

Refusal of Employment

Introduction

1. The Jobseekers Act 1995 says that Jobseeker's Allowance (JSA) is not payable if a claimant has, without good reason:
 - refused to apply for a job;
 - failed to apply for a job; or
 - refused to accept a job which was offered.
2. This is provided that:
 - the job was notified to the claimant by an Employment Officer;
 - the job was notified to the claimant personally when attending the Jobcentre Plus (JCP) office (or elsewhere), or by letter, or by telephone, or by email; and
 - the job was not self employment
3. Notifying a claimant of a job vacancy by email is allowed provided that the following criteria are all met:
 - the claimant has agreed to receive notifications by email from the Department for Work and Pensions (DWP)
 - the claimant accepts responsibility for regularly accessing their email account
 - the above is recorded in Labour Market System (LMS) and the claimant commitment
 - the email contains no claimant personal details (National Insurance Number (NINo), dates of birth, bank account details, health or medical information and family details)
 - the email includes details of:
 - the specified vacancy (duties, location, who to contact)
 - what they have to do and by when
 - the consequences of failing to comply (sanctions)
4. A delivery receipt is obtained which must be included as part of any subsequent Decision Making and Appeals (DMA) referral.
5. An Employment Officer is an officer of the Secretary of State (SoS) or such person as may be designated by an order made by the SoS. All Jobcentre Plus (JCP) staff are Employment Officers.
6. The claimant must understand that the job they are being notified of is one that they must apply for. The work coach must make clear to the claimant, at the time they are notified, to apply for the vacancy and that refusal or failure to apply for the job or non acceptance of the job when offered without good reason will result in a sanction.
7. The Welfare Reform and Pensions Act 1999 (Section 72) (Relevant Authority) Designation Order 2013 came into effect on 17 July 2013. From this date, where a person in receipt of Jobseeker's Allowance (JSA) has been notified about a job by an Employment Officer, that employer is designated as a relevant authority.
8. This means that the employer, or the employees of that organisation, can share with DWP information regarding whether or not a JSA claimant applied for the job in question.

Waiting Days

9. The Jobseekers Act also states, 'Except in prescribed circumstances, a person is not entitled to Jobseeker's Allowance in respect of a prescribed number of days at the beginning of a job seeking period.' This refers to the period of waiting days.
10. As there is no entitlement to JSA for any day which is counted as a waiting day, there is no requirement on the claimant to undertake any form of mandated

activity on such a day although they still have to be available for and actively seeking work.

11. Therefore, no Labour Market Decision Maker (LMDM) referral should be made for any failure or refusal to accept or apply for a vacancy which occurs on a waiting day. Any such referral will be cancelled.
12. However, a claimant may be notified on a waiting day to undertake an activity once the waiting day period is over.

Claim Disallowed and availability or Actively Seeking Employment referrals

13. Consider whether the reason given by the claimant for refusing or failing to apply for, or accept employment raises a doubt on their availability or Actively Seeking Employment (ASE).
14. If it does, and subject to the paragraphs which follow, 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.
15. However, don't make a Refusal of Employment (RE) referral at the same time as an availability or ASE doubt where the date of RE transgression occurred in the same period as the availability or ASE doubt. This is because, if disallowed, the RE referral will be cancelled.
16. Await the outcome of the availability or ASE referral and only if allowed, should the RE referral be made.
17. A LMDM referral mustn't be made if the failure occurred during a period for which the claim has already been disallowed for availability or ASE.
18. This is because there is no entitlement to JSA and therefore no obligation on the claimant to meet the conditionality requirements during a period where their claim has been disallowed. However, this doesn't apply to a period where the claim has been sanctioned.

Multiple Referrals

19. A LMDM referral shouldn't be made if the date of transgression falls within the same period as an availability or ASE doubt. This is because the LMDM will consider the availability or ASE doubt first and if disallowed, will cancel any other referrals for the same period as there is no obligation on the claimant to meet the conditionality requirements during a period where their claim has been disallowed.
20. As Work Services Directorate (WSD) isn't routinely notified of LMDM availability or ASE decisions, Labour Market System (LMS) should be checked on a daily basis for the outcome of the referral.
21. As these types of decisions are normally made quickly, there should only be a need to undertake one or two such checks. Only if the availability or ASE referral is allowed can any subsequent doubts for the same period be referred to the LMDM which must be undertaken at the very earliest opportunity.
22. Where an availability and/or ASE doubt exists alongside a possible additional sanctionable failure, the claimant must be clearly advised that there is more than one doubt and that the RE question will only be considered if the availability or ASE referral is allowed by the LMDM. The claimant must also be issued with both an ES48 and an ES48S.

