

Work Programme Eligibility, Temporary Deferral and Exemption and Linking Guidance

Eligibility

Eligibility Table

22. The following table includes all the claimants who are eligible to be referred to the WP and whether they are a mandatory or voluntary claimant.

Note. These do not represent the claimant groups or LMS opportunity types but the eligibility point of entry to the WP.

23. Where a claimant meets two sets of eligibility criteria for the WP and the referral dates are the same, the age related (18-24 or 25 +) opportunity type takes preference.

24. The key principle of Linking Rules is that claimants will move onto the Work Programme once they have received linked periods of Jobseeker's Allowance for the appropriate length of time. For example, 2 months for 25+ claimants. See the LMS R34 Guidance for the actions necessary to allow LMS to use the Linking Rules correctly.

25. If claimant is part of a Joint Claim, their partner will also be referred to the same WP Provider, unless a JSA conditionality exemption applies to the partner, or the claimant volunteers for the WP through Early Access.

26. The WP hand-off points do not apply to partners required to join at the same time as their partner.

27. If the claimant has a birthday prior to the applicable hand-off point which moves them into the next age bracket, LMS re-calculates the WP hand-off point, based on their new age group. For example, a 24 year old customer reaches age 25 before their 9 month hand-off point, the WPR date occurs following 12 months of pre-WP activity.

Eligibility	Work Programme Hand off Points	Is Referral Voluntary, or Mandatory Access?	Once referred to the Work Programme is the claimant's participation mandatory or voluntary?
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JSA claimants aged 18 to 24	From 9 months of Pre-WP activity	Mandatory	Mandatory
JSA claimants aged 25 and over	From 12 months of Pre-WP activity	Mandatory	Mandatory
JSA 18 year old claimant who has been NEET (Not in employment, education or training) for 6 months at the start of their claim or	From 3 months of Pre-WP activity	Mandatory	Mandatory
JSA 18 year old claimant who becomes NEET for 6 months during their claim	See NEET Claimants for referral date	Mandatory	Mandatory
JSA 18 year old claimant previously received a payment of JSA (IB) as a 16/17 year old	From 3 months of Pre-WP activity during their claim to adult JSA	Mandatory	Mandatory
JSA Repeaters (claimed JSA 22 out of 24 months) at their date of claim	From 3 months of Pre-WP activity	Mandatory	Mandatory
JSA ex-IB* (or has had an appeal decision delivered regarding the outcome of an IB reassessment WCA) at any time within 6 months of their JSA claim. *IB equals Incapacity Benefit, Severe Disablement Allowance or Income Support on grounds of illness or disability	From 3 months of Pre-WP activity	Mandatory	Mandatory
An ex-offender or offender (if claim made before, or within 13 weeks of release)	From Day 1 of the claim	Mandatory	Mandatory
JSA Early Access claimants • An ex-offender or offender (if claim made later than 13 weeks following	From 3 months of Pre-WP activity	Voluntary	Mandatory

<p>release)</p> <ul style="list-style-type: none"> • Disabled person • Person with mild or moderate mental health issues • Care-leaver • Carer on JSA • Ex-carer • A homeless person • Ex-HM Armed Forces • A partner of current or former HM Armed Forces personnel • Current/previous drug/alcohol dependency (including a history of) presents a significant barrier to employment 			
<p>JSA claimants who the adviser deems would be impacted by the introduction of benefit cap in 2013 but do not meet any of the early entry criteria.</p>	<p>From 3 months of Pre-WP activity</p>	<p>Voluntary</p>	<p>Mandatory</p>
<p>ESA (IR) WRAG with prognosis of 12 month or less (Stock and Flow)</p>	<p>From the WCA outcome or the date from which the Work Related Activity Component (WRAC) is awarded if this is later.</p> <p>(If entitlement to the WRAC has not been reached there is no benefit component to sanction for non-compliance. Do not book the</p>	<p>Mandatory</p>	<p>Mandatory</p>

