

## 03a Claimant Commitment – Referral to Labour Market Decision Maker

### Introduction

1. Jobseeker's Allowance can't be paid unless the claimant has an agreed and signed Claimant Commitment.
2. You must create a Claimant Commitment (CC) for every new claimant in the Signature Capture Service (SCS). However, there will be some claimants, in exceptional circumstances, who can't have a CC created in SCS, for example, they do not have a National Insurance Number (NINo), there was an Information Technology (IT) failure or local situation (power cut), which means a clerical CC must be created.

### Consequences

Not setting up a Claimant Commitment (CC) means:

- you are not complying with DWP's legal requirement for a CC to be issued
  - you will not be providing the claimant with the specific support so they can take the right steps to put themselves in the best position to find work
  - the award may be in doubt
  - will lead to requests from Quality Assurance causing additional work and resource to respond
  - the claimant won't have all the information they should have
  - Department for Work and Pensions (DWP) reported Error statistics will be incorrect
3. If the claimant is unable to agree a meaningful Claimant Commitment and every effort has been made to resolve this with them then the proposed agreement must be referred to a Labour Market Decision Maker (LMDM). It must be explained to the claimant that because a Claimant Commitment cannot be agreed, the LMDM will decide:
    - if the proposed Claimant Commitment will enable them to satisfy the availability conditions
    - if the proposed Claimant Commitment will enable them to satisfy the actively seeking employment requirements, if it is followed, and
    - if it is reasonable to expect them to agree the proposed Claimant Commitment.
  4. You must issue the claimant a Jobseeker's Allowance hardship leaflet, along with an explanation that Jobseeker's Allowance hardship payments may be considered immediately, however only those in the prescribed group may receive immediate entitlement. You must not give an opinion about whether they will get hardship payment or not. This is strictly a hardship officer's decision.
  5. Refer to the LMDM under AR code JSA540 if claimant refuses to enter into a CC; JSA541 if there is a dispute that the CC is reasonable; JSA543 for any proposed variation to the CC or JSA544 for termination of the CC.

### Failure to agree an initial Claimant Commitment

1. Every effort must be made to agree a Claimant Commitment with the claimant at the Initial Work Search Interview. However, if the claimant is not willing to agree an acceptable Claimant Commitment following a full discussion and diagnostic assessment, and they are also unable to offer a fit for purpose one of their own, the following actions must be taken:

Step	Action
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1	Explain to the claimant that Jobseeker's Allowance can't be paid until the LMDM has made their decision and there is a Claimant Commitment in effect.
2	Record any additional terms included in the Claimant Commitment, 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 your opinion, an explanation of why they are not reasonable must be given to the LMDM.
3	Tell the claimant to complete form ES589JP, to record their reason they do not agree with the additional terms.
4	Suspend the claim.
5	Print notification letter ES48JP from LMS and issue to claimant.
6	Refer to the LMDM using appropriate AR code.
7	Update Customer Management System (CMS) Conditionality Screens. <b>Note:</b> The Benefit Centre will ensure that no Jobseeker's Allowance is paid
7	Draw up a Claimant Commitment with terms which the claimant has agreed to and ask them to sign it.
8	Update LMS 'View referral/decision details' screen

**Note:** The Claimant Commitment must not be signed if it is being referred to the Labour Market Decision Maker.

### **Failure to agree a Claimant Commitment following review**

1. The Claimant Commitment must be reviewed at each intervention and can be changed as a result of a re-assessment, or at a claimant's request.
2. If an acceptable change of a Claimant Commitment cannot be agreed after discussion, the same actions as detailed in the 'Failure to agree an initial claimant commitment' section must be taken, with the exception of completing the CMS Conditionality Screens.
3. Payment of Jobseeker's Allowance based on the existing Claimant Commitment, continues until a revised one is agreed.
4. If an acceptable Claimant Commitment cannot be agreed because the claimant is not available for work, or is not actively seeking employment, it must be explained that Jobseeker's Allowance will not continue to be paid.

5. The same actions as detailed in the 'Failure to agree an initial claimant commitment' section must be taken before the availability and/or Actively Seeking Employment doubt and the Claimant Commitment doubt are referred to the LMDM.