Restrictions on availability

1. Any job which a claimant is notified to apply for must fit within the pattern of availability agreed on their claimant commitment.

2. Any permitted period or other agreed restrictions must also be taken into account when considering whether it's appropriate to mandate a claimant to a particular vacancy.

Notifying the claimant

1. You must notify the claimant of any job you require them to apply for (for example, in Find a job or another jobsite or newspaper) and include all the following information in Labour Market System (LMS) conversations:
 - the job title (including a reference number);
 - where the job was advertised, for example, Find a job, another jobsite or newspaper (specify which one);
 - how you notified them (face to face, telephone, email or letter);
 - by when they must apply for the job. See: Allowing claimant time to apply
2. It's important you do this so you can follow up whether they have applied for the job at their next Work Search Review (WSR) or in case the claimant later indicates that they hadn't been informed of their obligation to apply after a sanction has been imposed for Refusal of Employment (RE).
3. It's also good practice to make clear to the claimant, that refusal or failure to apply for the job, or subsequent non acceptance of the job if offered, may result in the loss of Jobseeker's Allowance (JSA). This ensures the claimant can make an informed decision about whether to apply with the full knowledge of the possible consequences.
4. You must also explain to the claimant that they will need to provide evidence that they applied for the job at their next WSR. To help them do this, suggest this may take the form of, for example:
 - prints from their Find a job or another jobsite account. However, this won't be possible for claimants who don't have access to a printer or can't afford to print out copies of the screens or pages; or
 - showing us these screens or pages if they have access to the internet on their device, for example, a smartphone or laptop; or
 - a copy of an email or letter which shows they applied, or a copy of an email or letter from the employer that says their application was unsuccessful
5. If it's not possible for the claimant to do any of the above, advise the claimant that they can log in to their Find a job or other jobsite account from an available Department for Work and Pensions (DWP) customer computer in your office and print off the relevant screens or pages.
6. However, it's the claimant's responsibility to provide evidence that they have applied for the job and how they do this is up to them.
7. Therefore, if the claimant doesn't wish to provide evidence in any of the ways suggested, you will need to decide whether they have applied for the job based on the evidence they've provided.

Allowing claimant time to apply

1. When requiring a claimant to apply for any particular job, the work coach should allow a maximum period of four weeks for the claimant to apply.
2. In setting this date, work coaches should use their discretion and take into account:
 - whether the job has an actual closing date of less than four weeks (in which case, the earlier date should be the one set);
 - the complexity of the application process (if known);
 - the steps already set out in their JSA claimant commitment which, if undertaken, may make it difficult for the claimant to apply in time;
 - the individual circumstances of the claimant.

3. In all cases the claimant must always be clearly informed of what is expected of them and when they have to do it.
4. If the claimant fails to apply for the vacancy by the end of the set period, Refusal of Employment (RE) action should be considered.
5. If referring such a case of RE to the Labour Market Decision Maker (LMDM), enter the date you have set in the 'Final date they could apply' field in Decision and Automated Referral Toolkit (DART) and provide a brief covering note in the 'Reasons' field to let the LMDM know that this is a date you have set rather than the employer.

Vacancy is open

1. A referral to the Labour Market Decision Maker (LMDM) can still be made even if the vacancy is still open.
2. If the vacancy is still open, the claimant may change their mind and subsequently apply.
3. In these cases, if the claim has already been sanctioned for their initial refusal, the case will need to be referred back to the LMDM on form DR7 for the decision to be reconsidered and revised.
4. Confirmation from the employer that the claimant has applied will need to be obtained and included on the DR7. Jobseeker's Allowance (JSA) will be reinstated from the first date of the sanction period. If no decision has been made, the LMDM team should be contacted urgently so that the referral can be cancelled.
5. Please also see 'refusal of employment discretions (case types)' for discretions that can be applied if the claimant fails to apply or attend an interview when the vacancy is still open.

Contacting employers

1. The Welfare Reform and Pensions Act 1999 (Section 72) (Relevant Authority) Designation Order 2013 came into effect on 17 July 2013. From this date, where a person in receipt of Jobseeker's Allowance (JSA) has been notified about a job by an Employment Officer, that employer is designated as a relevant authority under this Act.
2. This means that the employer, or the employees of that organisation, can share information with Department for Work and Pensions (DWP) regarding whether or not a Jobseeker's Allowance (JSA) claimant applied for the job in question.

