

# **Jobseeker's Agreement – Referral to a Labour Market Decision Maker**

## **Guidance Queries and Help**

1. 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.
2. 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.

## **Introduction**

3. Jobseeker's Allowance cannot be paid unless the claimant has an agreed and signed Jobseeker's Agreement.
4. If the claimant is unable to agree a meaningful Jobseeker's Agreement and every effort has been made to resolve this with them the proposed agreement must be referred to a Labour Market Decision Maker, who will normally make a determination within 14 days of the referral.
5. It should be explained to the claimant that because a Jobseeker's Agreement cannot be agreed, the Labour Market Decision Maker must determine:
  - if the proposed Jobseeker's Agreement will enable them to satisfy the availability conditions;
  - if the proposed Jobseeker's Agreement will enable them to satisfy the actively seeking employment requirements, if it is followed; and
  - whether it is reasonable to expect them to enter into the proposed Jobseeker's Agreement.
6. A Jobseeker's Allowance hardship leaflet, along with an explanation that Jobseeker's Allowance hardship payments may be considered immediately but only those in the prescribed group may receive immediate entitlement. The claimant must not be given an opinion as to whether they will get hardship. This is strictly a hardship officer's decision.

## **Failure to agree an initial Jobseeker's Agreement**

7. Every effort should be made to agree a Jobseeker's Agreement which is agreeable to both to the claimant and the adviser at the New Jobseeker Interview. However, if the claimant is unwilling to agree an acceptable Jobseeker's Agreement following a full discussion and a diagnostic assessment of their situation and is unable to offer a fit for purpose one of their own, the following actions must be taken:

<b>Step</b>	<b>Action</b>
1	It should be explained to the claimant that Jobseeker's Allowance cannot be paid until the Labour Market Decision Maker has made

	their determination and there is a Jobseeker's Agreement in effect
2	The additional terms that should be included in the Jobseeker's Agreement, in the opinion of the adviser, are recorded in the Notes box on the Labour Market System (LMS) 'View referral/decision details' screen. If the claimant has suggested terms which are not reasonable in the adviser's opinion, an explanation of why they are not reasonable should be given to the Labour Market Decision Maker
3	The claimant is asked to state why they do not agree to the inclusion of these additional terms on form ES589JP
4	the notification letter (ES48JP) is printed from LMS and issued to the claimant
5	Refer the doubt to the Labour Marker Decision Maker, using AR code Jobseeker's Allowance/541 (AR543 if a revised Jobseeker's Agreement is in doubt)
6	The Customer Management System (CMS) Conditionality Screens are updated accordingly (the Benefit Centre will ensure that no Jobseeker's Allowance is paid)
7	A Jobseeker's Agreement with the terms the claimant has agreed to is drawn up and ask them to sign it
8	LMS 'View referral/decision details' screen is updated, using AR code Jobseeker's Allowance/541 (AR543 if a revised Jobseeker's Agreement is in doubt)
9	The appropriate copy of the referral form is sent to the Benefit Centre

**Note: The Jobseeker's Agreement must not be signed if it is being referred to the Labour Marker Decision Maker.**

### **Failure to agree a Jobseeker's Agreement following review**

8. The Jobseeker's Agreement should be reviewed at each Jobcentre Plus intervention and can be varied as a result of an adviser re-assessment, or at a claimant's request.

9. If an acceptable variation of a Jobseeker's Agreement cannot be agreed after full discussion, the same actions should be taken, with the exception of completing the CMS System Conditionality Screens.

10. Payment of Jobseeker's Allowance based on the existing Jobseeker's Agreement, continues until a revised one is agreed.

11. If an acceptable Jobseeker's Agreement cannot be agreed because the claimant is not available for work, or is not actively seeking employment, it should be explained that Jobseeker's Allowance will not continue to be paid.

12. The same actions are taken before the availability and/or Actively Seeking Employment doubt and the Jobseeker's Agreement doubt are referred to the Labour Marker Decision Maker.

## **Claimant refuses to sign a Jobseeker's Agreement on principle**

13. A claimant may refuse to sign a Jobseeker's Agreement as a matter of principle, regardless of whether they have agreed to its conditions and content, or not.

14. If a claimant refuses to sign a Jobseeker's Agreement as a matter of principle, it should be explained to them that their entitlement to Jobseeker's Allowance is dependent on them having an agreed and signed Jobseeker's Agreement in place.

