

# Withdrawn

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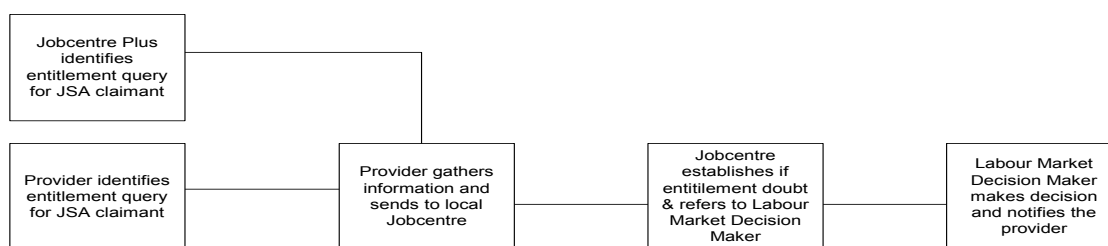
## CPA18 Work Programme Provider Guidance

### Chapter 8 – JSA entitlement doubt

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#### High Level Must Dos



#### Provider identifies entitlement query for JSA participant

1. If you have doubts regarding a participant's entitlement to Jobseeker's Allowance (JSA) you are required to refer to Jobcentre Plus for a decision.
2. An entitlement doubt arises when a participant is not available for work or is not actively seeking employment.

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3. Entitlement doubts are not relevant for participants receiving benefits other than JSA.

### **Actions**

- Decide whether the participant is available for work and actively seeking employment.
- Check potential entitlement doubt reason.

### **Background**

4. Further detail on entitlement doubt reasons is provided in the [Detailed background and further information section](#).

### **Provider gathers information and sends to Jobcentre Plus**

5. When you have made the decision to raise an entitlement doubt, you must complete the form [Work Programme entitlement doubt form \(WP10\)](#). A participant's entitlement will then be discussed when they next attend with Jobcentre Plus.

### **Decision Making and Appeals (DMA) referrals Quality Assurance Framework (QAF)**

6. To support the [WP10 form](#), there is a [DMA referrals QAF tool](#) to help sample check referrals before they are sent to ensure they are at a consistently high standard, enabling the Labour Market Decision Makers (LMDM) to make decisions. The QAF is in the form of an interactive checklist, to support overarching standards for all DMA referrals.

### **Actions**

- Complete [WP10 form](#).
- Print it out and send securely to the agreed contact your local Jobcentre Plus office. This process will remain until a secure IT solution is developed. For further information about sending document securely refer to [Generic Provider Guidance Chapter 8 - Information security](#).

### **Background**

7. Further detail on entitlement doubt reasons is provided in the [Detailed background and further information section](#).

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### **LMDM makes decision & notifies the Provider**

8. Part four of the [WP10 form](#) will be completed and sent to inform you of the result of the referral. [WP10a form](#) will be sent to notify you of any sanctions imposed when a new claim is made.

### **Actions**

- Continue to engage with the participant in line with your delivery model.

### **Background**

8. Further detail is provided in the [Detailed background and further information section](#).

### **Detailed background and further information**

#### **Provider identifies entitlement query for JSA participant**

9. Two of the entitlement conditions for the receipt of JSA are that they are:
  - available for employment
  - actively seeking employment.

**Please Note:** Prison leavers claiming JSA are considered to be actively seeking and available for work for seven days following the date of their release. You should not consider raising an entitlement doubt for these participants during this time.

#### **Available for employment**

10. The Jobseekers Act (1995) states that a claimant in receipt of JSA must be available for employment. This means that a participant must be willing and able to take up immediately employment of at least 40 hours a week subject to restrictions.
11. However, there are exceptions to the requirement to be immediately available for employment and these are:
  - participants engaged in providing a service, paid or unpaid, must be willing and able to take up employment on being given 24 hours' notice
  - participants undertaking voluntary work must be willing and able to take up employment on being given one weeks notice and attend a job interview within 48 hours' notice
  - participants with caring responsibilities must be willing and able to take up employment of at least 16 hours a week on being given one weeks notice and attend a job interview within' 48 hours notice

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- participants with child care responsibilities can have up to seven days notice of interviews for employment and can have up to 28 days' notice before starting work
- participants doing part-time work must be willing and able to take up employment immediately following the statutory period of notice they are required to give their employer to end the contract of employment
- participants who are on an Extended Period of Sickness
- a Lone Parent who has a child aged 12 or under, has the right to restrict their availability for work to school hours if they wish. Restricting their availability to school hours only applies to term time
- participants who report a domestic emergency can be considered to be available and actively seeking employment for up to a week at a time, for a maximum of four times in a year. The circumstances when this applies includes (list not exhaustive) if there is a:
  - death
  - serious illness or accident of a close relative or close friend
  - if there is a funeral of a close relative or close friend
  - if the person has caring responsibilities and the person they are caring for dies
  - if there is any other domestic emergency affecting the jobseeker or a close relative or close friend
- victims of domestic violence may be excused from JSA conditionality for up to 13 weeks.

**Please Note:** The periods can run consecutively if appropriate and may consist of a combination of the events listed above.