	WPR until WRAC entitlement is reached)		
ESA (IR) WRAG with 18 or 24 month prognosis (Stock and Flow)	From WCA outcome	Voluntary	Mandatory
ESA (Flow (C)) WRAG claimants NB: If the claimant is entitled to any element of ESA (IR) their WP entry point will be calculated as an ESA (IR) claimant	From WCA outcome	Voluntary	Mandatory
ESA (IR or C) Support Group	From WCA outcome	Voluntary	Voluntary
ESA WRAG (lone parent with a youngest child under 5 or full time carers)	From WCA outcome	Voluntary	Voluntary
ESA Credits Only	From WCA outcome	Voluntary	Voluntary
Pension Credit claimants (without a health condition)	From 12 months receipt of any eligible benefit e.g. 7 months on JSA plus 5 months Pension Credit	Voluntary	Voluntary
Pension Credit claimants (with a health condition in receipt of a disability premium)	At any time	Voluntary	Voluntary
IB/SDA Claimants (ESF funded England only)	At any time	Voluntary	Voluntary
IS Claimants (ESF funded England only)	At any time	Voluntary	Voluntary

28. Claimants who volunteer for the WP but whose participation on referral is mandatory will be subject to sanctions if they then fail to undertake the activities requested of them by the WP Provider.

29. Claimants who volunteer for referral to the WP and their participation is also voluntary will not be subject to sanctions if they fail to undertake activities requested of them by the WP Provider.

JSA Credits Only

38. JSA Credits Only claimants are eligible to join the WP and **can volunteer** to be referred at the appropriate hand off point either at 3, 9 or 12 months.

JSA Non-claimants

39. JSA non-claimants are not eligible for the WP, either mandatory or voluntary.

Claimants who are Temporary Exempt and Deferrals

Exempt claimants

45. There are situations where a claimant will be identified for a mandatory referral to the Work Programme (as per eligibility table) but their current circumstances mean that the referral to the Work Programme should be postponed. There are two categories of postponements. These are:

- Temporary Exemptions
- Adviser Discretionary Deferrals

46. Details on how to record Work Programme exemptions and deferrals can be found in the Work Programme LMS guidance.

47. Some exemptions apply to all claimants and some are just specific to JSA or ESA.

48. The Work Programme exemption 'Exempt – On other WP provision' is used as a LMS workarounds to prevent rework for the following business processes.

- Day one Mandation for Prisoners
- Mandation of ESA (IR) WRAG claimants with a 12 month prognosis

Generic Temporary exemptions

Reason	Reason to record from the pull down menu on LMS
Claimants who are pregnant and within 3 months of their expected date of confinement, although could still volunteer for the WP	Exempt - Pregnancy
Victims of Domestic Violence; set an exemption for 13 weeks and then review. The exemption could be lifted or extended	Exempt – Victim of domestic violence
Claimants for whom Work Choice/Residential	Exempt – Claimant on

Training is identified as a more suitable option and who have been referred will not be referred to the Work Programme. In the first instance set the review date to the expected start date. Once the claimant has started the review date can be set to when it is due to end.	other suitable provision
Claimants for whom Training for Work (Scotland) and Work Based Learning- Steps to Employment (Wales) is identified as suitable provision will not be referred during their participation on these programmes	Exempt – Claimant on other suitable provision
Claimants appealing a Work Capability Assessment (WCA) decision who have not already been referred to the WP	*Exempt – ESA WCA Appeal * Note: The exemption applies to both JSA and ESA even though the description of it in LMS indicates it is only ESA

LMS workaround exemptions

Reason	Reason to record from the pull down menu on LMS
<p>This reason is used for claimants who have been referred to the Work Programme using stand alone opportunity types in the following business processes:</p> <ul style="list-style-type: none"> • Day one Mandation for Prisoners • Mandation of ESA (IR) WRAG claimants with a 12 month prognosis <p>Note: It must not be used in any other circumstances.</p> <p>Set the exemption for 2 years so that it applies for the duration of the claimant's time on the Work Programme.</p>	Exempt – On other WP provision

JSA Only exemptions

Reason	Reason to select on LMS
Joint Claim Exemption – Members of a Joint Claim who are exempt from meeting the JSA Labour Market Conditionality requirements	Exempt – Joint Claim Exemption

Mandatory Work Activity (MWA) exemption – claimants participating in MWA and those in the process of being referred to MWA having previously failed to start (or complete) their placement. Exemption lasts until MWA placement has been completed.	Exempt – Claimant on other suitable provision
JSA claimants who may be affected by the introduction of benefit cap (not to be used)	Exempt – benefit cap claimant on WP
JSA Credits Only claimants who do not volunteer to access Work Programme	Exempt – Credits Only
JSA claimants who are part of the Post Work Programme Support Trailblazer	Exempt – Post WP Supp Trlblazer