Exempt vacancies

Work Trials

1. It's fundamental to the concept of work trials that they offer the claimant the opportunity to test the suitability of a job, as well as for the employer to test the suitability of the claimant. Therefore, if a claimant is offered a work trial but decides not to accept it, Refusal of Employment (RE) action can't be taken.

RE and credits only claimants

2. Credit regulations don't support the disallowance of credits solely because a claimant refused employment. See: Discretion Type D for further details.

Zero Hours Contract

3. Claimants can't be mandated to apply for vacancies which include a zero hours contract. Therefore, if a claimant refuses, fails to apply for or accept a notified

zero hours contract job, a decision by the Labour Market Decision Maker (LMDM) isn't required.

Employee shareholder contracts

4. Employee shareholder contract jobs are entirely voluntary and Jobseeker's Allowance (JSA) claimants must never be required to apply for such vacancies.
5. It may not be obvious from the details available whether the vacancy is actually an employee shareholder job or not. It will be dependent on the employer stating this when they advertise the vacancy, so may only become apparent during the interview stage, or when the individual and employer are discussing the terms and conditions of the job.
6. If it later becomes apparent that the vacancy is an employee shareholder job, and the claimant no longer wishes to pursue the vacancy, then a Refusal of Employment (RE) sanction action mustn't be taken.

Apprenticeships

7. Prior to 7 September 2015, JSA claimants mustn't be mandated to apply for a government funded apprenticeship vacancy where that vacancy has been advertised:
 - by the national apprenticeship service in England;
 - by careers wales in Wales; or
 - as a modern apprenticeship in Scotland.
8. Consequently, Refusal of Employment (RE) or Neglect to Avail (NTA) action mustn't be taken if a claimant declines to apply for or pursue such a vacancy.
9. Despite this, claimants can be mandated to apply for other apprenticeship vacancies which aren't advertised by the above named organisations, and a Decision Making and Appeals (DMA) referral should be raised if the claimant subsequently refuses or fails to apply for it.
10. Following the change to the policy, Jobseeker's Allowance (JSA) claimants can be mandated, on or after 7 September 2015, to apply for any suitable apprenticeship vacancy, irrespective of whether or not the vacancy has been advertised by the National Apprenticeship service in England, Careers Wales in Wales or as a Modern Apprenticeship in Scotland.
11. Therefore, where a claimant is notified of a suitable apprenticeship vacancy, on or after 7 September 2015 and subsequently commits RE or NTA, the details should be referred to a Labour Market Decision Maker (LMDM) for consideration.

Incorrect submissions

1. Refusal of Employment (RE) action isn't to be taken in situations where a claimant has been incorrectly submitted to a vacancy.
2. That is, where the number of hours advertised on the vacancy exceed those agreed on the claimant commitment, for example, the number of hours advertised are 40 but the maximum number of hours the claimant is available to work is 30, or where the claimant has agreed a pattern of availability on their claimant commitment of:
 - 24 hours or more per week and the hours recorded on the job are less than 24 hours per week; or
 - 24 hours or more per week and there are no hours recorded on the job but the vacancy is shown as part time; or
 - less than 24 hours per week and the hours recorded on the job are less than 16 hours per week; or
 - less than 24 hours per week and there are no hours recorded on the job but the vacancy is shown as full time.

Trade disputes

3. A claimant can't be sanctioned if they refuse a job that is vacant because of a stoppage of work due to a trade dispute. Therefore, a decision by the Labour Market Decision Maker (LMDM) isn't required in this situation.

Self employed work

4. For the purposes of RE, employment relates to employed earners employment, for example, paid work, it excludes self employed work. Therefore, a decision by the LMDM isn't required where a job was available on a self employed basis.

Identifying potential Refusal of Employment cases

1. Refusal of Employment (RE) must be identified by following up the outcome of the submission with the claimant.
2. This could be during work coach interviews, work search reviews, or by 'phone or by email. You must do this by checking Labour Market System (LMS) conversations for any jobs you have required the claimant to apply for.

Joint claims

3. In a joint claim, both claimants are subject to the same Jobseeker's Allowance (JSA) entitlement conditions, unless one of them falls within one of the exemption categories.
4. One or both claimants in a joint claim can be sanctioned for Refusal of Employment (RE).

