

## **Failure to Attend Interviews and Jobsearch Reviews**

### **Background**

1. The law requires claimants to participate in an interview in such manner; time and place at such place as an employment officer may specify by a notification which is given or sent to the claimant and which may be in writing, by telephone or by electronic means.
2. Any type of notification for this purpose must specify the date and location of the interview and may also include the time. The written notice is usually the claimant's ES40 or an Interview Invitation Letter, but can be an ESL21, ES674 etc.

### **Implications for Failing to Attend an Interview or Jobsearch Review**

#### **Claimant fails to contact Jobcentre Plus within 5 working days**

3. A claimant's entitlement to Jobseeker's Allowance will cease if they Fail to Attend (FTA) an interview, after being required to do so by a Jobcentre Plus officer on behalf of the Secretary of State and fails to contact Jobcentre Plus within 5 working days.

#### **Claimant contacts Jobcentre Plus within 5 working days**

4. A claimant's Jobseeker's Allowance will be sanctioned if they:
  - FTA an interview or Jobsearch Review; **AND**
  - contacts Jobcentre Plus within 5 working days; **AND**
  - cannot be treated as straightforward (TaS); **AND**
  - does not show good reason for their failure.

#### **Clarification of working day**

5. A working day means any day on which the appropriate office is open to the public, as confirmed by its list of regular opening hours, which all Jobcentres are required to display.
6. Appropriate office means the Jobcentre or any other place, which the claimant has been told to attend in a notification.

#### **Periods of excusal of attendance and advance payments**

7. During periods of excusal of attendance and advance arrangements, FTA action must be taken if claimants do not comply with the notification, leaflet ESL21. When issuing leaflet ESL21, it should be clearly explained to the claimant that even if a payment is received early, they must attend as required, or their next payment will be affected.
8. In FTA Jobsearch Review cases, the claimant must still provide a signed declaration for the period if a payment is to be processed by the BDC.

9. If the claimant has been Treated as Straightforward (TaS) or shown good reason for the day of FTA, they do not have to show that they had good reason for any days in between the day they FTA and the day they actually attended.

### **Claimant attends on the correct day but at the wrong time**

10. When a claimant attends on the correct day, but either early or late, record on form ES589 or on LMS 'Conversations' the times of attendance, and their reasons for attending outside their specified time.

11. The claimant may be referred to an adviser to:

- discuss their reasons for early/late attendance;
- explain the implications of not attending at the correct time; and
- either discuss alternative fortnightly attendance arrangements or issue an ES19 warning letter.

12. Make a note of the referral and outcome of the adviser discussion on LMS 'Conversations' or on form ES589.

### **Adviser interviews**

13. If the claimant attends early on the date of the adviser interview, ask them to return at the correct time.

14. If they state they are unable to return at the correct time or they are late:

- ask them why;
- note the reason on form ES589; and
- notify the adviser concerned as this may raise a doubt on another question, for example, availability.

15. If an adviser is not available to conduct an interview at that time, consider issuing form ES19 to the claimant.

16. Do not automatically issue this letter but use it to target persistently early/late attenders.

### **ES19 Warning Letter**

17. A warning letter (ES19) can be issued to people who, although they attend on the correct day, regularly attend early or late.

18. The ES19 is a written notice issued to the claimant setting out the date and time they are next required to attend the Jobcentre. However, it can only apply to the very next occasion that they are required to attend, regardless of whether this is a Jobsearch review or an adviser interview.

19. If, after being issued with an ES19, the claimant attends early or late on their next due day of attendance, their JSA will be sanctioned unless they can be TaS or show good reason.

