

Refusal or failure to carry out a Jobseeker's Direction

Introduction

1. The purpose of a Jobseeker's Direction (JSD) is to make sure claimants undertake a specific activity that will help them to find work or improve their prospects of securing employment. For example, a claimant can be directed to apply for a specific job, to improve their appearance so as to present themselves better to potential employers, or to open a bank account if this is a genuine barrier to them finding employment.
2. However, a JSD must be reasonable, taking the claimant's circumstances into account.
3. If a claimant does not carry out a JSD, they will be sanctioned if they cannot show good cause for their refusal or failure.
4. A JSD should be used as a last resort. It should be used where the claimant, through the usual advisory interview process, has not been influenced or persuaded to undertake a particular activity that will improve their chances of getting back to work.

Issuing a Jobseeker's Direction

5. A JSD must be notified to a claimant in writing, normally using a Labour Market System (LMS) produced letter.
6. When a Direction is issued, the claimant must be clearly and fully informed of reason for the JSD and the consequences of non-compliance.
7. Further information about JSD, including when and who can issue them and follow-up action, can be found in the Jobseeker's Directions chapter of the GBW Guidance.

Claimant Refuses or Fails to Comply with a Jobseeker's Direction

8. If a claimant refuses or fails to carry out a JSD, the case must be referred to a Labour Market Decision Maker (LMDM) for a good cause decision, unless the claimant changes their mind.
9. There is no facility for the doubt to be treated as straightforward.
10. On the LMS 'View referral/decision details' screen create a new referral using the appropriate AR code (JSA 718)
11. The following action is required on LMS:

Step	Action
1	Click the [Dec] or [NoDec] button in the Client Details window. Note: If no previous DMA action has been taken, you will automatically get a New Referral/Decision Details window. If one or more is already held, click [New]
2	Click the [Question] hotspot
3	Select the appropriate options in the Question window: select 'JSA'

	then 'Refuse/Fail Jobseeker Directn' from the drop down menu
4	Record the Source as appropriate
5	Record the Ref to as 'DMA Sector Office'
6	Click [Save]
7	Contact the claimant to determine their reasons for refusing or failing to carry out the Direction. It is preferable that the contact is face to face or by telephone, however the claimant can also be contacted in writing.

Face to face contact

12. If the claimant is present when the doubt is identified, for example during the Direction review interview, take the following action:

Step	Action
1	take a statement from the claimant, using DART, of their reasons for refusing or failing to comply with the JSD. Ensure the claimant's reasons for non-attendance are fully covered.
2	check the statement does not indicate there are any other doubts, such as availability or actively seeking employment (ASE). If there are, refer to Other Doubts for further information.
3	to ensure that details of the referral are maintained for reconsideration or appeal purposes, copy the information from DART into the LMS notes box for the relevant decision
4	send the submission to the LMDM using DART for a good cause decision.

Telephone contact

13. If the claimant is not present when the doubt is identified, they should be contacted by telephone.

14. If the claimant can be contacted by telephone take the following action:

Step	Action
1	confirm the claimant's identity.
2	take a statement from the claimant, using DART, of their reasons for refusing or failing to comply with the JSD. Ensure the claimant's reasons for non-attendance are fully covered.
3	check the statement does not indicate there are any other doubts, such as availability or ASE. If there are, refer to Other Doubts for further information
4	to ensure that details of the referral are maintained for reconsideration or appeal purposes, copy the information from DART into the LMS notes box for the relevant decision
5	send the submission to the LMDM, using DART, for a good cause decision.

Note: When contacting a claimant by telephone consider using #1470 so that the call details do not display as a private number.

15. To ensure a reasonable chance of acquiring the necessary information, two attempts should be made to contact the claimant by telephone.

16. However, if the claimant does not have a telephone number or despite the two attempts they cannot be contacted, the claimant should be contacted in writing to establish their reasons for refusing or failing to comply with the JSD.

