how long it would normally take to travel, regard should be given to

1. the claimant's normal method of transport
2. the availability of transport such as frequency of public transport and cover in rural areas
3. any personal factors, for example a driving ban
4. impairments which may cause travelling independently between locations to take longer than it would for someone without such an impairment.

## Example

Marvin has made a claim for UC and is subject to all work-related requirements. Although Marvin has passed his driving test and has a driving licence, he has no car and is reliant on public transport. Marvin's work search and work availability requirement must be limited to locations which would take him up to 90 minutes to travel to each way by public transport.

## Previous paid work

J3163 A claimant who has previously carried out work

1. of a particular nature **or**

2. paid at a particular level

must have their work search requirement and work availability requirement limited to work of that nature or level of pay<sup>1</sup>.

*1 WR Act 12, s 17(5)(a) & (b) & s 18(4)(a) & (b), UC Regs, reg 97(4)*

J3164 The determination to apply the period of limitation in J3163 can be only

1. where the Secretary of State is satisfied that the claimant has reasonable prospects of getting paid work with those limitation(s)<sup>1</sup> **and**
2. for a period not exceeding three months
  - 2.1 from the date of claim<sup>2</sup> **or**
  - 2.2 if after the date of claim, from the date on which the claimant ceases paid work after exceeding the earnings threshold<sup>3</sup>.

*1 UC Regs, reg 97(4); 2 reg 97(5)(a); 3 reg 97(5)(b)*

### **Example**

Alex has just claimed UC after losing his job as a secondary school teacher. Before he was made redundant, he was a main scale teacher with no leadership responsibilities. On making his claim to UC, Alex informed Jobcentre Plus that he wanted to remain in the teaching profession at the same level as he had been before his redundancy. There are a number of secondary schools within 1.5 hours travelling distance of where Alex lives. Alex's adviser is satisfied that Alex has reasonable prospects of returning to work as a main scale teacher and so Alex's work search and work availability requirement are limited to that profession for a period of three months from the date of claim to UC.

### **Physical and mental impairments**

J3165 A claimant who demonstrates that

1. they have a
  - 1.1 physical **or**
  - 1.2 mental impairment **and**
2. their ability to carry out work
  - 2.1 of a particular nature **or**
  - 2.2 in particular locations

is substantially adversely affected due to the impairment, must not have a work search requirement or work availability requirement related to work of that nature or in those locations<sup>1</sup>.

*1 UC Regs, reg 97(6)*



## Expected hours of work

J3170 If a claimant has limited their expected hours of work on the grounds of

1. being a relevant carer **or**
2. being a responsible carer **or**
3. having a physical or mental impairment

then their work search requirement and work availability requirement must be limited to the same number of hours per week<sup>1</sup>. J3062 et seq provides guidance on the exceptions to the expected number of hours of work.

*1 UC Regs, reg 97(2)*

### Example

Carrie is the responsible carer for her son, Joe who is aged 14. As a result of having to care for Joe, Carrie's agreed expected weekly hours of work are 30. Carrie's work search and work availability requirement are therefore also limited to 30 hours a week of paid work. Carrie need only be available for paid work of 30 hours a week and need only spend 30 hours a week searching for this work.

J3171 – J3179

## Imposition of work-related requirements

### Claimants with no requirements imposed on them: domestic violence

J3180 In certain circumstances a claimant who has been a recent victim of domestic violence cannot have any work-related requirements imposed on them and any existing requirement ceases. A recent victim of domestic violence means a person who has had domestic violence

1. threatened **or**
2. inflicted

upon them in the last six months<sup>1</sup>.

*1 UC Regs, reg 98(2)*

J3181 The domestic violence has to have been inflicted or threatened against the claimant by the<sup>1</sup>

1. claimant's
  - 1.1 partner **or**
  - 1.2 former partner if the claimant is no longer a member of a couple **or**
2. claimant's

- 2.1 grandparent
- 2.2 grandchild
- 2.3 parent
- 2.4 parent-in-law
- 2.5 son
- 2.6 son-in-law
- 2.7 daughter
- 2.8 daughter-in-law
- 2.9 step-parent
- 2.10 step-son
- 2.11 step-daughter
- 2.12 step-brother
- 2.13 step-sister
- 2.14 brother
- 2.15 brother-in-law
- 2.16 sister
- 2.17 sister-in-law.

**Note:** For any of the people listed at 2.1 to 2.17. This also includes their partner if they are a member of a couple<sup>2</sup>.

*1 UC Regs, reg 98(3)(a); 2 reg 98(4)*

## **Definitions**

J3182 In paras J3180 to J3190 a number of terms are defined.

### **Domestic violence**

J3183 Domestic violence means<sup>1</sup> any incident or pattern of incidents of controlling behaviour, coercive behaviour, violence or abuse including (but not limited to)

1. psychological abuse
2. physical abuse
3. sexual abuse
4. emotional abuse
5. financial abuse

regardless of the gender or sexuality of the victim. The Appendix to this Chapter provides examples of domestic violence.