20. The ES19 should only be used in exceptional circumstances where all other measures have been tried and failed.

### **Action to take when a claimant regularly attends on the correct day but at the wrong time**

21. When a claimant persistently attends Jobsearch Reviews on the correct day but at the wrong time:

Step	Action
1	Prepare an ES19 for the claimant setting out the date and time they are next required to attend. <b>Note:</b> It is important that the date and time on the ES19 refer to the claimants next required attendance, which will be their next Jobsearch Review or an adviser interview where one is due to take place prior to their next Jobsearch Review.
2	Issue the ES19 to the claimant. It is preferable that the ES19 is issued by hand however it can also be posted in exceptional circumstances. In a joint claim, a copy of the ES19 should also be handed or posted to the other claimant.
3	Record the date of issue and keep a copy of the notice in the Labour Market Unit (LMU). If the ES19 is issued by hand, ask the claimant to acknowledge its receipt by signing the copy.
4	Inform the claimant that this is their last opportunity to attend at the specified time and that if they fail to do so as required, their JSA may be affected.

### **Claimant does not attend at the time specified on the ES19**

22. If the claimant attends at a time other than that specified on the ES19, normal failure to attend action must be taken. See Claimant makes contact face-to-face after failing to attend for further information.

### **Claimant notifies in advance that they are unable to attend**

23. If a claimant notifies the Jobcentre in advance that they will not be able to attend on the correct day, question them to determine whether they can be Treated as Available.

24. If the claimant can be treated as available, their attendance can also be excused. Form ES673 must be attached to the front of the Labour Market Unit (LMU) and the ES24 noted 'see ES673'.

25. If the claimant notifies in advance that they will not be able to attend on the correct day but they cannot be treated as available, for example, they have an appointment with a probation officer, attendance cannot be automatically excused and their day and/or time of attendance cannot be rearranged.

26. Explain that:

- they must still provide a signed declaration to be paid JSA;
- they must show good reason within 5 working days; and
- they must give full reasons why they cannot attend.

### **Claimant notifies in advance that they are attending a job interview**

27. If the claimant has notified the Jobcentre in advance that they will not be able to attend on the correct day because they have a job interview, their attendance cannot automatically be excused. However, if the claimant can provide documentary evidence confirming the interview, their day and/or time of attendance can be rearranged for this occasion only. FTA action will not be required providing they attend on the rearranged date.

28. Where a claimant has arranged a job interview at short notice and has notified the Jobcentre in advance by telephone, it may not be possible for them to attend prior to the job interview. In these cases they should be given a rearranged interview time and told that documentary evidence confirming their interview is a condition for rearrangement of attendance and therefore it must be produced when they attend.

29. If they FTA on the rearranged date, or do not provide documentary evidence, FTA action will apply from the re-arranged attendance time.

### **Contact made by the claimant within 5 working days**

30. If, after failing to attend the claimant makes contact within 5 working days, obtain details from them to establish the reason why they FTA.

31. If the reason for non-attendance would allow them to be treated as available, they cannot be excused attendance retrospectively. Therefore, although they can be treated as available and ASE, action is still required.

32. The action to take depends upon the reason given by the claimant and whether they make contact by telephone or face-to-face.

### **Claimant declares sickness as the reason for failing to attend**

33. If the claimant states that they have FTA due to sickness, consider taking JSA28 action.

34. Providing that the claimant can be treated as available a decision from the LMDM, on whether the claimant had good reason for failing to attend, will not be necessary.

35. If a claimant provides information about their sickness on a JSA28, and can be treated as available for the period of the sickness, there is no need for a doubt to be raised via DART.

36. In all cases the claimant must be warned that payment for the period which includes the days of sickness cannot be made until the completed form has been returned and the reasons for FTA have been considered by the Jobcentre.

37. If the claimant cannot be treated as available, for example they have already had two periods of sickness in that Jobseeking Period then a referral to the LMDM is required.