Written contact

17. It is preferable that claimants who refuse or fail to comply with a JSD are contacted either face to face or by telephone, however if the claimant is not present when the doubt arises or cannot be contacted by telephone, the claimant should be contacted in writing

18. If the claimant refused or failed to comply with a JSD take the following action:

Step	Action
1	head up an ES589 with the claimant's name and National Insurance number and enter the following introduction to the statement 'I did not carry out the direction to ..(terms of direction) because
2	print Referral Notification Letter ES48S from LMS
3	post the ES589 together with leaflet ESL48JP and the ES48S to the claimant and ask them to provide a statement of the reasons why they refused or failed to comply with the Direction.
4	on the appropriate LMS 'View referral/decision details' screen, record the date of issue of the ES589 in the Notes and initial and date the entry.
5	input an LMS Workflow for 7 calendar days from the date of issue.
6	advise the claimant that the case will be referred to the LMDM, either on the day they return form ES589 or in 7 calendar days, whichever is earlier.

Action on return of the claimant statement

19. Claimants are allowed, by law, 7 calendar days to return the completed ES589. On its return take the following action:

Step	Action
1	select the appropriate LMS 'View referral/decision details' screen and record receipt of the ES589 in the Notes.
2	enter the reason provided by the claimant for refusing or failing to comply with the JSD into DART. It is essential that the information provided on the ES589 is copied word for word.
3	check the statement does not indicate there are any other doubts, such as availability or ASE. If there are, refer to Other Doubts for further information

4	to ensure that details of the referral are maintained for reconsideration or appeal purposes, copy the information from DART into the LMS notes box for the relevant decision
5	send the submission to the LMDM, using DART, for a good cause decision.

Claimant statement not received within 7 days

20. If the claimant has not returned the ES589 within 7 calendar days, and they are still claiming JSA, take the following action:

Step	Action
1	select the appropriate LMS 'View referral/decision details' screen and record non receipt of the ES589 in the Notes.
2	record on DART that the claimant has not returned the completed ES589 after 7 calendar days.
3	to ensure that details of the referral are maintained for reconsideration or appeal purposes, copy the information from DART into the LMS notes box for the relevant decision
4	send the submission to the LMDM, using DART, for a good cause decision.

21. If the claimant has not returned the ES589 within 7 calendar days, but they are no longer claiming JSA, reference to the LMDM is not appropriate at that stage. Note the Labour Market Unit (LMU) and LMS Conversations that action remains outstanding if the claimant reclaims.

22. The case must be referred to the LMDM if the claimant reclaims within 4 weeks of the last day paid and they have refused or failed to comply with a JSD issued for any other reason.

23. In such cases, you will need to let the LMDM know why there was a delay in submission and the reason why the claim was terminated initially.

Submission action

24. Prior to submitting the case to the Labour Market Decision Maker (LMDM), it should be established using JSAPS dialogue JA504: General Enquiry whether or not the claimant is claiming credits only.

Credits only claimants

25. From 17 July 2012, a submission to the LMDM for an opinion decision must not be made for 'credits only' claimants who refuse or fail to comply with a JSD.

26. However, Jobcentres should check the reasons claimants give for refusing or failing to comply with a JSD 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.

27. The following action is required on LMS:

Step	Action
1	on the LMS 'View referral/decision details' screen amend the 'Ref To' field for the appropriate JSD doubt to [N/A – Lifted]
2	in the 'Notes' field enter the reason why the doubt has been lifted as Credits only claim.

JSA Claimants

28. If a claimant in receipt of JSA refused or failed to comply with a Jobseekers Direction, the case must be referred to a LMDM for a good cause decision.
29. Access LMS and check the 'View Referral / Decision Details' screen.
30. To ensure that details of the referral are maintained for reconsideration or appeal purposes, check that all of the information from the DART referral has been copied from DART into the LMS notes box for the relevant decision.
31. Send the submission to the LMDM using DART to enable them to make a good cause decision. See the DMA Referrals Guide chapter for further information on what must be included in the submission.
32. Explain to the claimant that a decision will be made on whether they had sufficiently good reason for refusing or failing to comply with the JSD. Inform them that if it is decided that they did not have good cause, their JSA will be affected.

Decision made by the Labour Market Decision Maker

33. 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.
 34. The LMDM will email their decision notification to JSA Maintenance team from DMAS 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.
35. Where a LMDM decides the claimant did not have good cause, a sanction will be applied on their JSA. The length of the sanction will depend upon the claimants circumstances and will be for:
 - 2 weeks; or
 - 4 weeks.