**Note 1:** Coercive behaviour means<sup>2</sup> an act of assault, humiliation, intimidation or other abuse that is used to harm, punish or frighten the victim.

**Note 2:** Controlling behaviour means<sup>3</sup> an act designed to make the victim subordinate or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance or escape or regulating their everyday behaviour

*1 UC Regs, reg 98(4); 2 reg 98(4); 3 reg 98(4)*

### **Example 1**

Abdul and Gita are married. Gita threatens Abdul with a kitchen knife during an argument after Abdul tells her that he wishes to give up work and return to education. She doesn't actually use the knife but it is intended to frighten Abdul. This is an example of coercive behaviour.

### **Example 2**

Susan is married to Jim. Jim does not allow Susan to contact her parents or other members of her family. Jim tells Susan that she cannot communicate with them in any way unless he gives her permission. This is an example of controlling behaviour because Jim is isolating Susan from a source of support.

### **Health care professional**

J3184 In J3185 a HCP means<sup>1</sup> a person who is a member of a profession regulated under relevant legislation<sup>2</sup>.

*1 UC Regs, reg 98(4); 2 National Health Service Reform and Health Care Professions Act 2002, s 25(3)*

### **Person acting in an official capacity**

J3185 A person acting in an official capacity means<sup>1</sup>

1. a HCP
2. a police officer
3. a registered social worker
4. the claimant's employer
5. a representative of the claimant's trade union
6. any public, voluntary or charitable body which has had direct contact with the victim in connection with domestic violence.

*1 UC Regs, reg 98(4)*

### **Registered social worker**

J3186 Registered social worker means<sup>1</sup> a person registered as a social worker on a register maintained by the

1. Health and Care Professions Council

2. Social Care Wales
3. Scottish Social Services Council
4. Northern Ireland Social Care Council.

*1 UC Regs, reg 98(4)*

## **Victims of domestic violence**

J3187 Where a claimant has recently been a victim of domestic violence and the circumstances in J3190 apply then

1. any work-related requirement imposed on them ceases to have effect for a period of 13 consecutive weeks<sup>1</sup> **and**
2. the Secretary of State must not impose any other work-related requirement on that claimant during that 13 week period<sup>2</sup>.

*1 UC Regs, reg 98(1)(a); 2 reg 98(1)(b)*

J3188 Where the claimant in J3187

1. is subject to all work-related requirements **and**
2. has been a recent victim of domestic violence **and**
3. is the responsible carer of a child

then no work search or work availability requirement can be imposed on the claimant for a further period of 13 weeks beginning on the day after the period referred to in J3187 expires<sup>1</sup>.

*1 UC Regs, reg 98(1A)*

J3189 The 13 week period in J3187 **1.** begins on the date that the claimant notified the Secretary of State of the threatened or inflicted domestic violence<sup>1</sup>.

*1 UC Regs, reg 98(1)(a)*

J3190 In order for the easement in J3187 to apply, the claimant

1. must notify the Secretary of State in the specified manner that domestic violence has been
  - 1.1 inflicted on **or**
  - 1.2 threatened againstthem during the period of six months ending on the day of the notification<sup>1</sup>  
**and**
2. must not have the benefit of this easement for a period of 12 month period immediately prior to the date of the notification<sup>2</sup> **and**
3. must not on the date of the notification be living at the same address as the person who inflicted or threatened the domestic violence<sup>3</sup> **and**

4. must provide evidence as soon as possible (and no later than one month from the date of the notification) from a person acting in an official capacity that shows that
  - 4.1 their circumstances are consistent with having had domestic violence inflicted or threatened against them during the six month period ending on the date of the notification **and**
  - 4.2 they made contact with the person acting in an official capacity regarding the incident during the six month period<sup>4</sup>.

*1 UC Regs, reg 98(3)(a); 2 reg 98(3)(b); 3 reg 98(3)(c); 4 reg 98(3)(d)*

J3191 In order for the full 13 week easement to apply, evidence must be supplied within the timescale described in J3190 4.. If evidence is not supplied within this limit then the easement ends after one month after the claimant notifies the Secretary of State as in J3190 1..

#### **Example 1**

Harry is in receipt of UC and is in the all work-related requirements group. He notifies the Jobcentre that his partner Tom attacked him in their home and that the police are dealing with the incident. Harry and Tom share the same house and neither intends to move out. The DM determines that the domestic violence easement cannot apply to Harry because at the date of the notification Harry was living at the same address as Tom.