ESA only exemptions

Reason	Reason to select on LMS
ESA WRAG Lone Parent with a youngest child under 5 or aged 5 and not started school (who does not volunteer)	Exempt – ESA Lone Parent with a youngest child under 5
ESA Full Time Carer (who does not volunteer)	Exempt – ESA Full Time Carer
ESA Claimants in residential rehabilitation for substance misuse or hospital in patients – Unless the end date is known for the period of stay in residential rehabilitation or hospital is known set the exemption for 2 weeks	Exempt - Residential Rehab/In-Hospital

49. Other than where stated, advisers should use their discretion to determine the exemption period based on the facts of the individual case. For example ESA WRAG Lone Parents with a youngest child under 5, exempt until the claimant's child reaches age 5.

Advisers Discretionary Deferral Reasons

50. A deferral should be the exception rather than the rule. Whilst there are a few exceptions, the basic rule is that a deferral should only be considered for a claimant who you are confident will flow off benefit or will meet the exemption criteria within the 90 days deferral period.

51. The table below shows the deferral reasons available in LMS along with a definition of when each one should be used:

Deferral reason on LMS	When to use
Defer – Job Offer / Job Start	Claimant has a confirmed Job Offer / Start

	within 90 days which could lead to a benefit off flow.
Defer – Job Interview	Claimant has a Job interview which could lead to a benefit off flow within 90 days.
Defer – Job Outcome Expected	The adviser feels that with their help and support the claimant will flow off benefit with 90 days.
Defer – On other Provision	Claimant is already undertaking training when Work Programme eligibility is identified.
Defer – Other	To be used when none of the other deferral reasons apply but the adviser is confident the claimant will flow off benefit or will meet the exemption criteria within the 90 days deferral period. The reason for using 'Other' must be recorded in LMS Conversations.

52. The adviser can consider delaying the claimant's mandatory referral for a maximum of 90 days. They can be deferred multiple times but not beyond the end of the 90 days period. LMS will not allow you to defer beyond the maximum 90 days. It will calculate this using the 'Eligibility Date' within the Work Programme window as the start date.

53. Advisers **must not** use the discretionary deferral for ESA claimants in respect of:

- their specific illness or condition
- their next WCA being triggered (ie JSAPS showing that the process for the next WCA has started)

54. If the reason 'Defer – Other' is used the reason for using it **must** be recorded in LMS Conversations. For example if other has been used because the claimant has been referred to the DEA to consider if Work Choice is appropriate record 'Work Programme deferral other used because claimant has been referred to the DEA to consider if Work Choice is appropriate'.

55. Providers will apply conditionality in a similar way to how Jobcentre Plus will approach it. It is important to remember that whilst a claimant may be deferred from a referral, the expectation is that during this period the claimant will remain subject to the requirements placed on individuals via the Jobcentre Plus offer (i.e. consideration of WFIs and WRA).

56. The following are a few examples of when a claimant may be deferred.

Claimant is on a training course

57. Where a claimant is on a training course and would reach their Work Programme referral date whilst on this, or shortly after, consideration should be given to deferring the Work Programme Referral so the claimant can complete the course and where appropriate be given time to try to get a job using their new skills.

Example

Mr Smith is attending a 4 week plastering course at his local college, which he started 2 weeks ago. In this case it would be sensible to defer his Work Programme referral for 6 weeks to allow him to complete the course and try to get a job using his new skills.

Claimant has a job interview or is due to start work

58. Referral to the WP Provider should be delayed if the claimant states they have a job interview or definite job start and evidence (preferably written evidence from the employer) can be produced.

59. Set the review date for after the interview or employment commencement date, to confirm the outcome of the interview or that a job start has occurred.

Job Outcome Expected within 3 months

60. Where short intensive job search activity will move the claimant into employment, the adviser may choose to defer the claimant's entry to the WP for a maximum of 90 days, to allow more intensive JCP support. For example, if they have just completed a "Get Britain Working Measure".