**Please Note:** All notice periods are calendar days.

### Actively seeking employment

12. The Jobseekers Act and regulations provide that a participant claiming JSA must actively seek employment in each week of their claim. This means that they must take those steps each week which:

- are reasonable in their case
- offer their best prospects of securing employment.

13. There maybe a number of considerations when deciding whether a participant is actively seeking employment or not. These can include steps to seek work and to enhance the participant's employability.

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14. When deciding whether a person has taken reasonable action to seek work in a week the following points should be considered:

- their skills and abilities
- any physical or mental limitations
- time elapsed since they last worked and the level of work experience
- steps taken in previous weeks and how effective they were in improving their prospects of work
- the availability and location of employment vacancies.

15. Other points to be considered are the individual's circumstances. For example:

- if the participant has no living accommodation and the steps taken to secure suitable living accommodation
- any time the participant was engaged in voluntary work and the extent to which that may have improved their prospects of employment
- any time the participant was engaged in duties as a member of a territorial or reservist force or retained fire-fighter or lifeboat crew
- victims of domestic violence may be excused from JSA conditionality for up to 13 weeks
- participants on an Extended Period of Sickness with no conditionality or limited conditionality.

16. When a participant is treated as being available for work, even when they are not, for example during a domestic emergency, they can be treated as actively seeking work for the same period.

17. If you are unsure whether a participant is satisfying their actively seeking employment condition, and you have reason to suspect not, you should raise an entitlement doubt.

### **Entitlement doubt reason**

18. You are required to consider raising entitlement doubts where a participant:

- is not available within appropriate time limits, for example the participant is not able to start work immediately (unless suitable circumstances dictate otherwise)
- has placed restrictions on the number of hours they are prepared to work over and above that already agreed and informed to you by Jobcentre Plus

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- is placing restrictions on the nature of, location or terms and conditions of employment they are prepared to accept, for example the participant requires work which is not obtainable in the location they are seeking to be employed
- restricts the types of job that they are seeking over and above those agreed with Jobcentre Plus
- is a full-time student, **or** where they are a part-time student who is studying for 16 hours or less but not willing to give course up for employment
- is not actively seeking employment, for example where the participant is not taking sufficient steps to find employment; or where the participant
- is a prisoner on temporary release or a woman in receipt of maternity allowance or maternity pay

### **ESA, IS or IB Claimants**

19. Entitlement doubts are not applicable for Employment and Support Allowance (ESA), Income Support (IS) or Incapacity Benefit (IB) participants. If you believe that an ESA, IS or IB participant is no longer eligible for their respective benefit, you should consider either:

- advising the participant to contact Jobcentre Plus regarding a change of circumstance
- raising an issue of fraud via the [National Benefit Fraud Hotline](#).

### **Provider gathers information and sends to Jobcentre Plus**

20. Complete [WP10 form](#) and send to your locally agreed Jobcentre Plus contact.

### **Special Customer Records**

21. If the participant is identified as a Special Customer Record (SCR) participant, the completion of the form remains the same. However, your Nominated Officer should complete the form, ensure that 'SCR participant' is marked clearly and securely send to the Nominated Officer in the relevant Jobcentre Plus office.

Further information may be found in [Generic Provider Guidance Chapter 2 - Delivering DWP provision](#).

22. All information on SCR participants whether received from Jobcentre Plus or generated by yourselves must be stored securely at all times. Further

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information is contained in [Generic Provider Guidance Chapter 8 – Information security](#).

### **Jobcentre Plus entitlement information request**

23. Jobcentre Plus may contact you about a potential entitlement query they have identified or with regards to the doubt you have raised.
24. They will want clarification on the activities/participation of the participant. You will be expected to respond to any questions asked as soon as possible to prevent unnecessary loss of benefit payments to the participant.

### **LMDM makes decision and notifies the Provider**

25. Where a participant is disallowed on the grounds of availability or actively seeking work, their claim for JSA may be closed. If this happens, the requirement for them to participate on the Work Programme will cease although you may continue to engage with them if you wish.
26. If they subsequently reclaim JSA, a sanction will be applied to take the total loss of benefit to four or 13 weeks but they will be required to participate with you for the duration of their time on the Work Programme.
27. If you raised the original entitlement doubt, you will be notified of the outcome decision in part four of [WP10 form](#). In all other cases, you will be notified of the disallowance decision, claim closure and reclaim on form WP07b. A new form, [WP10a form](#), will be used to inform you of any sanctions imposed when a new claim is made.

### **JSA Hardship Provision**

28. Where a sanction is imposed on a participant for either failure to take part in the Work Programme or due to an entitlement doubt raised by Jobcentre Plus, JSA is not payable for the period of the sanction.

**Please Note:** The sanction is only applicable to the participants' individual benefit, so in the case of a joint claim, the partners' proportion of JSA would be unaffected (unless they had a sanction of their own).

29. However, if eligible the participant may be able to make a claim to Jobseekers Allowance hardship provision, which if the claim was successful would make an award of JSA (Income-Based) at a reduced rate to give a minimum level of financial support.



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30. If a participant asks about or requests information on JSA hardship provision you should direct them to their Jobcentre Plus office.