38. See the Treated as Available and Actively Seeking Employment chapter for further information.

### Claimant makes contact by telephone and declares any other reason for failing to attend

39. If the claimant makes contact by telephone and states that they have FTA for any reason, other than sickness, take the following actions:

Step	Action
1	Confirm the claimant's identity as per existing procedures.
2	Take a statement from the claimant of their reasons for failing to attend using the Decision and Referral Template system (DART).
3	Check the statement does not indicate there are any availability or ASE doubts, if there are, refer to Availability or Actively Seeking Employment doubt for further information.
4	Use the Treat as Straightforward (TaS) filter on DART, to determine whether or not the claimant can be TaS.
5	If the case can be TaS: <ul style="list-style-type: none"><li>• create a new DMA referral on LMS via the 'View referral/decision details' screen using <b>AR code JSA 719S</b>. The 'Ref To' field must be set to [N/A – Straightforward]. See the LMS User Guide for further information;</li><li>• on the 'Notes' sub window enter the reason why the claimant can be TaS;</li><li>• send the DART referral to a Team Leader or other designated officer for confirmation of TaS.</li></ul>
6	If the case does not fall within the TaS criteria, the DART referral must be sent to the AO Decision Maker shared inbox for an AO Decision Maker to consider. <b>Note:</b> it is important that no action is taken on LMS for cases which cannot be TaS.
7	Ask the claimant to attend the office as soon as possible to provide evidence that they were available and actively seeking employment.

40. When the claimant actually attends the office:

Step	Action
1	Confirm the claimant's identity as per existing procedures.
2	Confirm that the claimant was available and actively seeking employment and take a signature on form ES24 for the full fortnight up to the benefit week ending day.
3	Input dialogue JA470: Attendance where the claimant has FTA on their normal day.

### Claimant makes contact face-to-face and declares any other reason for failing to attend

41. If the claimant states that they have FTA for any reason, other than sickness, take the following actions:

Step	Action
1	Confirm the claimant's identity as per existing procedures.
2	Take a signature on form ES24 for the full fortnight up to the benefit week ending day, if appropriate.
3	Take a statement from the claimant of their reasons for failing to attend using the Decision and Referral Template system (DART).
4	Check the statement does not indicate there are any availability or ASE doubts, if there are, refer to Availability or Actively Seeking Employment doubt for further information.
5	Use the Treat as Straightforward (TaS) filter on DART, to determine whether or not the claimant can be TaS.
6	<p>If the case can be TaS:</p> <ul style="list-style-type: none"> <li>• create a new DMA referral on LMS via the 'View referral/decision details' screen using <b>AR code JSA 719S</b>. The 'Ref To' field must be set to [N/A – Straightforward]. See the LMS User Guide for further information;</li> <li>• on the 'Notes' sub window enter the reason why the claimant can be TaS;</li> <li>• send the DART referral to a Team Leader or other designated officer for confirmation of TaS.</li> </ul>
7	<p>If the case does not fall within the TaS criteria, the DART referral must be sent to the AO Decision Maker shared inbox for an AO Decision Maker to consider.</p> <p><b>Note:</b> it is important that no action is taken on LMS for cases which cannot be TaS.</p>
8	input dialogue JA470: Attendance where the claimant has FTA on their normal day;

### **Claimant wishes to cease claiming JSA prior to the day of FTA**

42. If the claimant wishes to cease claiming JSA prior to the day they FTA, ask them to complete and return their ES40.

43. Once the ES40 is received, input the termination reason and date to JSAPS in dialogue JA099: Record Claim Termination Details. This triggers a Work Available Report JA72539 to the BDC to terminate the claim on JSAPS.

### **Contact not made by the claimant within 5 working days**

44. If the claimant does not make contact within 5 working days of FTA, the claim must be terminated:

Step	Action
1	Enter this information on LMS and make the record inactive.
2	Input JSAPS dialogue JA060: Register Claim/Event to register a change of circumstances.
3	Input JSAPS dialogue JA099: Record Claim Termination Details to

	inform the BDC to complete claim termination action.
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45. The termination date should be the day after the last date for which the claimant provided evidence that they were entitled to JSA. This could be the last day they provided a signed declaration, or the last day they attended an adviser interview and the labour market conditions were satisfied and recorded as such on LMS.

46. If the claimant contacts the Jobcentre after dialogue JA099: Record Claim Termination Details has been input into JSAPS, and wishes to continue to claim JSA, the claimant must reclaim JSA using the JSA STP Reclaim process and the JSA4RR.