15. They are to be given every opportunity to change their mind and enter into a Jobseeker's Agreement.

16. If the claimant still refuses to sign the Jobseeker's Agreement on a matter of principle,:

- their reasons for not signing the Jobseeker's Agreement are recorded in the Notes box on LMS 'View referral/decision details' screen;
- the notification letter (ES48JP) is printed from LMS and issued to the claimant;
- LMS 'View Referral/Decision Details' screen is completed using AR code Jobseeker's Allowance/540;
- the appropriate copy of the sector referral form is sent to the Benefit Centre; and
- the case is referred to a Labour Market Decision Maker to make a determination.

17. On return of the Labour Market Decision Maker's determination, the details are entered onto LMS 'View referral/decision details' screen.

18. The 'from date' will be the date of claim. A 'to date' is not required unless the claimant has now signed a Jobseeker's Agreement. In such cases, the 'to date' will be the day before the date the claimant signed a Jobseeker's Agreement.

19. JSAPS is updated.

20. For **clerical claims**, the following action is taken:

<b>Step</b>	<b>Action</b>
1	the fact that the claimant has refused to sign their Jobseeker's Agreement on a matter of principle is recorded on form ES589JP
2	the claimant's reasons for not signing the Jobseeker's Agreement are recorded on form ES589JP
3	the notification letter (ES48JP) is printed from LMS and issued to the claimant
4	the Benefit Centre is informed as agreed locally
5	a referral is made to the Labour Market Decision Maker, to make a determination on form ES567JP using AR code Jobseeker's Allowance/540 and a 'from date' of the date of claim

21. Jobseeker's Allowance cannot be paid under the normal rules but hardship payments may be considered.

## **Referring a Jobseeker's Agreement to a Labour Market Decision Maker**

22. When referring a case to the Labour Market Decision Maker, the following must be checked:

- all sections of official forms have been completed fully and accurately by the adviser and the claimant;
- A copy of the proposed Jobseeker's Agreement is attached (Where a variation to the Jobseeker's Agreement is being referred to a Labour Market Decision Maker, a copy of both the initial Jobseeker's Agreement and the proposed variation should be attached);
- Evidence to show why the claimant's proposed Jobseeker's Agreement cannot be entered into is included;
- That no defamatory or subjective statements have been included on any forms, including ES589JP and the Notes space on the referral form. The Labour Market Decision Maker cannot use this information and it could prejudice the case, as the claimant has the right to see all documents if they appeal; and
- that the referral complies with current instructions.

23. Form ES66JP is completed in duplicate with details of the:

- claimant's name;
- claimant's NI number; and
- appropriate AR code.

24. The case papers are attached to form ES66JP for referral to the Labour Market Decision Maker.

25. If the claimant subsequently states that they are prepared to agree a Jobseeker's Agreement but the Labour Market Decision Maker has not yet made their determination,:

- a signed statement of this fact is obtained on form ES589JP;
- the claimant should be asked to record on form ES589JP the earliest date from which they would have been prepared to enter into this Jobseeker's Agreement;
- form ES589 is sent to the Labour Market Decision Maker; and
- on receipt of the Labour Market Decision Maker's determination, the Benefit Centre is notified that the claimant has agreed to the Jobseeker's Agreement. The Labour Market Decision Maker will issue a direction stating the date from which the Jobseeker's Agreement takes effect.

### **Credits only**

26. There is no requirement under The Social Security (Credits) Regulations 1975 for a JSAg (or JSA Claimant Commitment) to be in place before a credit is awarded. As credits can still be awarded even if there is no JSAg/CC in place, an LMDM referral should not be made for credits only cases where the claimant refuses to enter into a JSAg or CC. Any such referrals received will be cancelled by the LMDM.

27. However referrals should still be made where the claimant seeks a variation to or disputes the reasonableness of an existing JSAg/CC.

## **Labour Market Decision Maker outcome received**

28. On receiving a referral, the Labour Market Decision Maker will determine that if the claimant were to comply with the proposed Jobseeker's Agreement,:

- they would or would not satisfy either of the Labour Market conditions of entitlement; and
- it would or would not be reasonable to expect them to comply with the terms of the proposed Jobseeker's Agreement.

29. The Labour Market Decision Maker may also give a direction, if they determine that the proposed Jobseeker's Agreement:

- would not enable the claimant to satisfy either of the Labour Market conditions of entitlement; and/or
- is not reasonable.

30. The Labour Market Decision Maker will always give a determination in response to a referral on:

- an initial Jobseeker's Agreement; and
- a variation.