#### **Example 2**

Angela is in receipt of UC and is in the all work-related requirements group. She reports to the Jobcentre on 1.7.13 that her then partner physically attacked her two weeks earlier and that he has now moved out of the family home. The DM determines that the work-related requirements imposed on Angela do not apply for four weeks from 1.7.13 to 31.7.13 (both dates inclusive). Angela must also supply before 1.8.13 evidence from a person acting in an official capacity that demonstrates that her circumstances are consistent with her notification of 1.7.13. If this is done then no work-related requirements can be imposed on Angela for a further nine weeks the period 1.8.13 to 29.9.13. Therefore, the total easement, if evidence is supplied, is 13 weeks.

## **Circumstances in which requirements must not be imposed**

**[See memo ADM 6/18]**

J3192 In certain circumstances the Secretary of State must not impose a work search requirement on claimants in the all work-related requirements group<sup>1</sup> and any existing requirements cease for as long as the circumstances apply<sup>2</sup>. So long as

those circumstances apply then the claimant **also** does not have to be able and willing to immediately take up work or attend an interview<sup>3</sup>.

*1 UC Regs, reg 99(1)(a); 2 reg 99(2); 3 reg 99(1)(b)*

J3193 The circumstances where J3192 applies are where

1. the claimant is attending a court or tribunal as a party to any proceedings or as a witness<sup>1</sup>
2. the claimant is a prisoner<sup>2</sup>
3. the claimant is temporarily absent from GB for a period not expected to (and does not) exceed six months because they are
  - 3.1 receiving medical treatment outside GB **or**
  - 3.2 receiving medically approved convalescence or care as a result of an illness or disability which they had in GB **or**
  - 3.3 taking their partner, child or qualifying young person for whom they are responsible outside GB for medical treatment or for medically approved convalescence or care<sup>3</sup>
4. it is within six months of the death of<sup>4</sup>
  - 4.1 the claimant's partner, where the claimant was the member of a couple **or**
  - 4.2 a child or qualifying young person for whom the claimant or their partner is responsible for **or**
  - 4.3 a child of whom the claimant is the parent
5. the claimant is receiving and participating in a structured recovery orientated course of
  - 5.1 alcohol **or**
  - 5.2 drugdependency treatment for a period of up to six months<sup>5</sup>
6. the claimant is under protection due to their involvement in investigations or proceedings for a period of up to three months<sup>6</sup>
7. the claimant is engaged in an activity in the nature of a public duty approved by the Secretary of State<sup>7</sup>.

*1 UC Regs, reg 99(3)(a); 2 reg 99(3)(b); 3 reg 99(3)(c); 4 reg 99(3)(d); 5 reg 99(3)(e); 6 reg 99(3)(f); Serious Organised Crime and Police Act 2005, s 82; 7 UC Regs, reg 99(3)(g)*

### **Attending a court or tribunal**

J3194 Where the claimant attends a court or tribunal as a

1. party to the proceedings **or**
2. witness

then a work search requirement must not be imposed and the claimant **also** does not have to be able and willing to immediately take up work or attend an interview<sup>1</sup>. Tribunal means any tribunal listed in specific legislation<sup>2</sup>.

*1 UC Regs, reg 99(3)(a); 2 reg 99(7); Tribunal and Inquiries Act 1992, Sch 1*

## **Prisoners**

J3195 A prisoner<sup>1</sup> is a person detained in custody

1. following sentence to a term of imprisonment by a criminal, civil or military court, and includes a person
  - 1.1 temporarily removed from prison to hospital **or**
  - 1.2 living outside the prison under a pre-release employment scheme<sup>2</sup> **or**
  - 1.3 released on temporary licence which may be allowed for a variety of reasons including
    - 1.3.a home leave **or**
    - 1.3.b attendance at rehabilitation courses **or**
    - 1.3.c work during the daytime **or**
2. on remand awaiting trial or awaiting sentence upon conviction. This includes people temporarily removed from prison to hospital **or**
3. released early under the End of Custody Licence arrangements.

ADM Chapter E3 provides further guidance on prisoners.

*1 UC Regs, reg 2(1); 2 R(I) 9/75*

J3196 A prisoner must not have a work search requirement imposed on them and the claimant **also** does not have to be able and willing to immediately take up work or attend an interview<sup>1</sup>.

*1 UC Regs, reg 99(3)(b)*

## **Temporarily absent from GB**

J3197 Where a claimant is temporarily absent from GB solely because they are

1. receiving medical treatment abroad under the supervision of a qualified practitioner **or**
2. undergoing medically approved convalescence or care following treatment for an illness or condition where the claimant had that illness or condition before leaving GB **or**
3. accompanying their partner or a child or qualifying young person for whom they are responsible for medical treatment or medically approved convalescence or care

then a work search requirement must not be imposed and the claimant **also** does not have to be able and willing to immediately take up work or attend an interview<sup>1</sup>.

*1 UC Regs, reg 99(3)(c) & reg 11(3)*

J3198 The period of absence from GB cannot be expected to and does not exceed six months<sup>1</sup>.