## Treat as Straightforward

47. This provision enables claimants to be treated as having good reason for FTA, without a referral to an AO Decision Maker or LMDM.

48. The Treat as Straightforward (TaS) filter on DART will be used to identify those claimants who could be treated as straightforward. **NOTE: The use of DART is not necessary when sickness is the reason for FTA a Jobsearch Review or advisory interview.**

49. However prior to TaS being applied, a team leader or other designated officer must confirm that TaS is appropriate. The designated officer should be Band B or above and adjudged by the Manager to be competent and experienced enough to make the determination.

50. Only cases where the reason for FTA falls clearly within the guidelines can be TaS. However, in all such cases, the 'treat as available' conditions or any other relevant action must be applied before considering TaS.

51. Where a doubt still exists, the case must be submitted to an AO Decision Maker on site for consideration.

52. The Treat as Straightforward considerations are:

If the reason given for FTA is:	Consider:	Y/N	Action
Voluntary work/caring responsibilities	Was the claimant given at least 48 hours notice of the requirement to attend?	Y N	Refer to AO DM TaS
Providing a service	Was the claimant given at least 24 hours notice of the requirement to attend?	Y N	Refer to AO DM TaS
Attending a residential work camp	Has the claimant been treated as available?	Y N	TaS Refer to AO DM
Taking a child or young person abroad for medical treatment	Has the claimant been treated as available?	Y N	TaS Refer to AO DM
Manning a lifeboat/ p/t fire-	Has the claimant been	Y	TaS

fighter/working for the benefits of others in an emergency	treated as available?	N	Refer to AO DM
Member of couple and needed to care for child while usual carer is abroad	Has the claimant been treated as available?	Y	TaS
		N	Refer to AO DM
Attending Open University residential course	Has the claimant been treated as available?	Y	TaS
		N	Refer to AO DM
Temporarily looking after a child full-time because the normal carer is ill or temporarily absent from home, or looking after a family member who is ill	Has the claimant been treated as available?	Y	TaS
		N	Refer to AO DM
Suffering a temporary period of sickness	Has the claimant been treated as available/actively seeking employment ?	Y	TaS
		N	Refer to AO DM
A domestic emergency (including serious illness, death, funeral or emergency affecting a relative or close friend or death of someone the claimant is caring for	Has the claimant been treated as available?	Y	TaS
		N	Refer to AO DM
Claimant was detained in police custody for 96 hours or less then released	Has the claimant been treated as available	Y	TaS
		N	Refer to AO DM
Claimant was required to attend court, or tribunal for up to 8 weeks	Has the claimant been treated as available	Y	TaS
		N	Refer to AO DM
Claimant was participating in annual continuous training as a member of the reserve forces	Has the claimant been treated as available	Y	TaS
		N	Refer to AO DM
Although the following can be TaS they are not circumstances to which Treated as Available/ASE would apply			
Claimant has attended a job interview and can provide sufficient evidence for example, letter from employer / name of interviewer	Could the claimant have reasonably been expected to attend at the time on his ES40 / ND6 /invitation letter/telephone call?	N	TaS
		Y	Refer to AO DM
Claimant declares part time work which does not result in claim termination	Could the claimant have reasonably been expected to attend?	N	TaS
		Y	Refer to AO DM
Adverse weather conditions	Are the local	Y	TaS



	conditions such that the claimant could not reasonably be expected to attend?	N	Refer to AO DM
Additional TaS for parents			
Claimant is caring for a child and is subject to a parenting order or a parenting contract. The child may be excluded from school	Was it reasonable for the claimant to be unable to attend?	Y	TaS
		N	Refer to AO DM
Claimant is caring for a child because of school holidays and they can not obtain affordable and appropriate childcare	Have they been treated as available and actively seeking employment	Y	TaS
		N	Refer to AO DM

### Confirmation of Treated as Straightforward

53. Where it is identified that a case can be TaS, details of the DART referral will be sent to a Team Leader or other designated officer.