Claimant says they applied for the job

5. Ask the claimant to show evidence they've applied for the job and suggest this may take the form of, for example:
 - prints from their Find a Job or another jobsite account. However, this won't be possible for claimants who don't have access to a printer or can't afford to print out copies of the screens or pages; or
 - showing us these screens or pages if they have access to the internet on their device, for example, a smartphone or laptop; or
 - a copy of an email or letter which shows they applied, or a copy of an email or letter from the employer that says their application was unsuccessful
6. If you're satisfied from the evidence they provide that they've applied for the job, you must record in LMS conversations, for example, 'Claimant applied for (*insert job title*), (*insert job ref*) on (*insert where job advertised*)'.
7. However, if the evidence provided by the claimant is insufficient and you're not completely satisfied they've applied for the job; you must refer the doubt to the Labour Market Decision Maker (LMDM).

Claimant says they don't intend to apply or failed to apply for the job

8. Any reason(s) given by the claimant for not applying, or failing to apply, will need to be included in the RE referral to a LMDM unless the job is exempt from RE action.
9. Where the claimant says they don't intend to apply, or fail to apply, because of the hours of the job and the hours weren't recorded by the employer on the job, you must contact the employer to confirm the hours and record this information in Decision and Automated Referral Toolkit (DART) before making the RE referral to a LMDM.
10. Where the claimant doesn't give a reason or gives a reason which doesn't involve the hours of the job and the hours weren't recorded by the employer on the job, the hours of the job don't need to be included in the RE referral to a LMDM.

Claimant says they don't intend to apply or failed to apply for the job but restrictions on availability or a Refusal of Employment discretion applies

11. If the claimant says they don't intend to apply or fail to apply for the job and you determine that a referral to a LMDM isn't required because any restrictions on availability or one of the discretions apply, you must record in LMS conversations, for example, 'RE action not needed-permitted period or RE discretion (followed by the relevant scenario letter) for *(insert job title)*, *(insert job ref)* on *(insert where job advertised)*'.

Claimant says they were offered the job but decided not to start

12. If the claimant says they were offered the job but decided not to start, you must ask why and any reason(s) given must be included in the RE referral to a LMDM unless the job is exempt from RE action.

Claimant says they haven't yet applied for the job but still intends to

13. If the claimant says they haven't yet applied for the job but still intends to, you must check if the job has a closing date for applications. If the closing date has passed, you must ask them why they didn't apply before the closing date and any reason(s) given must be included in the RE referral to a LMDM unless the job is exempt from RE action.

14. If the closing date hasn't yet been reached, or there isn't a closing date, see: **Allowing claimant time to apply**

Claimant's behaviour

1. Claimants may behave in such a way that they lose the chance of employment. In such cases, a claimant may be sanctioned for Refusal of Employment (RE) even though they did apply for the job.
2. For example, they may:
 - arrive late for an interview or go to the wrong place through their own negligence;
 - impose unreasonable conditions on acceptance of the job so that the employer withdraws the offer;
 - behave in such a manner at an interview that the employer decides not to offer them the job; or
 - refuse to give references or allow references to be taken up.
3. If a prospective employer makes it known that such conduct has occurred, the claimant's behaviour may amount to refusal or failure to apply.
4. If it's identified that a claimant has avoided the chance of a job, a referral to the Labour Market Decision Maker (LMDM) is required. This may be on receipt of information from an employer, or at an intervention interview.

Refusal of Employment discretions

1. Certain types of Refusal of Employment (RE) cases can be Treated as Straightforward (TaS) without a formal referral to the Labour Market Decision Maker (LMDM) being necessary.
2. These are known as RE discretions and are listed as Case Types A to E, as follows:

Case type	Scenario
A	New claim following employment

B	At least 26 weeks elapsed between claims
C	Claimant attended the interview or applied for the job
D	Credits only
E	Vacancy still open, claimant resubmitted

3. Consideration of TaS must be made by the team leader or other designated officer. The designated officer should be band B or above and decided by the manager to be competent and experienced enough to make the determination.
4. Only cases where the reason for RE falls clearly within the criteria of the RE discretions, can be TaS.
5. If there is any doubt at all about whether one of the discretions applies, the case must be referred to a LMDM in the usual way.

Case types

Type A - When a claimant makes a new claim following the end of their employment, RE action may not need to be taken on jobs refused in any previous claims.

6. If the claimant makes a new claim following a period of employment, there is no need to track through job submissions on their previous claims to see if RE applies.
7. If, however there has been no employment between claims, and less than 26 weeks has elapsed since the previous claim, RE action should be taken. This is to prevent claimants signing off and on again just to avoid RE action.
8. There is no need to enter a note on LMS in this circumstance, as no action would be taken to look for previous RE cases.
9. The only exceptions to this rule are:
 - if the RE case raised in the previous claim had been referred to the LMDM and the only reason a decision hadn't been given was because the claimant was no longer signing; or
 - where the LMDM asks for the case to be re-referred if the claimant reclaims before a certain date.