*1 UC Regs, reg 11(3)*

J3199 Guidance on deciding on whether an absence is temporary can be found ADM Chapter C1.

### **Within six months of a death**

J3200 Where it is within six months of the death of

1. the claimant's partner<sup>1</sup> **or**
2. a child or qualifying young person<sup>2</sup> for whom the
  - 2.1 claimant **or**
  - 2.2 claimant's partneris responsible **or**
3. a child, for whom the claimant is the parent<sup>3</sup>

a work search requirement must not be imposed and the claimant **also** does not have to be able and willing to immediately take up work or attend an interview.

*1 UC Regs, reg 99(3)(d)(i); 2 reg 99(3)(d)(ii); 3 reg 99(3)(d)(iii)*

J3201 A child means<sup>1</sup> a person aged under 16. For guidance on what a qualifying young person is, see ADM Chapter E2.

*1 WR Act 12, s 40*

J3202

### **Structured recovery orientated course**

J3203 For a period of up to six months a claimant who is receiving and participating in a structured recovery orientated course of

1. alcohol **or**
2. drug

addiction treatment<sup>1</sup> cannot have a work search requirement imposed on them and the claimant **also** does not have to be able and willing to immediately take up work or attend an interview.

*1 UC Regs, reg 99(3)(e)*



## Protection of persons involved in investigations and proceedings

J3204 For a period of up to three months a work search requirement cannot be imposed on a claimant who is under protection whilst involved in a criminal investigation or proceedings<sup>1</sup>. The claimant **also** does not have to be able and willing to immediately take up work or attend an interview.

*1 UC Regs, reg 99(3)(f)*

### Example

Joey has provided the police with information relating to a gang that he was an associate of. The gang is believed by the police to be involved in criminal activity. The police also believe that, as a result of providing this information, Joey is at risk from intimidation and attack by gang members. The police have therefore arranged for Joey to be placed under protection. For a period of up to three months whilst these arrangements are in place, a work search and a work availability requirement cannot be imposed on Joey.

J3205 The protection arrangements have to be made by a provider under relevant legislation<sup>1</sup>.

*1 Serious Organised Crime and Police Act 2005, s 82*

J3206 Where the 3 month period has come to an end but the claimant is still under protection then DMs can consider applying J3226 **2.2**.

## Engaged in a public duty

J3207 Where the claimant is engaged in an activity which the Secretary of State has approved as being in the nature of a public duty then a work search requirement cannot be imposed<sup>1</sup>. The claimant **also** does not have to be able and willing to immediately take up work or attend an interview

*1 UC Regs, reg 99(3)(g)*

J3208 Examples of public duties which the Secretary of State may approve include

1. volunteer firefighters
2. lifeboat volunteers
3. special constables.

J3209 – J3214

## Unfit for work

J3215 Where a claimant

1. is unfit for work

**1.1** for a maximum of 14 consecutive days from the date that evidence in **2.** is provided **and**

**1.2** for no more than two periods in any period of 12 months **and**

**2.** provides

**2.1** for the first 7 days of when they are unfit for work, a self-certificate **and**

**2.2** for any further days, a doctor's note<sup>1</sup>

then a work-search requirement cannot be imposed on the claimant<sup>2</sup> and any work search requirement that has previously been imposed must come to an end. The claimant **also** does not have to be able and willing to immediately take up work or attend an interview.

*1 SS (Med Ev) Regs, Schedule 1, Part 1; 2 UC Regs, reg 99(4)*

**Note:** see ADM J3231 where the illness continues beyond the WCA.

### **Example**

Lou is in the all work-related requirements group. He provides a self-certificate to say that he is unfit for work due to 'flu for five days. The work-related requirements that Lou was subject to no longer apply so long as he is within the period covered by the self-certificate.

J3216 – J3219

### **Where a child is affected by death or violence**

J3220 Where the claimant is the responsible carer of a child and in the last 24 months there has been significant disruption to the claimant's normal child care responsibilities due to<sup>1</sup>

**1.** the death of

**1.1** a person who was previously the responsible carer of that child **or**

**1.2** a parent of that child **or**

**1.3** a brother or sister of that child **or**

**1.4** any other person who, at the time of their death, normally lived in the same accommodation as that child and was not a person who was liable to make payments on a commercial basis in respect of that accommodation **or**

**2.** the child has been the victim of, or witness to, an incident of violence or abuse and the claimant is not the perpetrator of that violence or abuse

then a work search requirement must not be imposed on the claimant for the period(s) specified in J3221<sup>2</sup>. Any existing requirements cease to apply<sup>3</sup> and the

claimant also does not have to be able and willing to immediately take up work or attend an interview during such period(s)<sup>4</sup>.

