

# Chapter U5: ESA claimant responsibilities – work-related requirements

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# Chapter U5: ESA Claimant responsibilities - work-related requirements

## Introduction

U5001 If a claimant, without good reason, does not comply with their work-related requirements then their ESA may be reduced<sup>1</sup>. ADM Chapter V7 provides guidance on the sanctions which may apply to claimants who do not comply with a work-related requirement.

*1 WR Act 07, s 11J(2)*

## What a work-related requirement is

U5002 The ESA work-related requirements are<sup>1</sup> the

1. work-focused interview requirement (see U5030 et seq)
2. work preparation requirement (see U5040 et seq)

*1 WR Act 07, s 11(2)*

U5003 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 07, s 11H(3)*

U5004 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>.

*1 WR Act 07, s 11H(4)*

## The work-related requirements groups

U5005 The work-related requirements which can be imposed on a claimant depend upon which group the claimant falls into<sup>1</sup>. The groups are

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

ADM Chapter U4 provides guidance on the work-related requirements groups.

*1 WR Act 07, s 11(3)*

U5006 – U5007

## Dual entitlement to UC and ESA

U5008 Where a claimant is entitled to both ESA and UC then the ESA work-related requirements do not apply<sup>1</sup>. Please refer to the UC guidance in ADM Chapter J3.

*1 ESA Regs 13, reg 42(1) & (2)*

U5009 – U5019

## Requirements in connection with work-related requirements

U5020 The Secretary of State can require<sup>1</sup> that a claimant participate in an interview for any purpose relating to

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

*1 WR Act 07, s 11G(1)*

U5021 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 07, s 11G(2)*

U5022 Failure by the claimant to participate without good reason in the interview may result in a sanction<sup>1</sup>.

*1 WR Act 07, s 11J(2)(b)*

U5023 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.

*1 WR Act 07, s 11G(3)*

### Example

Jean is in receipt of ESA. As part of a work preparation requirement, she was asked to develop a business plan because she wishes to become S/E. This action was recorded on Jean's claimant commitment. Jean's adviser at the Jobcentre arranges an interview for Jean to attend to discuss her work preparation and to bring with her the business plan. The adviser asks Jean to bring the business plan with her to the interview so that compliance with that work-related requirement can be confirmed.

U5024 – U5027

U5028 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 the

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

*1 WR Act 07, s 11G(4)*

U5029

## The work-focused interview requirement

### Introduction

U5030 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 07, s 11B(1)*

### What a work-focused interview is

U5031 A work-focused interview is an interview which the claimant is required to participate in 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>.

*1 WR Act 07, s 6B(2); 2 s 6B(4)*

### Example

Sid is in receipt of ESA. Sid 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.

U5032 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.

*1 WR Act 07, s 6B(3) & ESA Regs 13, reg 46*

### **Example**

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

U5033 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.

U5034 Examples of such activities include

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

U5035 – U5039

## **The work preparation requirement**

### **Introduction**

U5040 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 07, s 11C(1)*

U5041 The amount of time that has to be spent on any particular action can be specified by the Secretary of State<sup>1</sup>.

*1 WR Act 07, s 11C(2)*

## Types of action

U5042 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:** No action has been prescribed in legislation for **7.**

*1 WR Act 07, s 11C(3)*

### Example 1

Judy wishes to work on a S/E basis as a free-lance web designer. Judy's adviser at the Jobcentre advises that in order to have a good chance of getting established in this work, Judy 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 Judy's work preparation requirement and is recorded on her claimant commitment. If Joanna doesn't develop this business plan within timescales agreed with her adviser then her ESA could be sanctioned.

### Example 2

Kenny has claimed ESA following his release from prison. His employment history is made up mainly of temporary jobs and casual work. Upon making his claim for ESA, it was agreed with his adviser at the Jobcentre that Kenny undertake a skills assessment in order to clarify what work Kenny would be best placed to look for.

This is part of a work preparation requirement and is recorded on Kenny's claimant commitment.

### Example 3

Diane is homeless and has been sleeping rough for the last week. 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.

## Work-focused health-related assessment

U5043 A work preparation requirement can include taking part in a WFHRA<sup>1</sup>.

*1 WR Act 07, s 11C(4)*

U5044 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 07, s 11C(5)*

U5045 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.

U5046 – U5179

## **Imposition of work-related requirements**

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

U5180 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 ESA Regs 13, reg 49(2)*

U5181 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 brother
  - 2.13 step-brother
  - 2.14 brother-in-law



**2.15** sister

**2.16** step-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.

*1 ESA Regs 13, reg 49(3)(a) & (4)*

## Definitions

U5182 In paras U5180 to U5190 a number of terms are defined.

### Domestic violence

U5183 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 ESA Regs 13, reg 49(5); 2 reg 49(5); 3 reg 49(5)*

### 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.

U5184

## **Health care professional**

U5185 In U5186 a HCP means<sup>1</sup> a person who is a member of a profession regulated under relevant legislation<sup>2</sup>.

*1 ESA Regs 13, reg 95(5); 2 National Health Service Reform and Health Care Professions Act 2002, s 25(3)*

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

U5186 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 ESA Regs 13, reg 49(5)*

## **Registered social worker**

U5187 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 ESA Regs 13, reg 49(5)*

## **Victims of domestic violence**

U5188 Where a claimant who has recently been a victim of domestic violence then

1. any 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 requirement on that claimant during that 13 week period<sup>2</sup>.

*1 ESA Regs 13, reg 49(1)(a); 2 reg 49(1)(b)*

U5189 The 13 week period in U5188 1. begins on the date that the claimant notified the Secretary of State of the threatened or inflicted domestic violence<sup>1</sup>.

*1 ESA Regs 13, reg 49(1)(a)*

U5190 In order for the easement in U5188 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 had the benefit of the 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 ESA Regs 13, reg 49(3)(a); 2 reg 49(3)(b); 3 reg 49(3)(c); 4 reg 49(3)(d)*

U5191 In order for the full 13 week easement to apply, evidence must be supplied within the timescale described in U5190 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 U5190 1..

### **Example 1**

Pete is in receipt of ESA and is subject to work-related requirements. He notifies the Jobcentre that his partner Trevor attacked him in their home and that the police are dealing with the incident. Pete and Trevor share the same house and neither intends to move out. The DM refuses to lift the work-related requirements imposed on Pete because at the date of the notification Pete was living at the same address as Trevor.

**Example 2**

Ange is in receipt of ESA. 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 Ange do not apply for four weeks from 1.7.13 to 31.7.13 (both dates inclusive). Ange 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 Ange 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.

U5192 – U5999

# 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.

### **Psychological**

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.

### **Physical**

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).

### **Sexual**

Includes forced sex, forced prostitution, ignoring religious prohibitions about sex, refusal to practise safe sex, sexual insults, sexually transmitted diseases, preventing breastfeeding.

### **Emotional**

Includes swearing, undermining confidence, making racist remarks, making a person feel unattractive, calling a person stupid or useless, eroding a person's independence.

### **Financial**

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**