Type B - At least 26 weeks has elapsed since the end of the last claim.

10. There is no need to track through job submissions on their previous claims to see if RE applies where the claimant:
 - makes a new claim that doesn't follow a period of employment; and
 - hasn't claimed for at least 26 weeks.
11. There is no need to enter a note on LMS in this circumstance, as no action would be taken to look for previous RE cases.
12. Exceptions to this rule:
 - if the RE case identified in the previous claim had been referred to the LMDM and the only reason a decision hadn't been given was because the claimant was no longer signing, RE action should continue; and
 - where the LMDM asks for the case to be re-referred if the claimant reclaims before a certain date.

Type C - The claimant has evidence that they attended the interview or applied for the job.

13. If the claimant has evidence that they did attend or apply, such as a letter telling them that they had been unsuccessful, there is no need to refer on RE.
14. If the jobcentre sent the application form on the claimant's behalf and the employer maintains it wasn't received, RE action isn't required.
15. If the claimant maintains that they did attend the interview or apply for the job, but has no proof, contact the employer to check. If the employer confirms an application was made, RE action isn't necessary and LMS should be noted.

Note: On no account should the claimant be instructed to approach the employer.

16. If there are any doubts, the case must be referred to the LMDM in the normal way.
17. Exceptions to this rule:
 - the employer offered the claimant the job at the interview and they refused it. In these cases, even though it's accepted that the claimant attended the interview, refusal of employment has still occurred;
 - the application form was sent too late by the claimant to be received within the closing date set by the employer; and
 - the employer agrees that the claimant attended the interview but the claimant's behaviour deterred the employer from offering them the job

Type D - The claimant is entitled to credits only.

18. Credit regulations don't support the disallowance of credits solely because a claimant refuses employment. A claimant can be awarded a National Insurance (NI) credit, providing they are:
 - available;
 - Actively Seeking Employment;
 - under the age they can get Pension Credit (PC); and
 - not in remunerative work or relevant education.
19. A submission to a LMDM for a decision must not be made for 'credits only' claimants who refuse employment.

Type E - the vacancy is still open.

20. If the claimant failed to apply for the vacancy by the date set and the claimant gives any of the reasons below, they can be given a second chance to apply if the vacancy is still open:
 - sickness;
 - domestic emergency; or
 - travel problems.
21. The claimant should be given a new date by which to apply. If they fail to do so a second time, no matter what the reason, an RE referral to the LMDM should be made.
22. If the claimant's reasons for their failure are not known, the matter should be referred to the LMDM with no second chance being offered.
23. If the claimant has applied but failed to attend an interview or otherwise progress their application and the claimant's reasons for the failure are:
 - sickness;
 - domestic emergency; or
 - travel problems.check to see if the job is still available and the employer is still willing to see the claimant. If both apply, no LMDM referral should be made but the matter should be followed up later with the employer. If neither applies, a LMDM referral should be made.
24. The circumstances under which a second chance to apply can be granted are:

- sickness;
- domestic emergency; or
- travel problems.

25. The claimant should only be given one second chance per vacancy to avoid creating problems with the employer. The second chance provision shouldn't be applied automatically in every case and shouldn't enable the claimant to escape a sanction unless one of the criteria above applies.

26. To record a resubmission:

Step	Action
1	Amend the original submission using the 'amsub' button.
2	Enter in remarks 'resubmitted on (date)'.
3	Leave the original RE referral in place until the outcome of the 2nd submission to the job is known.
4	If an RE referral is required on the 2nd job, include the papers from the first refusal in the Decision Making and Appeals (DMA) evidence to the LMDM.

27. Exceptions to this rule:

- if the claimant can't be resubmitted because the vacancy has been filled, take normal RE action;
- if the claimant refuses to be resubmitted, take normal RE action;
- if the employer refuses to accept the claimant being resubmitted a 2nd time, take normal RE action.

Re-submission Appropriate

28. If a re-submission is appropriate, the claimant should be redirected to the details on their Find a job account, or re-issued with the vacancy details, as appropriate.

29. A record of the resubmission is made in LMS conversations.

30. Exceptions to this rule are:

- if the claimant refuses to be re-submitted; and
- if the employer refuses to accept the claimant being re-submitted a 2nd time

31. If any of these apply, RE action continues with the DMA referral.

32. If the claimant subsequently applies for this vacancy and the original decision was to apply a sanction to the benefit, the LMDM is to be asked to reconsider that decision.