*1 UC Regs, reg 99(4A); 2 reg 99(1)(a); 3 reg 99(2); 4 reg 99(1)(b)*

J3221 The requirements must not be imposed for more than one period of a month in each of the four consecutive periods of six months following the event<sup>1</sup>. Each period of one month begins on the date specified by the Secretary of State after the claimant has informed the DWP of their circumstances<sup>2</sup>. The Secretary of State has to be satisfied that the circumstances do apply to the claimant.

*1 UC Regs, reg 99(4B); 2 reg 99(4C)*

### **Example**

Jackie is the responsible carer of her child Alison. A doubt has arisen regarding Jackie's work search. Jackie is normally required to spend 20 hours a week looking for work. However, it would appear that she has not done that in the week commencing 30<sup>th</sup> November. When asked why she hasn't complied with her work search requirement, Jackie reveals that Alison has been very upset over the death of her brother Sam. Sam died eight months ago and Alison has suddenly become profoundly affected by it to the point where she is unwilling to go to school, will not communicate with her family and friends and is not sleeping or eating properly. This disruption has affected Jackie's work search with her spending time talking with Alison's school and a bereavement support group. The DM decides that Jackie's work related requirements should be lifted for a period of one month from 30<sup>th</sup> November. This means that no question of sanction or good reason arises.

J3222 If in respect of the same event, the guidance at ADM J3187 or J3200 applies to the claimant, then the period of one month is to run concurrently with any other period where requirements have not been imposed<sup>1</sup>.

*1 UC Regs, reg 99(4B)*

J3223 – J3225

## **Unreasonable to comply with a work search or work availability requirement**

J3226 Where the Secretary of State is satisfied that it would be unreasonable for the claimant to comply with a work search requirement (including one that has been limited) because the claimant is

1. carrying out<sup>1</sup>
  - 1.1 a work preparation requirement **or**
  - 1.2 voluntary work preparation **or**
2. responsible for<sup>2</sup>
  - 2.1 temporary childcare responsibilities **or**

- 2.2** dealing with a domestic emergency or funeral arrangements or other temporary circumstances **or**
  - 3.** unfit for work for<sup>3</sup>
    - 3.1** a period longer than 14 consecutive days **or**
    - 3.2** more than two such periods in any period of 12 months
- and, where requested, has provided medical evidence

then the claimant cannot have a work search requirement imposed on them and any work search requirement previously imposed ceases to have effect from the date on which the circumstances in **1.**, **2.** or **3.** apply<sup>4</sup>.

*1 UC Regs, reg 99(5)(a); 2 reg 99(5)(b); 3 reg 99(5)(c); 4 reg 99(2A)*

**Note:** the provision of medical evidence as in J3226 **3.** does not automatically exclude a claimant from work-related activity, provided that is appropriate and reasonable to that claimant, taking into account the claimant's health condition and capabilities. A claimant should accept a claimant commitment reflecting those activities and can be sanctioned for failing to undertake any agreed work-related activity.

#### **Example 1**

As part of a voluntary work preparation requirement, Donny is doing a week's jobshadowing at an accountancy firm. This has been agreed with his adviser because Donny wants to work in accountancy. Whilst performing this jobshadow, no work search requirement can be imposed on Donny because the DM is of the view that it would not be reasonable to comply with one whilst taking part on the jobshadow.

#### **Example 2**

Sally is in receipt of UC and is subject to all work-related requirements. Following an argument with her parents, Sally has been told to leave the family home. She has nowhere to go and has been sleeping rough whilst trying to find somewhere to live. She has now been given a place in a direct access hostel until something more permanent can be found (these hostels are intended for stays of a few days). Whilst Sally is dealing with this temporary situation and staying in the hostel no work search requirement can be imposed. If Sally's stay in the hostel continues then enquiries should be made as to why and consideration should be given to continue to extending the period of time that Sally is not required to comply with her work search requirement.

#### **Example 3**

Ryan is in receipt of UC and is subject to all work-related requirements. Ryan has a minor cycling accident resulting in some broken fingers and his Doctor gives him a fit

note for four weeks. This is his first period of sickness whilst in receipt of UC. Ryan's work search and availability requirements do not apply for the first 14 days of certified sickness. The DM however decides that it would be reasonable for Ryan to comply with appropriate work search activities from day 15 of his certified period of illness. Ryan accepts a new claimant commitment reflecting this and understands he may face a sanction if he fails to comply with any required activities.

#### **Example 4**

Mandy is in receipt of UC and is subject to all work-related requirements. Mandy suffers from depression and begins to submit medical evidence from her Doctor. This is the first sickness she has declared whilst in receipt of UC. Mandy's work search and availability requirements do not apply for the first 14 days of certified sickness. The DM initially decides that it would be unreasonable to impose any further work-search activity upon the claimant and the WCA process begins. After 10 weeks the DM considers that Mandy can undertake some work preparation activity, even though she is not expected to look for work at this stage. This helps Mandy feel more positive and focused to look for work. Although, Mandy is still submitting medical evidence, her condition has improved, and she agrees to undertake restricted (for 20 hours a week) work-search activity. Mandy accepts a claimant commitment reflecting this and understands she may face a sanction if she fails to comply with this activity.