31. The outcome of the determination is recorded on LMS 'View referral/decision details' screen.

## **Jobseeker's Agreement supported**

32. An outcome of 'Jobseeker's Agreement supported' is recorded when the determination states that, if the claimant were to comply with the proposed Jobseeker's Agreement, or variation,:

- they would satisfy either of the Labour Market conditions of entitlement; and
- it would be reasonable to expect them to comply with this Jobseeker's Agreement.

33. If the claimant agrees to the initial Jobseeker's Agreement:

- Jobseeker's Allowance Payment System (JSAPS) dialogue JA210: Maintain Suspension and Decision Details is accessed;
- an allowance is input if the determination is effective from the date of claim; and
- a disallowance is input from the date of claim to the day before the Jobseeker's Agreement is treated as made, if the determination is effective from a date later than the date of claim.

34. The Benefit Centre will decide whether Jobseeker's Allowance can be paid.

35. If the determination relates to a variation to a Jobseeker's Agreement, Jobseeker's Allowance will continue to be paid because the initial Jobseeker's Agreement remains in effect. No input to JSAPS is required.

## **Jobseeker's Agreement not supported**

36. An outcome of 'Jobseeker's Agreement not supported' is recorded on LMS when the determination states that, if the claimant were to comply with the proposed Jobseeker's Agreement or variation,:

- they would not satisfy either of the Labour Market conditions of entitlement; or

- it would be unreasonable to expect them to comply with this Jobseeker's Agreement.
37. If the determination relates to an initial Jobseeker's Agreement,:
- JSAPS dialogue JA210: Maintain Suspension and Decision Details is accessed;
  - a disallowance is input if the determination is effective from the date of claim
  - the Benefit Centre will decide whether Jobseeker's Allowance can be paid;
  - a suitable time for the claimant to attend should be arranged, in order to discuss and enter into an appropriate Jobseeker's Agreement (there is no constraint on the timing of this interview because the claimant is not in receipt of Jobseeker's Allowance but try to arrange an appointment no later than their next scheduled day of attendance); and
  - details of this contact are recorded on Labour Market System 'Client Conversations' screen.
38. If the determination relates to a variation to a Jobseeker's Agreement, Jobseeker's Allowance will continue to be paid because the initial Jobseeker's Agreement remains in effect. No input to JSAPS is required.

### **Labour Market Decision Maker's direction received**

39. A Labour Market Decision Maker's direction will dictate:
- the terms on which the adviser is able to enter into a Jobseeker's Agreement with the claimant; and/or
  - the date from which the Jobseeker's Agreement is to be treated as taking effect.
40. A Jobseeker's Agreement is drawn up and agreed with the claimant in line with the terms directed by the Labour Market Decision Maker. This will usually involve contacting the claimant to arrange an advisory interview at the earliest opportunity.
41. The direction will state the terms of the Jobseeker's Agreement, to enable the claimant to satisfy the Labour Market conditions of entitlement.
42. The direction may also give the date from which the Jobseeker's Agreement is to be treated as being in effect, provided the terms of the direction are met.
43. If the claimant agrees to the terms directed by the Labour Market Decision Maker, a Jobseeker's Agreement that conforms to these terms is drawn up.
44. The Jobseeker's Agreement is signed and dated by the adviser and the claimant asked to do the same.

### **Direction relates to an initial Jobseeker's Agreement**

45. The details of the direction are recorded in JSAPS dialogue JA210: Maintain Suspension and Decision Details and an appointment arranged for a date as soon as possible after the receipt of the direction and:
46. The Benefit Centre will decide whether Jobseeker's Allowance can be paid.

### **Direction relates to a variation to a Jobseeker's Agreement**

47. An appointment is arranged for a date as soon as possible after the receipt of the direction.

48. Jobseeker's Allowance will continue to be paid until the initial Jobseeker's Agreement is referred to the Labour Market Decision Maker for determination. No input to JSAPS is required.

49. If the direction relates to a variation to the Jobseeker's Agreement (AR code JSA/543), the claimant has 21 calendar days, including the date on which the Labour Market Decision Maker's direction was issued, to comply with the terms of the direction.

50. If the claimant does not comply with the terms of the direction, the Labour Market Decision Maker should be asked to terminate the initial Jobseeker's Agreement.

### **Claimant does not agree to the terms of the direction**

51. If the claimant does not agree to the terms directed by the Labour Market Decision Maker, they can apply for the Labour Market Decision Maker's decision to be revised, or they may decide to appeal against it.

52. A disallowance is recorded in JSPS dialogue JA210: Maintain Suspension and Decision Details. The Benefit Centre will notify the claimant that Jobseeker's Allowance cannot be paid.

