

## **09 ESA and Victims of Domestic Violence Guidance**

### **Background and Eligibility**

1. JSA claimants are exempt from meeting labour market conditions in certain circumstances, if they tell us they have been subject to domestic violence in the previous 26 weeks. For consistency, this policy has been replicated for ESA claimants supported by the JCP Offer or the Work Programme.
2. There are two elements to the easement:
  - an initial 4 week period starting on the day the person notifies Jobcentre Plus in the required way that they have been threatened with or subject to actual domestic violence; and
  - the facility to extend the initial easement to 13 weeks upon production to Jobcentre Plus of relevant evidence by the claimant during the initial 4 week period. If the evidence is produced, the 13 week period will begin on the same date as the 4 week period.
3. This purpose of the easement is to give the claimant time to resolve any immediate issues arising from the domestic violence, such as finding new accommodation, changing children's schools or getting legal advice etc.

### **What is domestic violence?**

4. The easement applies in relation to domestic violence (actual or threat of) by the claimants current or former partner(s), or by certain family members of the claimant, their partner or former partner. Step relatives are also included as family members.
5. The term 'domestic violence' is defined as any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can include, but is not limited to, the following types of abuse:
  - psychological (e.g. Intimidation, insulting, isolating the person from friends and family, criticising, threatening to harm children),
  - physical (e.g. shaking, smacking, punching, kicking, bruising, starving, tying up, stabbing, suffocation, 'honour violence'),
  - sexual (e.g. forced sex, forced prostitution, ignoring religious prohibitions about sex, sexual insults, passing on sexually transmitted diseases, preventing breastfeeding),
  - financial (e.g. not letting the person work, undermining efforts to find work or study, refusing to give money), or
  - emotional (e.g. swearing, undermining confidence, making racist, sexist or other derogatory remarks, making the person feel unattractive).
6. Controlling behaviour is: a range of acts designed to make a person subordinate and/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 and escape and regulating their everyday behaviour.

7. Coercive behaviour is: an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.

### **Who is eligible?**

8. Any ESA WRAG claimant subject to conditionality who tells Jobcentre Plus that they have been a victim of actual or threatened domestic violence is eligible for the initial 4 week easement as long as:
  - the incident of domestic violence occurred within the previous 26 weeks; and
  - it meets the definition of domestic violence; **and**
  - they are not living at the same address as the abuser; and
  - they have not previously had a period of domestic violence easement within the last 12 months
9. If all these factors apply the claimant is entitled to the initial 4 week easement from the date they first mention the violence to Jobcentre Plus in the required way (see paragraph 10).

### **When is a claimant considered to have notified Jobcentre Plus about domestic violence**

10. A claimant is considered to have notified Jobcentre Plus in the required way for the purpose of accessing the 4 week easement period when they formally state that they have been a victim of domestic violence in an interview with an adviser (either face to face or telephone). The 4 week easement period starts on this date, provided the other conditions are met.
11. A claimant may also notify Jobcentre Plus that they have been a victim of domestic violence via any other contact with Jobcentre Plus. This notification is **not** considered to be in the required way for the purpose of accessing the 4 week easement period and the claimant must be referred for an urgent appointment with an adviser.
12. When the claimant mentions they have been a victim of domestic violence, they should have a discussion with an adviser to have the domestic violence easement explained to them, told what evidence is required from them to get the full 13 week easement applied and signpost to support.

### **How long does the easement last**

13. The initial 4 week period will begin from the date of first notification in the required way to (see paragraph 10) Jobcentre Plus.
14. The claimant has 4 weeks to provide relevant evidence of domestic violence if they wish to extend an easement up to 13 weeks. The appointment with the adviser should be arranged urgently to ensure that the 4 week easement period begins as soon as possible. However, if a claimant first notifies Jobcentre Plus that they have been a victim of domestic violence and the first date that they can be seen by an adviser will take them past the 26 week time limit, then the date of first notification should be treated as being in the 'required way' For example:
  - Claimant last suffers domestic violence 1 January 2012
  - Mentions domestic violence on phone call to book a NJWFI 29 June 2012.

- Adviser appointment booked for 4 July 2012 (more than 26 weeks since last incident)
- In this scenario, the claimant will be treated as having notified Jobcentre Plus on 29 June 2012 and the 4 week easement will begin on this day.

### **Extensions to the easement period**

15. The 4/13-week easement will only be available once in any 12 month period and will run for 4 or 13 weeks consecutively whether or not the claimant is entitled to ESA for the whole of that period.
16. It is anticipated that the 13 week easement will be sufficient in most instances and only one 13 week easement is permitted in any 12 month period.
17. However, in extreme cases it may be necessary to extend the easement period, if appropriate at the discretion of the adviser.