J3227 There may be situations where the imposition of a work availability requirement should be looked at separately from the imposition of a work search requirement. J3228 – J3230 provides guidance on this flexibility.

J3228 Where J3226 applies then the Secretary of State may also be satisfied that it would be unreasonable to require the claimant to comply with a work availability requirement (including one that has been limited) to be able and willing to

1. take up paid work **and**
2. attend an interview<sup>1</sup>.

“Able and willing to take up work” under a work availability requirement here means able and willing to take up paid work or to attend an interview once J3226 no longer applies<sup>2</sup>.

*1 UC Regs, reg 99(5A); 2 reg 99(2B)*

#### **Example 1**

Chester has claimed UC. When he made his claim for UC, he indicated that he considers himself too ill for work on the grounds of depression. He has now medical evidence in the form of a self certificate and a note from his doctor to support this. Chester's doctor has provided a note to say that Chester should refrain from work for eight weeks. The DM has decided that Chester should undergo the WCA. For the

first 14 days of certified sickness, no requirement to be able and willing immediately to take up paid work and no work search requirement can be imposed. Whilst Chester is waiting for his WCA, from the 15<sup>th</sup> day of sickness, the DM decides that it is unreasonable to require Chester to comply with a work availability and work search requirement. However, the DM decides that Chester must take part in a work focused interview by telephone to assess the level of support and frequency of interventions he will need.

### **Example 2**

Chester is claiming UC for the third time in a 12 month period, due to sickness. He has submitted a fit note which covers the first 14 days of this episode of recurring depression. He is not automatically exempt from the requirement to be available immediately for work or to search for work, even for the first 14 days of sickness. But the DM decides that it would be unreasonable to require Chester to comply with a work availability and work search requirement during this period.

J3229 Where J3226 applies then the Secretary of State may also be satisfied that it would be

1. unreasonable to require the claimant to comply with a work availability requirement to be able and willing to take up paid work **and**
2. reasonable to require the claimant to comply with a work availability requirement to be able and willing to attend an interview.

This includes where a work availability requirement is limited<sup>1</sup>

*1 UC Regs, reg 99(5B)*

J3230 “Able and willing to take up work” under a work availability requirement for the purposes of J3229 means<sup>1</sup>

1. able and willing to take up paid work once J3229 no longer applies **and**
2. able and willing to attend an interview before the circumstances in J3229 no longer apply.

*1 UC Regs, reg 99(2C)*

### **Example**

Clare is subject to work related requirements. Her daughter Chloe has been excluded from school until further notice following an incident. Chloe is to remain away from school until the incident has been investigated. Despite every effort, Clare has been unable to sort out other arrangements to look after Chloe and so has to be at home with her. Whilst Chloe is excluded from school, Clare is not required to comply with her work search requirement but the DM thinks that it is reasonable to require Clare to be available to attend an interview.

## Work-related requirements in continuing periods of sickness

J3231 Where it has been determined that the claimant

1. does not have LCW or LCWRA following the application of the WCA **or**
2. has been found not to have LCW or LCWRA following an assessment under ESA legislation<sup>1</sup> **or**
3. is treated as not having LCW or LCWRA<sup>2</sup> **and**
4. they continue to submit medical evidence of that condition **and**
5. in the opinion of the Secretary of State the condition they are suffering from is the same **or**
6. substantially the same as the condition they were suffering from before the claimant was determined/treated as not having LC or LCWRA

then the Secretary of State can impose any appropriate and reasonable work-related requirement, taking into account their health condition and current capabilities.

*1 ESA Regs 13, regs 15 & 30; 2 UC Regs, reg 43(3) & 44(2), reg 39(1)(b) & 40(1)(b)*

J3232 Work search and work-related requirements will not be imposed where

1. the claimant is referred for another WCA **or**
2. the Secretary of State determines that it would be unreasonable<sup>1</sup> for the claimant to comply with such a requirement (see J3226).

*1 UC Regs, reg 99(5), JSA Regs 13, reg 16(4)*

### Example 1

Hilary is in receipt of UC and reports that she is suffering from a back condition (her first period of sickness whilst in receipt of UC). She provides a self-certificate for the first seven days, followed by a Doctor's note as medical evidence for a further seven days. No work search and work availability requirements are imposed for the first 14 days of sickness. Hilary's condition continues and two weeks later she submits another self-certificate for the first seven days, followed by a Doctor's note. No work search or availability requirements are imposed for a further 14 days. Hilary's work coach decides that from the 15th day of this second period of illness and in addition to work-focused interview and work preparation requirements, Hilary can undertake some reasonable work-related activity and her work search and work availability requirements are tailored appropriately. Hilary agrees a revised CC and the WCA process begins.