Claimant refuses or fails to apply for employment

1. Once it has been determined that a claimant has refused or failed to apply for employment, having considered how they were notified of the vacancy, exempt vacancies, incorrect submissions and the Refusal of Employment (RE) discretions the case should usually be referred to a Labour Market Decision Maker (LMDM) for a good reason decision.
2. On Labour Market System (LMS) 'View referral/decision details' screen, a new referral is created using the appropriate AR code (JSA 710).

3. The following action is required on LMS:

Step	Action
1	Select the [Dec] or [NoDec] button in the 'Client Details' window.
Note: If no previous Decision Making and Appeals (DMA) action has been taken, you will automatically get a 'New Referral/Decision Details' window. If one or more is already held, select [New].	
2	Select the [Question] hotspot.
3	Select the [Question] hotspot and select 'Avail/RE/ASW' then 'RE' from the drop down menu
4	Record the 'Source' as appropriate
5	Record the 'Ref to' as 'LM DMA Office'
6	Select [Save]
7	Check the suitability of the vacancy: <ul style="list-style-type: none"> • ensure the vacancy is in line with any agreed restrictions on the claimants availability; • ensure the vacancy reflects the claimants agreed hours of availability; and • ensure the vacancy is not exempt from RE action, such as a work trial, or an incorrect submission, such as self employment wasn't made
8	If the original vacancy wasn't suitable, then a referral to the LMDM isn't appropriate. The following action is taken on the LMS 'View referral/decision details' screen: <ul style="list-style-type: none"> • amend the 'Ref To' field to [N/A – Straightforward]; and • enter the reason why RE action is not appropriate in 'Notes'
9	Check whether any of the RE Discretions apply.

10	<p>If any of the RE discretions apply, the case can be treated as straightforward without a formal referral to the LMDM being necessary.</p> <p>If so, the following action is taken on the LMS 'View referral/decision details' screen:</p> <ul style="list-style-type: none"> • amend the 'Ref To' field to [N/A – Straightforward]; • enter the reason why RE action is not appropriate in 'Notes'
11	<p>If the vacancy was suitable and none of the RE Discretions apply, the claimant is contacted, to determine their reasons for refusing or failing to apply for employment.</p> <p>It's preferable that the contact is face to face or by telephone. However, the claimant can also be contacted in writing.</p>

Face to face contact

4. If the claimant is present when the doubt is identified, the following action is taken:

Step	Action
1	Explain to the claimant that a doubt has arisen on their claim for Jobseeker's Allowance (JSA) because they have refused or failed to apply for a job, or failed to accept a job which was offered.
2	Inform the claimant that the details will be passed to a Labour market Decision Maker (LMDM) who will determine whether or not they had good reason for their refusal or failure and whether a sanction should be imposed on their benefit.
3	Explain to the claimant that if the LMDM decides a sanction should be applied then JSA can't be paid to them under the normal rules for the period of the sanction, however a payment under the hardship rules may be available. Where appropriate the claimant must be advised how to make an application for hardship.
4	Explain to the claimant that if they are receiving Housing Benefit (HB), this could be affected if a sanction is imposed on their JSA, therefore the claimant will need to check with their Local Authority (LA) (if a sanction is imposed) to ensure payment of HB continues.
5	Print ES48S Letter from LMS, and issue it.

6	Take a statement from the claimant using DART, of their reasons for refusing or failing to apply for employment. The claimant's reasons must be fully covered.
7	Check whether the statement indicates that there are any other doubts, such as availability or actively seeking employment (ASE). If there are, Other Doubts should be referred to for further information.
8	Copy the information from Decision and Automated Referral Toolkit (DART) into the LMS notes box for the relevant decision, to ensure that details of the referral are maintained for reconsideration or appeal purposes.
9	Send the submission to the LMDM using DART, for a good reason decision.