54. Upon receipt of the DART referral the Team Leader or designated officer must review the details and confirm whether or not TaS applies.

### Case can be Treated as Straightforward

55. If the team leader or designated officer agrees with the TaS decision they must record the following on the LMS 'View referral/decision details' screen in 'Notes':

- TaS Authorised;
- the team leader or designated officer name; and
- the date that TaS was authorised.

### Case cannot be Treated as Straightforward

56. If the team leader or designated officer does not agree with the TaS decision, the following action must be taken:

Step	Action
1	On the LMS 'View referral/decision details' screen, amend the 'Ref To' field to [LM DMA Office] and in 'Notes' enter the reason why TaS was not applicable.
2	Copy the information from DART into the LMS Decision Notes box for the relevant decision to ensure that details of the referral are maintained for reconsideration or appeal purposes.
3	Send a submission to the LMDM using DART for a good reason decision.
4	Provide feedback to the person who identified possible TaS to confirm why TaS was not applicable.

## AO Decision Making

57. There has been a significant rise in the volume of labour market decision making and appeals (LM DMA) referrals from both jobcentres and providers, which has significantly increased the pressure on LMDMA Teams. Therefore some LMDMA work is being transferred to Jobcentres to help ease this burden.

58. Local AO Decision Making will deliver quicker, more efficient decision making by reducing handoffs and freeing resource in LMDMA teams to focus on more complex decisions.

59. As part of the Local AO Decision Making process, a new role, Local AO Decision Maker is being introduced. Local AO Decision Makers will triage FTA cases and determine if a case can be considered complex or non complex.

60. Non complex JSA Fail to Attend decisions will be made by Local AO Decision Makers within the Jobcentre.

61. AO Decision Makers will not be responsible for providing detailed explanations of their decisions, or progressing claimant reconsideration/appeal requests. Therefore, detailed explanations, reconsiderations and appeals must be forwarded to a LMDM for action.

**62. It is essential that the claimant is not made aware at any stage that some decisions are made locally.**

## Consideration by AO Decision Makers

63. Where it is identified that a case cannot be TaS, details of the DART referral will be sent to an AO Decision Maker for consideration.

64. Upon receipt of the DART referral the AO Decision Maker must review the claimants' record in JSAPS Dialogue JA504.

65. If the claimant is in receipt of their National Insurance credits only, a decision on the FTA is not required. This is because the credit regulations do not support the disallowance of credits solely because a claimant failed to attend.

66. If the claimants' JSA has not been rated (it will show 'LIVE NP' in Dialogue JA504) the case must be referred to a LMDM for consideration. The following action must be taken :

Step	Action
1	Create a new DMA referral on LMS via the 'View referral/decision details' screen using <b>AR code JSA 719S</b> . The 'Ref To' field must be set to [LM DMA Office]. See the LMS User Guide for further information;
2	Copy the information from DART into the LMS Decision Notes box for the relevant decision to ensure that details of the referral are maintained for reconsideration or appeal purposes.
3	Send a submission to the LMDM using DART for a good reason decision.

67. If the claimants' JSA has been rated the AO Decision Maker must determine whether the case is complex or non complex.

## Determining whether a case is complex or non complex

68. Non complex cases are those cases where there can only be one possible outcome i.e. a sanction is imposed. These cases must be processed in the Jobcentre by the AO Decision Maker.

69. Complex cases require further consideration as they could have more than one possible outcome i.e. allowed or disallowed; therefore complex cases must be sent to a LMDM for consideration.