Following application of the WCA, Hilary is found not to have LCW. She continues to provide medical evidence of her back condition, which is substantially the same condition. The work coach decides that in addition to work-focused interview and work preparation requirements, it is reasonable for Hilary to continue to undertake

further work-related activity and her work search and work availability requirements are revised, still taking into account her health condition. Hilary agrees a new CC reflecting those changed requirements.

### **Example 2**

Hilary (as in Example 1) is found not to have LCW following the application of the WCA. Her health condition continues and in addition to work-focused interview and work preparation requirements, her previously agreed work search and work availability requirements continue. Four weeks later Hilary has a fall and badly fractures her wrist. She begins to submit medical evidence of this new condition. The Secretary of State decides that this is a substantially new medical condition and decides that it would be unreasonable to impose any work-search or work availability requirements for three weeks. After the 21st day and in addition to work-focused interview and work preparation requirements, her work coach decides it would be reasonable to revise Hilary's work search and work availability requirements, taking into account her current capabilities and health condition. Hilary agrees a revised CC reflecting those. The WCA process begins again to determine whether Hilary has LCW or LCWRA for this new condition.

## **Monthly earnings**

J3233 [\[See memo ADM 6/18\]](#) The work search or work availability requirement must not be imposed where<sup>1</sup> the claimant has monthly earnings, or if the claimant is a member of a couple, the couple combined monthly earnings, that are equal to or more than the following amount multiplied by 52 and divided by 12

1. for a single claimant, £5 plus the applicable amount of the JSA personal allowance for a single person aged 25 or over **or**
2. where the claimant is a member of a couple, £10 plus the applicable amount of the JSA personal allowance for a couple where both members are aged 18 or over.

The reference amount applicable to a claimant or joint claimants is referred to as the "Administrative Earnings Threshold".

**Note:** The work search or work availability requirement must not be imposed where the claimant has been determined to be in gainful self-employment and to whom the minimum income floor applies<sup>1</sup>.

*1 UC Regs, reg 90(5)*

### **Example 1**

Rene is a single claimant in receipt of UC and is subject to all work-related requirements. Rene starts work in a café and receives net monthly earnings of £390 a month. The monthly JSA personal allowance for a person aged 25 or over applying



the guidance in J3231 is £335.40. Rene's earnings are in excess of the Administrative Earnings Threshold (currently £5+ £72.40 x 52 ÷ 12) therefore a work search and a work availability requirement cannot now be imposed on him.

**Note:** for the purposes of calculating earnings thresholds, any fraction should be rounded **down** to the nearest whole pound<sup>1</sup>

### Example 2

Richard is a single claimant in receipt of UC and is subject to all work-related requirements. Richard is self-employed as an IT consultant. Richard has been determined to be in gainful self-employment and the minimum income floor applies. Therefore a work search and a work availability requirement cannot be imposed on him.

*1 UC Regs, reg 6(1A)(a & b)*

J3234 – J3249

## Discretionary easement of work-related requirements

J3250 Claimants with complex needs may need additional support if their ability to undertake work-related requirements is disrupted for a temporary period of time due to their personal circumstances. In such cases the adviser can temporarily suspend conditionality requirements where

1. the claimant's needs are recognised as requiring a specific easement (for example domestic violence) which is prescribed for in legislation<sup>1</sup> **or**
2. it is unreasonable to expect the claimant to complete their requirements for a certain period of time (a discretionary easement).

*1 UC Regs, reg 95 – 99*

J3251 At any time where a claimant has complex needs (see J3253), a discretionary easement can be applied to work-related requirements if

1. the claimant has needs that require it **and**
2. complying with their work related requirements would be unreasonable in the circumstances.

J3252 In such cases the DM can temporarily suspend conditionality requirements for a

1. short, medium, or long period of time **or**
2. for recurring periods

depending upon the claimant's individual needs and providing the claimant can provide evidence to support their need (see J3255).

## Complex needs

J3253 Complex needs means the claimant is experiencing some difficult life event or personal circumstances that mean it would be unreasonable to expect them to meet their current work-related requirements. These could include:

1. a sudden illness
2. emergency/necessary care for a dependant child
3. temporary homelessness
4. being a victim of harassment or bullying
5. substance or alcohol addiction
6. mental health issues (e.g. low self confidence and self esteem, anxiety state or depression)
7. care leavers
8. language or cultural barriers
9. bereavement
10. violence
11. ex offenders or criminals
12. declaration of suicide attempt or self harm
13. discrimination (e.g. due to race, colour, religion, sexual orientation, gender etc.)

**Note:** This list is not exhaustive - it is for the DM to consider all the individual facts and circumstances and personal situation of the claimant.

J3254 It is important that the DM treats each situation individually considering

1. what the claimant can and cannot reasonably do to meet their conditionality requirements **and**
2. whether those requirements need tailoring to reflect their current circumstances.