Telephone contact

5. If the claimant is not present when the doubt is identified, they should be contacted by telephone.
6. If the claimant can be contacted by telephone, the following action is taken:

Step	Action
1	Verify the claimant's identity.
2	Explain to the claimant that a doubt has arisen on their claim for JSA because they have refused or failed to apply for a job, or failed to accept a job which was offered.
3	Inform the claimant that the details will be passed to a LMDM who will determine whether or not they had good reason for their refusal or failure and whether a sanction should be imposed on their benefit.
4	Explain to the claimant that if the LMDM decides a sanction should be applied, then JSA can't be paid to them under the normal rules for the period of the sanction, however a payment under the hardship rules may be available. Where appropriate the claimant must be advised how to make an application for hardship.
5	Explain to the claimant that if they are receiving HB, this could be affected if a sanction is imposed on their JSA, therefore the claimant will need to check with their LA (if a sanction is imposed) to ensure payment of HB

	continues.
6	Print ES48S Letter from LMS, and issue it to the claimant by post.
7	Take a statement from the claimant, using DART, of their reasons for refusing or failing to apply for employment. The claimant's reasons must be fully covered.
8	Check whether the statement indicates that there are any other doubts, such as availability or actively seeking employment (ASE). If there are, Other Doubts should be referred to for further information.
9	Copy the information from DART into the LMS notes box for the relevant decision, to ensure that details of the referral are maintained for reconsideration or appeal purposes.
10	Send the submission to the LMDM using DART, for a good reason decision.

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

Verifying the claimant's identity

Signature capture service is in use

- If Signature Capture Service is going to be used to capture the claimant's signature on the claimant commitment and/or the declaration of availability, the biometric check it undertakes acts as the verification of identity. No further action must be taken.

Signature capture service is not in use

Step	Action
1	If verification of the claimant's identity hasn't been done during the claimant's attendance at the office, you must verify the claimant's identity, by applying standard 4 or 6, as appropriate.
2	If the claimant has provided documentary evidence and it isn't necessary for this to be used to undertake the verification: <ul style="list-style-type: none"> • thank the claimant for bringing the documents • advise the claimant that you don't need to see the them
3	Update LMS recording any documents used to undertake the action, or

	input the text 'Biographical Questions' in LMS if no documents used.
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8. To ensure a reasonable chance of acquiring the necessary information, two attempts must be made to contact the claimant by telephone.
9. However, if the claimant doesn't have a telephone number or despite the two attempts they can't be contacted, the claimant must be contacted in writing to establish their reasons.

Written contact

10. It is preferable that claimants who refuse or fail to apply for employment are contacted either face to face or by telephone. However, if the claimant isn't present when the doubt arises or can't be contacted by telephone, the claimant should be contacted in writing:

Step	Action
1	Complete form ES195RE.
2	Print letter ES48S from LMS.
3	Post the ES195RE, together with the ES48S to the claimant. (The claimant can provide a statement of the reasons why they refused or failed to apply for the employment).
4	Record the date of issue of the ES195RE in the 'Notes' on the appropriate LMS 'View referral/decision details' screen and the entry initialled and dated.
5	Input an LMS Workflow for 7 calendar days from the date of issue.

Note: The claimant is advised that the case will be referred to the LMDM, either on the day they return form ES195RE or in 7 calendar days, whichever is earlier.

Action on return of the claimant statement

11. Claimants are allowed, by law, 7 calendar days to return the completed ES195RE. On its return, the following action must be taken:

Step	Action
1	Select the appropriate LMS 'View referral/decision details' and record the receipt of the ES195RE in Notes.

2	<p>Enter the reason provided by the claimant for refusing or failing to apply for employment.</p> <p>It's essential that the information provided on the ES195RE is copied word for word.</p>
3	<p>Check whether the statement indicates that there are any other doubts, such as availability or actively seeking employment (ASE).</p> <p>If there are, Other Doubts must be referred to for further information.</p>
4	<p>Copy the information from DART into the LMS notes box for the relevant decision.</p> <p>This ensures that details of the referral are maintained for reconsideration or appeal purposes.</p>
<p>Note: DART is used to send the submission is sent to the LMDM, for a good reason decision.</p>	

Claimant statement not received within 7 days

12. If the claimant hasn't returned the ES195RE within 7 calendar days and they are still claiming JSA, the following action must be taken:

Step	Action
1	<p>Select the appropriate LMS 'View referral/decision details' screen and record non-receipt of the ES195RE in the Notes.</p>
<p>Note: The fact that the claimant has not returned the completed ES195RE after 7 calendar days is recorded on DART.</p>	
2	<p>Copy the information from DART into the LMS 'Notes' box for the relevant decision.</p> <p>This ensures that details of the referral are maintained for reconsideration or appeal purposes.</p>
<p>Note: DART is used to send the submission is sent to the LMDM, for a good reason decision.</p>	

13. If the claimant hasn't returned the ES195RE within 7 calendar days but they are no longer claiming JSA, reference to the LMDM isn't appropriate at that stage. The Labour Market Unit (LMU) and LMS Conversations are noted that action remains outstanding if the claimant reclaims.