70. Examples of complex and non complex cases are:

Non Complex	Complex
I forgot	I forgot because my mum was rushed into hospital and I had to accompany her
I missed my bus	The bus was late because of an accident
I overslept	I overslept due to a medical condition
I overslept because I had a late night	I overslept because I had a late night as a result of staying in hospital with my sick child

**Note:** This list is not exhaustive.

## Complex Cases

71. If the AO Decision Maker determines that a case is complex they must take the following action:

Step	Action
1	create a new DMA referral on LMS via the 'View referral/decision details' screen using <b>AR code JSA 719S</b> . The 'Ref To' field must be set to [LM DMA Office]. See the LMS User Guide for further information;
2	Copy the information from DART into the LMS Decision Notes box for the relevant decision to ensure that details of the referral are maintained for reconsideration or appeal purposes.
3	Send a submission to the LMDM using DART for a good reason decision.

## Non Complex Cases

72. If an AO Decision Maker determines that a case is non complex they must apply a sanction on the claimant JSA, by taking the following action:

Step	Action
1	<p>create a new DMA referral on LMS via the 'View referral/decision details' screen using <b>AR code JSA 719S(LO)</b>. The 'Ref To' field must be set to [LM DMA Office]. See the LMS User Guide for further information;</p> <p><b>Note:</b> It is essential that the correct AR Code is used for decisions that are made by AO Decision Makers. Failure to use the correct AR Code will result in these cases being attributed to LMDMs not AO Decision Makers.</p>

2	Copy the information from DART into the LMS Decision Notes box for the relevant decision to ensure that details of the referral are maintained for reconsideration or appeal purposes. All of the <b>relevant</b> decision information needs to be included, not just the claimant's reasons for failure. As there is a limit to how much data that can be saved in LMS, if it cannot be tailored to fit, the DART information must be either printed out and sent to remote storage or scanned and saved in DRS with LMS being noted accordingly.
3	Determine the length of the sanction applicable and the start and end dates of the sanction. JSAPS Dialogue JA513 can be used to determine what sanctions a claimant has previously received. Further information about the length of sanctions and appropriate start date is available within the Labour Market Conditions Guide and the Labour Market DMA Procedural Guide.
4	<p>Input the sanction decision into LMS via the 'View referral/decision details' screen:</p> <ul style="list-style-type: none"> <li>• The 'Sanction Applies' option must be selected from the drop down list in the 'Decision' field;</li> <li>• The start and end dates of the sanction must be entered into the 'Period from' and 'Period to' fields;</li> <li>• The date that the decision was made must be entered into the 'Date Made' field;</li> <li>• The 'Made By' field must be left blank. It is essential that the AO Decision Makers details are <b>not</b> entered into this field.</li> </ul> <p>See the LMS User Guide for further information on inputting DMA decisions into LMS.</p>
5	<p>Input the sanction decision into JSAPS Dialogue JA210. The following information must be entered:</p> <ul style="list-style-type: none"> <li>• The appropriate AR Code (CSL001 or CSL002) must be entered into the 'AR Code' field. CSL001 should be used when a claimant FTA on the correct day, where as CSL002 should be used when a claimant FTA on the correct day but at the wrong time after being issued with an ES19.</li> <li>• The start and end dates of the sanction must be entered into the 'AR Period in Doubt' field;</li> <li>• 'DISD' must be entered into the 'Decision' field;</li> <li>• '1' must be entered into the 'Source' field;</li> <li>• The date that the claimant failed to attend must be entered into the 'Date of Transgression' field.</li> <li>• The date that the decision was made must be entered into the 'Decision Date' field.</li> </ul>
6	As good practice, complete the AO Decision Explanation Letter with the appropriate information and issue it to the claimant by post. There is no need to store or keep a copy of the letter; however issue of the decision letter must be recorded in LMS Conversations.

	<b>Note:</b> The decision explanation letter is not the official decision notification. It is essential that the JSAPS produced Single Outcome Decision notification (SODn) is also issued to claimants as this provides information on appeal rights etc.
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73. A quality check of AO Decision Makers decisions may be conducted by Adviser Team Managers, further information about the checks is included in Appendix 1.

### **JSAPS Input for non-complex cases**

74. After inputting the sanction decision into Dialogue JA210, AO Decision Makers are usually responsible for imposing the appropriate sanction via Dialogues JA200 and JA405. See the Sanction, Suspensions and Disallowances Chapter of the JSA Procedural Guide for further information on the action required.