### **Claimant refuses to sign a claimant commitment on principle**

1. A claimant may refuse to sign a Claimant Commitment as a matter of principle, regardless of whether they have agreed to its conditions and content, or not.
2. In these cases, it must be explained to them that their entitlement to Jobseeker's Allowance is dependent on them having an agreed and signed Claimant Commitment in place.
3. Claimants must be given every opportunity to change their mind and enter into a Claimant Commitment.
4. If the claimant still refuses to sign the Claimant Commitment on a matter of principle:

Step	Action
1	Record their reasons for not signing the Claimant Commitment in the Notes box on LMS 'View referral/decision details' screen.
2	Complete LMS 'View Referral/Decision Details' screen using AR code Claimant Commitment Jobseeker's Allowance/540.
3	Print notification letter ES48JP from LMS and issue to claimant.
4	Refer the case to a LMDM to make a decision.

5. On return of the LMDM's decision, the details are entered onto LMS 'View referral/decision details' screen.
6. The 'from date' will be the date of claim. A 'to date' is not required unless the claimant has now signed a Claimant Commitment. In these cases, the 'to date' will be the day before the date the claimant signed a Claimant Commitment.
7. For clerical claims:

Step	Action
1	Record the fact that the claimant has refused to sign their Claimant Commitment on a matter of principle, and their reasons why, on the form ES48JP.
2	Print the notification letter (ES48JP) from LMS and issue to the claimant.
3	Inform the Benefit Centre

4	Refer to the LMDM to make a determination on form ES567JP using the appropriate AR code and a 'from date' of the date of claim.
5	Consider hardship payments

## **Referring a Claimant Commitment to a Labour Market Decision Maker (LMDM)**

- When referring a case to the LMDM, the following must be checked:
  - all sections of official forms have been completed fully and accurately by you and the claimant
  - A copy of the proposed Claimant Commitment is attached (Where changes to the Claimant Commitment are being referred, a copy of both the initial Claimant Commitment and the proposed changes must be attached)
  - Evidence to show why the claimant's proposed Claimant Commitment 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. Statements of this nature could serve to prejudice the case with information the LMDM cannot use. Claimants have the right to see these documents if they appeal, and
  - that the referral complies with current instructions
- Form ES66JP is completed in duplicate with details of the:
  - claimant's name
  - claimant's NI number, and
  - appropriate AR code
- The case papers are attached to form ES66JP for referral to the LMDM.
- If the claimant then states that they are prepared to agree a Claimant Commitment but the LMDM has not yet made their decision then:
  - a signed statement of this fact is obtained on form ES589JP
  - the claimant must be asked to record on form ES589JP the earliest date from which they would have been prepared to enter into this Claimant Commitment
  - form ES589 is sent to the LMDM, and
  - on receipt of the LMDM's decision, the Benefit Centre is notified that the claimant has agreed to the Claimant Commitment. The LMDM will issue a direction stating the date from which the Claimant Commitment takes effect.

## **Credits only**

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

## **Labour Market Decision Maker (LMDM) outcome received**

- On receiving a referral, the LMDM will decide that if the claimant were to agree with the proposed Claimant Commitment:

- 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 Claimant Commitment.
2. The LMDM may also give a direction, if they determine that the proposed Claimant Commitment:
    - would not enable the claimant to satisfy either of the Labour Market conditions of entitlement, and/or
    - is not reasonable
  3. The LMDM will always give a decision in response to a referral on:
    - an initial Claimant Commitment, and
    - a change of Claimant Commitment
  4. The outcome of the decision is recorded on LMS 'View referral/decision details' screen.

### **Claimant Commitment supported**

5. An outcome of 'Claimant Commitment supported' is recorded when the decision states that, if the claimant were to agree with the proposed Claimant Commitment:
  - they would satisfy either of the Labour Market conditions of entitlement, and
  - it would be reasonable to expect them to agree to this Claimant Commitment
6. If the claimant agrees to the initial Claimant Commitment:
  - 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 Claimant Commitment is treated as made, if the determination is effective from a date later than the date of claim
7. The Benefit Centre will decide if Jobseeker's Allowance can be paid.
8. If the decision relates to a change to a Claimant Commitment, Jobseeker's Allowance will continue to be paid because the initial Claimant Commitment remains in effect. No input to JSAPS is required.

### **Claimant Commitment not supported**

9. An outcome of 'Claimant Commitment not supported' is recorded on LMS when the determination states that, if the claimant were to comply with the proposed Claimant Commitment 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 Claimant Commitment
10. If the decision relates to an initial Claimant Commitment:
  - JSAPS dialogue JA210: Maintain Suspension and Decision Details is accessed
  - a disallowance is input if the decision is effective from the date of claim
  - the Benefit Centre will decide if Jobseeker's Allowance can be paid
  - a suitable time for the claimant to attend must be arranged, in order to discuss and enter into an appropriate Claimant Commitment (there is no time constraint for 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

11. If the determination relates to a change to a Claimant Commitment, Jobseeker's Allowance will continue to be paid because the initial Claimant Commitment remains in effect. No input to JSAPS is required.