When a 2 week sanction is appropriate

36. A 2 week sanction is appropriate if a claimant refused or failed to comply with a JSD and in the last 12 months they have not had another sanctioned imposed for:
 - refusing or failing to carry out a direction;
 - neglecting to avail a training scheme or employment programme place;
 - refusing or failing to take a training scheme or employment programme place;
 - giving up a training scheme or employment programme place;

- failing to attend a training scheme or employment programme place; or
- losing a training scheme or employment programme place as a result of their misconduct.

When a 4 week sanction is appropriate

37. A 4 week sanction is appropriate if a claimant refused or failed to comply with a JSD and in the last 12 months they have had a sanction imposed for:
- refusing or failing to carry out a direction;
 - neglecting to avail a training scheme or employment programme place;
 - refusing or failing to take a training scheme or employment programme place;
 - giving up a training scheme or employment programme place;
 - failing to attend a training scheme or employment programme place; or
 - losing a training scheme or employment programme place as a result of their misconduct.
38. See the Sanctions, Suspensions and Disallowances chapter of the JSA Procedural Guidance for further information.

Hardship

39. Some claimants may be able to claim JSA Hardship when a Sanction has been imposed on their JSA. See JSA Hardship Awards for further information.

Reserved Decisions

40. A Decision Maker 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 claiming JSA.
41. In these cases the LMDM 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.
42. There is no input to JSAPS for reserved decisions.
43. The case must be re-referred to the LMDM, as a new referral on LMS, if the claimant reclaims within a timescale:
- as specified by the LMDM in their reserved decision; or
 - equal to the maximum sanction period applicable for the case.
44. 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

Claimant changes their mind

45. If a claimant who originally refuses to carry out a JSD changes their mind, they have not refused to carry it out if:

- They can still achieve something by following the JSD; and
 - They notify an Employment Officer that they have changed their minds
46. If a claimant who originally failed to carry out a JSD changes their mind, they have not failed to carry out the JSD if:
- they can still achieve something by following the Direction; and
 - they actually carry out the JSD.

Cancelling a Jobseeker's Direction

47. There may be occasions where the direction issued was:
- unreasonable having regard to the claimant's circumstances; or
 - required to be carried out at a time when it could not be carried out.
48. An example of this would be where a claimant was directed to make a speculative approach to a local factory in the next two weeks. However, the factory was closed for its annual holiday during the time the claimant was directed to carry out the direction. This direction was therefore unreasonable.
49. Should such a situation arise, decide what current opportunities are appropriate and available for the claimant, and:
- whether the direction should be cancelled; or
 - whether the direction should be re-issued to be carried out at an appropriate time.
50. If the direction should be cancelled, clear it on LMS.
51. If the JSD should be re-issued, cancel the original direction on LMS and draw up a new one containing the appropriate amendments.
52. Further information about the LMS action for JSD's can be found in Chapter H part 3 of the LMS User Guide.

Jobseeker's Directions and credits only claimants

53. Credit regulations do not support the disallowance of credits solely because a claimant refuses or fails to comply with a Jobseeker's Direction. 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.
54. From 17 July 2012, a submission to the LMDM for an opinion decision must not be made for 'credits only' claimants who refuse or fail to comply with a JSD.
55. However, Jobcentres should check the reasons claimants give for refusing or failing to comply with a JSD 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.

Other Doubts

Availability and Actively Seeking Employment

56. If the reason given by the claimant for refusing or failing to comply with the JSD raises a doubt on their availability or ASE, a referral to the LMDM must be made, unless they can be treated as available and/or ASE. See the Availability and Actively Seeking Employment and the Treated as Available and Actively Seeking Employment chapters for further information.

Refusal of Employment

57. Claimants should only be compelled to apply for a Job Vacancy using a JSD as a last resort.

58. Where a specific vacancy has been discussed with the claimant and they refuse or fail to apply for or accept it, consider refusal of employment action. See the Refusal and failure to apply for or accept employment chapter for further information.