75. However there are some situations where an AO Decision Maker should not impose the sanction via Dialogues JA200 and JA 405:

- **Joint Claim** - The sanction decision for joint claims should be handed over to the BC JSA processing team for them to impose the sanction.
- **Mortgage Interest Deductions (MID)** - The sanction decision for a claim with MID should be handed over to the BC JSA processing team. These cases can be identified by via JSAPS Dialogue JA501, if there is a [Y] in the 'Home Loan' field then Mortgage Interest Deductions are being applied.
- **Hardship** – If JSA Hardship is in payment and a subsequent sanction is applicable, the sanction decision should be handed over to the BC JSA processing team.

**Note:** Handovers should be made via e-mail to the linked BC and not via HOTT.

### **Labour Market Decision Maker Submission action**

76. Access LMS and check the 'View Referral / Decision Details' screen.

77. To ensure that details of the referral are maintained for reconsideration or appeal purposes, ensure that all of the information from the DART referral has been copied into the LMS notes box for the relevant decision.

78. Check the submission is complete and then send the details to the LMDM using DART to enable them to make a good reason decision. See the DMA Referrals Guide for further information on what must be included in the submission.

79. There is a question on the FTA DART template which asks, 'In the benefit week including the date of FTA/FTPSP, was the claimant treated as available/ASE?' This requires a yes or no answer. The "treating as available/ASE provisions" are intended to be used when a claimant **is not** available or ASE for a reason as detailed in the treated as available/actively seeking chapter of this guide.

80. The answer should **only** be 'yes' when the claimant has been **treated** as avail or actively seeking. If there is an availability or ASE doubt, the adviser should find out the reasons why and consider whether the "treating" provisions apply. If the

claimant is **treated** as available/ASE, the answer should be "YES". There is no need to refer to LMDM if the treat covers the date of failure. If the claimant cannot be "treated as", the answer should be "NO", and the case referred to LMDM.

If the claimant **is** available and actively seeking, the answer should be '**no**' and there is no need to use the "treat as" provisions, refer case to LMDM as per normal procedures.

81. In summary

- Available for work – no need to treat as available – answer 'no'
- Not available for work – consider treating as available – answer 'yes' if so treated

82. Explain to the claimant that a decision will be made on whether they had sufficiently good reasons for FTA. Inform them that if it is decided that their reasons were not sufficient, their JSA will be affected.

### **Decision made by Labour Market Decision Maker**

83. The details of the decision will be automatically entered into the LMS 'Referral/Decision Details' screen once the LMDM has input their decision into DMAS.

84. The LMDM will email their decision notification direct to the JSA Maintenance team for action; therefore no further action is required in the Jobcentre.

**Note:** If copies of the decision notification and/or case papers are received at the Jobcentre these should be retained for monitoring purposes.

85. If a claimant fails to attend an interview or intervention they will receive a lower level sanction of either 4 or 13 weeks. Further information around the sanction is available within the Sanctions and DMA Guidance.

86. Some claimants may be able to claim JSA Hardship when a sanction has been imposed on their JSA following FTA. See JSA Hardship Awards for further information on hardship.

### **Reserved Decisions**

87. A LMDM may decide to reserve a decision. This will normally be when a sanction is appropriate, but cannot be imposed because the claimant is no longer receiving JSA.

88. In these cases the DM will send a DMAS produced notification to the Jobcentre advising them of this, and at the same time, LMS will be automatically updated with this decision.

89. There is no input to JSAPS for reserved decisions.

90. The case must be re-referred to the DM if the claimant reclaims within:

- four weeks if this is the first time the claimant has committed a lower level failure; **or**
- thirteen weeks if this is the second or subsequent time the claimant has committed a lower level failure.

**Note:** This is done as a new referral on LMS.

91. If a case is re-submitted and the claim was originally a joint claim for JSA, it is important to ensure that the details held on LMS are up to date. It should be

established whether the claimant is still part of a joint claim and if so, full details of the other member at the time that the decision was made, must be indicated in the referral.