### **Labour Market Decision Maker's (LMDM) direction received**

12. A LMDM's direction will dictate:
- the terms on which you are able to enter into a Claimant Commitment with the claimant, and/or
  - the date from which the Claimant Commitment is to be treated as taking effect
13. A Claimant Commitment is drawn up and agreed with the claimant in line with the terms stated by the LMDM. This will usually involve contacting the claimant to arrange an intervention at the earliest opportunity.
14. The direction will state the terms of the Claimant Commitment, to enable the claimant to satisfy the Labour Market conditions of entitlement.
15. The direction may also give the date from which the Claimant Commitment is to be treated as being in effect, provided the terms of the direction are met.
16. If the claimant agrees to the terms directed by the LMDM, a Claimant Commitment that meets these terms is created.
17. The Claimant Commitment is signed and dated and the claimant asked to do the same.

### **Direction relates to an initial Claimant Commitment**

18. 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.
19. The Benefit Centre will decide if Jobseeker's Allowance can be paid.

### **Direction relates to a change to a Claimant Commitment**

20. An appointment is arranged for a date as soon as possible after the receipt of the direction.
21. Jobseeker's Allowance will continue to be paid until the initial Claimant Commitment is referred to the LMDM for decision. No input to JSAPS is required.
22. If the direction relates to a change to the Claimant Commitment, the claimant has 21 calendar days, including the date on which the LMDM's direction was issued, to comply with the terms of the direction.
23. If the claimant does not comply with the terms of the direction, the LMDM must be asked to terminate the initial Claimant Commitment.

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

24. If the claimant does not agree to the terms directed by the LMDM, they can apply for the LMDM's decision to be reconsidered.
25. A disallowance is recorded in JSAPS dialogue JA210: Maintain Suspension and Decision Details. The Benefit Centre will notify the claimant that Jobseeker's Allowance cannot be paid.

### **Application for a reconsideration**

1. After an application for reconsideration, a LMDM will reconsider the Labour Market Decision.
2. Before applying for reconsideration, the claimant should be offered the opportunity of having the decision explained by yourself and/or the LMDM.
3. The claimant can also apply for a reconsideration even if the offer of an explanation has been accepted and must apply for reconsideration within the dispute period.

4. Decisions given by the LMDM 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.
5. 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 must not be entered in dialogue JA320: Explanations and Reconsiderations on JSAPS.
6. If the claimant applies for a reconsideration 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 must be processed including the relevant inputs to JSAPS dialogue JA320: Explanations and Reconsiderations

### **Application for reconsideration relates to initial Claimant Commitment**

7. It is possible for the claimant to enter into an initial Claimant Commitment, incorporating the LMDM's determination/direction, be paid Jobseeker's Allowance but then later dispute the LMDM's decision. Where this happens, the correct procedures for handling disputes must be followed.

### **Application for reconsideration relates to a change to a Claimant Commitment**

8. Following a LMDM's proposals to change a Claimant Commitment, AR code JSA/543, a claimant may enter into the Claimant Commitment, be paid Jobseeker's Allowance as a result but then later dispute the LMDM's decision.
9. A claimant has 21 days in which to comply with a proposed change but has a maximum of one calendar month in which to challenge the LMDM's decision.
10. They can either:
  - comply with the proposed change to a Claimant Commitment and also apply to have the LMDM's proposed variation revised, OR
  - not comply with the LMDM's proposed changes and also apply to have that decision revised. If the claimant has refused to comply with the proposed changes by the end of the 21 day period, the Claimant Commitment must be referred to the LMDM for termination
11. In these circumstances, the application to revise the decision must be processed independently of the referral for termination, although the two referrals to the LMDM must be cross-referenced.

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

12. The claimant may not agree to the terms included in the revised decision issued following the application for reconsideration. They will have another month, from the date the revised decision is given or sent to them, in which to apply for a further reconsideration or make an appeal.
13. If the LMDM does not change the decision after an application for reconsideration 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 Claimant Commitment by the Labour Market Decision Maker (LMDM)**

1. An initial Claimant Commitment may be terminated by the LMDM where:
  - the terms of the direction relating to a change to a Claimant Commitment are not complied with within 21 days of the date of issue, OR
  - the Claimant Commitment is referred to the LMDM for termination

2. 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 Claimant Commitment must 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 Claimant Commitment
- sector referral notification letter (ES48JP) is printed from LMS and issued to the claimant, and
- the doubt is referred to the LMDM using AR code JSA/544