### **Action to take when a claimant says they have been subject to domestic violence?**

18. For all claimants who mention domestic violence take the opportunity to signpost the claimant to any other possible help.
19. If the claimant has access to the internet, they should be signposted to the Gov.uk website to enable them to get the expert help and advice they need. Details can be printed from the site and issued to the claimant as appropriate.
20. The following is a list of organisations available that may be able to assist the claimant. N.B this list is not exhaustive, and there may also be local organisations available so advisers should check:
  - **The National Domestic Violence Helpline** – is run jointly by Women’s Aid and Respect and is a 24 hour, free phone national service. You can contact the National Domestic Violence Helpline on: 0808 2000 247 or <http://www.nationaldomesticviolencehelpline.org.uk/>
  - **Broken Rainbow** – provides information, advice and support to gay men, lesbians, bisexuals and transgender populations who may also be affected by domestic violence. You can contact Broken Rainbow on 0300 999 5428 or [www.broken-rainbow.org.uk](http://www.broken-rainbow.org.uk)
  - **The National Stalking Helpline** - provides guidance and information to anybody who is currently or has previously been affected by harassment or stalking. You can contact the National Stalking Helpline on 0808 802 0300 or e-mail [advice@stalkinghelpline.org](mailto:advice@stalkinghelpline.org)
  - **Male Advice (and Enquiry) Line** - offers help to male victims of domestic violence and advice to perpetrators. You can contact the Men’s Advice (and Enquiry) Line on: 0808 801 0327 or at [www.mensadvice.org.uk](http://www.mensadvice.org.uk).
  - **RESPECT** - offers information and advice to people who are abusive towards their partners and want help to stop. You can contact respect on: 0808 8024040 or <http://www.respect.uk.net/>
21. For claimants who are eligible and considered to have notified Jobcentre Plus about domestic violence, the action to take for claimants will depend on what point they are in the customer journey:
  - NJWFI has not been completed

- Claimant mandated to Jobcentre Plus offer
- Claimant identified as requiring immediate referral the Work Programme
- Claimant on Work Programme

### **NJWFI not completed**

22. The adviser should defer the NJWFI using the deferral reason 'Deferred Other' and set the review date as 4 weeks after the date of notification.
23. Inform the claimant of the decision and that to extend that period to 13 they need to provide relevant evidence within 4 weeks.

### **Claimant mandated to the Jobcentre Plus offer**

24. If the claimant has a flexible intervention booked to take place in the 4 weeks after the notification, the adviser should cancel this and set a workflow to review the 4 weeks after the date of notification.
25. If the claimant does not have a flexible intervention booked note in conversations that they have been give a 4 week easement from any activity and set a work flow for 4 weeks after the date of notification.
26. Inform the claimant of the decision and that to extend that period they need to provide relevant evidence within 4 weeks.

### **Claimant Identified as requiring immediate referral the Work Programme**

27. A claimant stating that they are a victim of domestic violence should not be referred to the Work Programme until either the end of their 13 week easement period or after the end of the initial 4 week notification period if they fail to provide supporting evidence within that period.
28. A postponement reason of 'Exempt – Victim of domestic violence' should be entered in the WP marker as described in the Work Programme Referral Guidance and the review date set as 4 weeks after the date of notification.
29. Inform the claimant of the decision and that to extend that period they need to provide relevant evidence within 4 weeks.

### **Claimant on Work Programme**

30. Claimants on the Work Programme will have a voluntary participation status for the duration of the easement. However, it will not affect the overall duration of Work Programme support which is provided for 2 years from referral to the programme.
31. If Jobcentre Plus are informed of a Domestic Violence incident they must notify the provider in writing if the domestic violence easement applies using the WP07b (change of circumstances) form.
32. Set a work flow for 4 weeks after the date of notification.
33. Inform the claimant of the decision and that to extend that period they need to provide relevant evidence.

### **Relevant evidence**

34. Relevant evidence means **written** evidence from a person acting in an official capacity showing that;

- The claimant's circumstances are consistent with those of a person who has had domestic violence inflicted upon them or threatened during the 26 weeks prior to the claimant notifying Jobcentre Plus **or**
  - The claimant has made contact with the person acting in an official capacity in relation to such an incident, which occurred during that period.
35. A person "acting in an official capacity" means a health care professional, a police officer, a registered social worker, the claimant's employer or a representative of their trade union or any public, voluntary or charitable body which has had direct contact with the claimant in connection with domestic violence.

### **Third party evidence received**

36. As long as the claimant provides suitable evidence within the initial 4 week period, the easement can continue for the full 13 weeks.
37. On receipt of the evidence update the relevant deferral/postponement/workflow review date to 13 weeks after the initial date of notification.

### **Third party evidence not received**

38. Where a claimant is not able to, or does not want to, obtain third party evidence they will not be entitled to the full 13 week extension of the domestic violence easement and only the 4 week easement can be granted.
39. Where the claimant has a deferral/postponement reason recorded it will appear on the relevant deferral/postponement report and should be actioned as normal.
40. Where the claimant is mandated to the jobcentre offer and the work flow matures, the claimant will continue to receive support as decided by the Adviser. The Adviser should consider if a Flexible Intervention is appropriate.
41. Where the claimant is on the Work Programme inform the provider that they are now subject to mandatory activity using the WP07b (change of circumstances) form. Note the action in conversations.

### **Payment of ESA during easement period.**

42. As long as the claimant continues to meet the basic conditions of ESA, payment of ESA is not affected during the easement period.

### **LMS Action & MI**

No markers are required around Domestic Violence for ESA claimants. Advisers must ensure they note all actions in 'Conversations'.

### **Guidance Queries and Help**

43. If you are unable to find an answer to a particular question regarding policy within this guide you must contact the Jobcentre Plus Live Support Advice Line. Do not give the Advice Line number to claimants or outside bodies under any circumstances, it is for the use of Jobcentre Plus staff only.

Details of how to contact them can be found by clicking on the following hyperlink, Advice Line Home Page.

44. Please do not use the 'E-mail page owner' and 'Page information' links at the bottom of each page of guidance to raise policy queries. These should only be used to report broken hyperlinks.