## **Additional Information**

### **Invitation to attend issued by telephone**

92. Claimants who are asked to attend the Jobcentre for an interview by telephone and subsequently FTA are subject to the same conditions as any claimant. Therefore, if the claimant FTA that interview, they have 5 working days to show good reason. The 5 working days will begin the day after they FTA and not the day the telephone conversation took place.

93. Take the appropriate action if the claimant:

- makes contact within 5 working days; or
- fails to make contact within 5 working days.

### **Failure to attend interview requested by claimant**

94. There may be occasions when a claimant requests an interview. This could be to change their Jobseeker's Agreement or request information about Jobcentre Plus services.

95. Depending on the purpose of the interview a decision must be made whether to make attendance mandatory or not.

96. If it is determined that the interview should be mandatory, it must be booked accordingly and the claimant notified that it is a mandatory interview and that they will be sanctioned if they fail to attend without good reason.

97. If it is determined that the interview does not need to be mandatory a note must be made on LMS to show this when booking the interview. If the claimant subsequently FTA, no FTA action is required.

### **Availability or Actively Seeking Employment doubt**

98. It is not necessary to ask a claimant to prove that they were available and ASE if they sign form ES24. However, if the reason for FTA raises a doubt on the claimants availability or ASE, a referral to the LMDM must be made, unless they can be treated as available and/or ASE.

99. See the Availability and Actively Seeking Employment and the Treated as Available and Actively Seeking Employment chapters of the Labour Market Conditions Guide for further information.

### **Evidence gathering**

100. When taking a statement from the claimant care must be taken not to lead them into answers that would be acceptable reasons for the case to be TaS or the decision maker to allow good reason.

101. Ask the claimant what caused them to be late and tell them to provide as much information as possible. The claimant only has 5 working days from the date they FTA to show they had good reason for their failure.

102. Any evidence the claimant supplies after 5 working days cannot be taken into account.

### **FTA and credits only claimants**

103. Credit regulations do not support the disallowance of credits solely because a claimant failed to attend. Providing a claimant is:

- Available;
- Actively Seeking Employment;
- under the age they can get Pension Credit; **and**
- not in remunerative work or relevant education

they can be awarded a National Insurance credit.

104. A submission to a LMDM for an opinion decision must not be made for 'credits only' claimants who FTA.

105. However, the reasons claimants give for FTA should be checked to identify any availability and/or ASE doubts. Where a doubt exists, an availability and/or ASE referral should be made to the LMDM as appropriate.

### **Failure to attend and parents**

106. If the claimant FTA their Jobsearch Review, and it is identified by using LMS that the claimant is a parent, the Assistant Adviser will make at least one attempt to contact them, by telephone, on the day they FTA.

107. If the claimant responds to the phone call they should be

- reminded that they were due to attend the Jobcentre;
- asked for the reason they did not attend;
- asked if they are able to attend on a future date and
- asked if they wish their claim to continue.

108. If the claimant cannot be contacted by telephone a letter must be sent on the same day, to advise them of the need to make contact within five working days of the day they should have attended, and that their benefit may be affected.

## **Appendix 1 – AO Decision Making Checklist**

As part of the AO decision making process, Adviser Team Managers are required to undertake a quality check of a sample of decisions made by AO Decision Makers. This quality check will provide assurances that:

- the claimants actual date of attendance is within 5 working days of the date they FTA;
- the appropriate information has been correctly captured through DART;
- the correct process has been followed for TaS;
- the claimants JSA claim is 'live in payment';
- the case has been correctly identified as complex or non complex;
- complex cases have been sent to a LMDM for consideration;
- decisions on non complex cases are made and recorded within 24 hours;



- decisions for non complex cases are input into LMS correctly, including the correct AR Code and sanction dates;
- decisions for non complex cases are input into JSAPS correctly;
- basic explanation letters are sent to claimants by an AO Decision Maker following a non complex decision.