### **Application for a revision**

53. Following an application for revision, a reconsideration of the Labour Market decision must be undertaken. The reconsideration will be undertaken by a Labour Market Decision Maker.

54. Before applying for revision, the claimant should be offered the opportunity of having the decision explained by the adviser and/or the Labour Market Decision Maker.

55. The claimant can apply for a revision whether or not the offer of an explanation has been accepted and must apply for revision within the dispute period.

56. Decisions given by the Labour Market Decision Maker under AR codes JSA/541 and JSA/543 are directly notified to the claimant from the sector based Decision Making and Appeals System. Unlike all other Jobseeker's Allowance Labour Market decisions, they do not form a component part of the single outcome decision issued to the claimant by JSAPS.

57. If a claimant applies to have the Labour Market decision given under AR codes Jobseeker's Allowance/541 or Jobseeker's Allowance/543 revised, this should not be entered in dialogue JA320: Explanations and Reconsiderations on JSAPS.

58. If the claimant applies for a revision of the payment decision resulting from the Jobseeker's Allowance/541 or Jobseeker's Allowance/543 decision, or of any single outcome decision notification incorporating a JSA/540 or JSA/544 Labour Market decision, the application should be processed including the relevant inputs to JSAP PS dialogue JA320: Explanations and Reconsiderations.

### **Application for revision relates to initial Jobseeker's Agreement**

59. It is possible for the claimant to enter into an initial Jobseeker's Agreement, incorporating the Labour Market Decision Maker's determination/direction, be paid Jobseeker's Allowance as a result of entering into the Jobseeker's Agreement but then subsequently dispute the Labour

Market Decision Maker's decision. Where this happens, the correct procedures for handling disputes should be followed.

### **Application for revision relates to a variation to a Jobseeker's Agreement**

60. Following a Labour Market Decision Maker's proposals to vary a Jobseeker's Agreement, AR code JSA/543, a claimant may enter into the Jobseeker's Agreement, be paid Jobseeker's Allowance as a result but then subsequently dispute the Labour Market Decision Maker's decision.

61. A claimant has 21 days in which to comply with a proposed variation but has a minimum of one calendar month in which to dispute the Labour Market Decision Maker's decision.

62. They can either:

- comply with the proposed variation to a Jobseeker's Agreement and also apply to have the Labour Market Decision Maker's proposed variation revised; or
- not comply with the Labour Market Decision Maker's proposed variation and also apply to have that decision revised. If the claimant has refused to comply with the proposed variation by the end of the 21 day period, the Jobseeker's Agreement should be referred to the Labour Market Decision Maker for termination.

63. In these circumstances, the application to revise the decision should be processed independently of the referral for termination, although the two referrals to the Labour Market Decision Maker must be cross-referenced.

### **Claimant agrees to the terms of the revised direction**

64. If the claimant agrees to the terms of the revised direction:

- a Jobseeker's Agreement confirming the terms is drawn up;
- the Jobseeker's Agreement is signed and dated by both the adviser and the claimant; and
- the Benefit Centre is notified that an acceptable Jobseeker's Agreement has now been drawn up, by the details being input to JSAPS dialogue JA210: Maintain Suspension and Decision Details.

### **Claimant does not agree to the terms of the revised direction**

65. The claimant may not agree to the terms included in the revised decision issued following the application for revision. They will have another month, from the date the revised decision is given or sent to them, in which to apply for a further revision or make an appeal.

66. If the Labour Market Decision Maker does not change the decision after an application for revision has been made, the claimant will be notified of this and that they have one calendar month in which to appeal against the original decision.

### **Termination of a Jobseeker's Agreement by the Labour Market Decision Maker**

67. An initial Jobseeker's Agreement may be terminated by the Labour Market Decision Maker where:



- the terms of the direction relating to a variation to a Jobseeker's Agreement are not complied with within 21 days of the date of issue; or
- the Jobseeker's Agreement is referred to the Labour Market Decision Maker for termination.

68. In these circumstances:

- LMS 'View referral/decision details' screen is completed using AR code JSA/544;
- the appropriate copy of the referral form is sent to the Benefit Centre;
- a suspension from the date immediately after the 21-day period is input in dialogue JA210: Maintain Suspension and Decision Details . This is the date the Jobseeker's Agreement should be terminated from;
- a copy of the direction, which has not been complied with is attached to the referral, along with all the original supporting evidence, including a copy of the original Jobseeker's Agreement;
- sector referral notification letter (ES48JP) is printed from LMS and issued to the claimant; and
- the doubt is referred to the Labour Market Decision Maker using AR code JSA/544.