61. Where an ESA claimant is self-employed, or holds a contract of employment, and states that they are to return to work shortly, referral to the WP provider can be deferred for a maximum of 90 days.

62. Agree a date when the claimant is to return to work, and set the review date to confirm whether the claimant has returned to work at that date.

New Enterprise Allowance (NEA)

63. The claimant cannot undertake NEA at the same time as the WP. The claimant can be deferred from the WP for a period of 8 weeks to work with their mentor and produce a business plan.

64. At the end of the 8 week period the claimant will attend the Jobcentre where the initial period may be extended with Jobcentre Plus agreement. At which time a further WP deferral can be granted.

65. The PA would have the opportunity to allow a further deferral once the business plan was complete where they believe the claimant is close to commencing self employment.

66. Once the claimant reaches the maximum 90 days deferral period, they will be required to cease NEA and join the WP.

Work Choice/Residential Training for Adults with Disabilities

67. The adviser may defer the claimant's referral to the WP pending a decision from the DEA on whether Work Choice or Residential Training of Adults with Disabilities would be more suitable. If the DEA deems either to be more suitable the claimant would then be exempt from the WP for their length of time on Work Choice or Residential Training.

Participant due to leave Great Britain (GB)

68. Claimants who are emigrating to countries outside Great Britain need not be referred to the WP Provider if their date for leaving the country is within the deferral period of 90 days and they will be ending their benefit claim.

Action when deferral matures

69. When the deferral matures the claimants details are included on the Work Programme Exemption/Deferral Report. The report must be printed off weekly and cleared immediately.

70. For each claimant on the report the adviser must consider whether a further deferral is appropriate.

71. Review the deferral by the most appropriate means. For example, phone call or interview with the claimant, or confirmation with a third party.

72. If a further exemption/deferral period is appropriate, the actions to record the exemption/deferral on LMS are repeated.

73. If not remove the postponement then a Work Programme Referral interview must be booked.

New Joiner Work Focused Interview Deferred (NJWFI)

74. For ESA claimants the WP referral interview cannot take place until the NJWFI has taken place.

75. If the claimant's NJWFI is deferred referral to the WP should be delayed until the NJWFI has taken place.

76. It is not appropriate to formally exempt or defer entry to the WP.

Work Programme Linking Rules

The key principle of Linking Rules is that claimants will move onto the Work Programme once they have received linked periods of Jobseeker's Allowance for the appropriate length of time [for example, 12 months for 25+ claimants]

4. Where a claimant has a break or multiple breaks in their JSA claim and subsequently re-claims JSA on or after 04/04/11, the following linking rules should be applied to establish the claimant's Work Programme Entry Point.

JSA Linking Periods		
Length of previous Claim at Point of Break	Length of Break	Calculation of Work Programme Entry Point
Up to 26 weeks/up to and including 182 days	Any	Calculate from claim date of new claim [no link]
More than 26 weeks/183 days or more	More than 28 days	Calculate from claim date of new claim [no link]
More than 26 weeks/183 days or more	28 days or less	Extend previous Work Programme entry point by the number of days of the break

Example 1

A 20 year old claimant makes a claim to Jobseeker's Allowance from 4/01/11 to 29/04/11 [116 days].

Claimant makes a new claim to Jobseeker's Allowance from 01/06/11.

As the length of the previous claim is less than 26 weeks, calculate Work Programme Entry Point from 01/06/11.

Work Programme entry point is from 01/03/12.

Example 2

A 25 year old claimant makes a claim to Jobseeker's Allowance from 01/10/10 to 29/04/11 [211 days].

Claimant makes a new claim to Jobseeker's Allowance from 01/06/11.

As the length of the previous claim is more than 26 weeks and the break in claim is more than 28 days, calculate Work Programme Entry Point from 01/06/11.

Work Programme Entry Point is from 01/06/12.

Example 3

A 22 year old claimant makes a claim to Jobseeker's Allowance from 04/04/11 to 04/10/11 [184 days].

Their Work Programme Entry point for this claim is from 04/01/12.

Claimant makes a new claim to Jobseeker's Allowance on 12/10/11.

As the claimant has previously been in receipt of Jobseeker's Allowance for more than 26 weeks and the break is less than 28 days, the previous Work Programme Entry point is extended by the number of days of the break.

The new Work Programme Entry date is 11/01/12.