**Note 1:** Each case has to be considered on its own individual facts and circumstances when considering what is reasonable for the specific claimant and the personal difficulties and life events they are facing. A claimant may often have one or more situations of complex needs at the same time, or may not even be aware they have complex needs.

**Note 2:** If a claimant has a complex need and their focus is on other things that are happening in their life, they may not be able to do what is usually expected of them, and their ability to undertake work-related activity could be disrupted for a temporary

period of time. Advisers should be sensitive to those needs when setting work-related requirements.

J3255 Where a temporary easement of work-related requirements is considered appropriate, the easement will

1. begin on the date the claimant discloses their needs **and**
2. continue for as long as they provide evidence of the continued need (e.g. by providing specific written evidence from a person acting in an official capacity, such as a health worker, a housing association, a support worker or a member of a support service such as Respect).

**Note:** The claimant will need to attend an interview to discuss the impact of their complex needs and any change to their current conditionality requirements. If the Claimant Commitment is changed as a result, they will have to accept a new Claimant Commitment recording those new conditionality requirements.

J3256 The impact of a particular situation will vary from claimant to claimant. It is important that the Claimant Commitment reflects each claimant's individual circumstances, and is tailored and reasonable whilst still remaining challenging.

**Note:** If additional support is required it is essential to engage the claimant in the discussion and agree the best way forward by applying a flexible approach in tailoring specific, individual needs.

### **Example**

Sahila makes a claim to UC and attends her initial work search interview. She is living in a temporary hostel organised by 'Housing 4 Women' following an argument with her family who forbade her from going to work, which led to her leaving. Her family said she was dishonouring them by working alongside men who were not members of her own family and was becoming too influenced by the other girls she worked with who were not of her own faith. Her family were dictating to her what she should wear, who she could talk to and be friends with, and they also were pressuring her into an arranged marriage.

It was a very difficult decision for Sahila to leave her family and she is worried what will happen if her family find out where she is living. She is torn between wanting to be loyal to her family and beliefs, and having the freedom to make her own life choices and become independent.

Sahila tells her adviser that she enjoyed her job in a popular high street fashion shop and would like to remain in that field. Her aim is promote fashionable clothes on the high street for Asian women but she feels incapable of doing anything at the moment due to her overwhelming situation. Sahila has written evidence from 'Housing 4 Women' supporting her current situation.

Sahlia is very emotional at present, her confidence and self esteem are very low and she is feeling despondent and very anxious about her future.

Sahlia's adviser allows a temporary easement period in respect of her work-related requirements to allow her manage her life, and provide her with the flexibility she needs at this time to move and settle into a new area. Her Claimant Commitment is tailored to reflect this temporary situation, which Sahila agrees and signs.

J3257 A complex need situation can occur unexpectedly and at any time. It is essential therefore that where a claimant fails to comply with a work-related requirement, and before referring the case to a DM to consider sanction action, a check is made to see if there is any evidence that the claimant has a complex need which may require an easement to be applied. However, it may not be until the claimant fails to comply with a work-related requirement and faces a sanction that they actually disclose the personal difficulties they are facing in their 'good reasons'. Disclosure is often dependant on the sensitive nature or the complexity of the issue(s) and the vulnerability of the claimant. Some claimants fear being stigmatised because of their complex needs. In such cases, if the case has already been referred for a sanction decision, the DM will make a determination on 'good reason' for the particular failure and return the case to the adviser to consider temporarily suspending conditionality requirements.

**Note:** See ADM Chapter K2 (Good reason) for guidance on the impact of complex needs on good reason and sanctions and the illustrative examples at K2057 and K2144.

J3258 – J3999

# Appendix

## Examples of domestic abuse

- 1 Victims of domestic violence are not confined to one gender or ethnic group. Domestic violence can encompass, but is not limited to, the following types of abuse.

<b>Psychological</b>	Includes intimidation, insulting, isolating a person from friends and family, criticising, denying the abuse, treating a person as an inferior, threatening to harm children or take them away, forced marriage.
<b>Physical</b>	Includes shaking, smacking, punching, kicking, presence of finger or bite marks, starving, tying up, stabbing, suffocation, throwing things, using objects as weapons, genital mutilation, "honour violence".  Physical effects are often in areas of the body that are covered and hidden (i.e. breasts, legs or stomach).
<b>Sexual</b>	Includes forced sex, forced prostitution, ignoring religious prohibitions about sex, refusal to practise safe sex, sexual insults, sexually transmitted diseases, preventing breastfeeding.
<b>Emotional</b>	Includes swearing, undermining confidence, making racist remarks, making a person feel unattractive, calling a person stupid or useless, eroding a person's independence.
<b>Financial</b>	Includes not letting a person work, undermining efforts to find work or study, refusing to give money, asking for an explanation of how every penny is spent, making a person beg for money, gambling, not paying bills.

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