14. The case must be referred to the LMDM if the claimant reclaims within 26 weeks of the last day paid and they have refused or failed to apply for employment, unless any of the RE Discretions apply.
15. In such cases, the LMDM must be notified of the reason why there was a delay in submission and the reason why the claim was terminated initially.

Treat as Straightforward (TaS)

1. Work coaches have the facility to treat certain RE failure reasons as straightforward. This will remove the need for a LMDM referral.
2. For RE failures arising from events which are known about in advance, TaS can't be applied as the expectation is that the claimant will notify Department for Work and Pensions (DWP) (or the employer) in good time and if they don't, they will need to demonstrate good reason for their failure to the LMDM.
3. A claimant's past history of failures should also be taken into account when considering if TaS should be applied as repeated failures, without supporting evidence, may cast doubts on the genuineness of the reason given.
4. Where there is any doubt, it should be referred to the LMDM with a clear explanation of why the case isn't being treated as straightforward.
5. A failure can be treated as straightforward if any of the following unexpectedly apply for the day or time of any arranged job interview or which reasonably prevented the claimant in applying for a notified vacancy:
 - claimant is sick and JSA28 completed
 - claimant is undertaking voluntary work or has caring responsibilities
 - claimant is providing a service
 - claimant is taking a child or young person abroad for medical treatment
 - claimant is engaged in manning a lifeboat, part time firefighter or working for the benefit of others in an emergency
 - claimant is a member of couple and needed to care for a child while the usual carer is abroad and alternative child care couldn't be arranged
 - claimant is 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 and alternative care couldn't be arranged
 - a domestic emergency (including serious illness, death, funeral or emergency affecting a relative or close friend or death of someone for whom the claimant is caring)
 - claimant was detained in police custody for 96 hours or less then released
 - claimant was required to attend court or tribunal for up to 8 weeks
 - adverse weather conditions
 - claimant is caring for a child because of school holidays and they can't obtain affordable and appropriate childcare
6. If any of the above apply but you think the claimant could still have reasonably completed the job application or attend the interview, refer to LMDM clearly explaining your reasons for the referral.
7. Any LMDM referral will be cancelled if TaS could have been applied and there is no explanation of why it wasn't appropriate to do so.

Referral action

1. Labour Market System (LMS) is accessed and the 'View Referral / Decision Details' screen checked.
2. To ensure that details of the referral are maintained for reconsideration or appeal purposes, a check is made that all of the information from the Decision and Automated Referral Toolkit (DART) referral has been copied from DART into the LMS 'Notes' box for the relevant decision.

3. The referral is sent to the Labour Market Decision Maker (LMDM) using DART, to enable them to make a good reason decision. The DMA referrals instructions include more information on what must be included in the referral.
4. It's explained to the claimant that a decision will be made on whether they had sufficiently good reason for refusing or failing to apply for employment.
5. They are also informed that if it's decided that they didn't have good reason, their JSA will be affected.
6. Before referring to the LMDM, the claimant must be issued with an ES48S letter, the issue of which must be recorded in LMS conversations at the time the doubt is identified. This is to support quality and compliance checks and confirms the claimant has been made aware of what happens next.
7. The work coach must also make the claimant aware of the availability of hardship and record in LMS Conversations that the discussion has taken place.

Decision made by the Labour Market Decision Maker

1. The details of the decision are automatically entered into the Labour Market System (LMS) 'Referral/Decision Details' screen, once the Labour Market Decision Maker (LMDM) has input their decision into Decision Making and Appeals System (DMAS).
2. The LMDM emails their decision notification to the Jobseeker's Allowance (JSA) maintenance team from DMAS for action; therefore no further action is required in the jobcentre.
3. If a claimant refuses employment without good reason, they will receive a higher level sanction of 13 weeks, 26 weeks or 156 weeks.

Note: Further information around the new sanctions regime is available within the Sanctions and DMA Guidance.

Hardship

4. Some claimants may be able to claim JSA hardship when a sanction has been imposed on their JSA.

Note: Further information can be found in JSA Hardship Awards.

Reserved Decisions

5. A LMDM may decide to reserve a decision. This will normally be when a sanction is appropriate, but can't be imposed because the claimant is no longer claiming JSA.
6. In these cases, the LMDM sends a DMAS produced notification to the jobcentre advising them of this and at the same time, LMS will be automatically updated with this decision.
7. There is no input in to Jobseekers Allowance Payment System (JSAPS) for reserved decisions.
8. 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.
9. If a case is re-submitted and the claim was originally a joint claim for JSA, it's important to ensure that the details held on LMS are up to date.
10. 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.