Failure to provide a signed declaration

Background

1. The term 'provide a signed declaration' refers to the signing of a labour market declaration, any form in the ES24 series and the ES40.
2. Claimants who fail to provide a signed declaration (FTPSD) are usually postal claimants who are not required to attend the Jobcentre every fortnight. However, there may be occasions where a claimant who is required to attend, FTPSD when they attend.

Implications for failing to provide a signed declaration

3. The Jobseeker's Act 1995 section 8 provides that entitlement to Jobseeker's Allowance will cease if a claimant FTPSD without good reason, after being required to do so by a Jobcentre Plus officer on behalf of the Secretary of State.
4. Therefore, if a claimant FTPSD, **AND** cannot be treated as straightforward (TaS); **AND** does not show good reason before the end of the 5th working day following the due date for the signature, their entitlement will cease.

Clarification of working day

5. A working day means any day on which the appropriate office is open to the public, as confirmed by its list of regular opening hours, which all Jobcentres are required to display.
6. Appropriate office means the Jobcentre or any other place, which the claimant has been told to attend in a notification.

Postal declarations

7. Postal declarations must be signed on the correct date and returned to the office within 5 working days if they are to be accepted as straightforward. Where a postal declaration is signed on the correct date and received within 5 working days confirm attendance as usual.
8. Where the declaration is not signed on the correct day and/or received within 5 working days further action is required:
    *   If the declaration is received within 5 working days but not signed on the correct day, see "Contact made within 5 working days" for further information.
    *   If the declaration is not returned signed within 5 working days of the required date, the claimant's JSAPS record must be terminated. See "Contact not made within 5 working days" for further information.

Contact made within 5 working days

9. If the claimant makes contact within 5 working days, or a postal declaration is received within 5 working days but not signed on the correct day, obtain details from the claimant to establish the reason why they FTPSD.

10. The action to take depends upon the reason given by the claimant and whether contact is made by telephone or face-to-face.

Claimant declares sickness as the reason for FTPSD

11.　If the claimant states that they have FTPSD due to sickness, consider taking JSA28 action.

12.　A decision by the Labour Market Decision Maker (LMDM) on whether the claimant had good reason will not be necessary for the day of the FTPSD providing that the claimant can be treated as available.

13. In all cases the claimant must be warned that payment for the period which includes the days of sickness cannot be made until the completed form has been returned and the reasons for FTPSD have been considered by the Jobcentre.

14.　See the Treated as Available and Actively Seeking Employment chapter of the Labour Market Conditions Guide for further information.

Contact made by telephone and claimant declares any other reason for FTPSD

15. If the claimant states that they have FTPSD for any reason, other than sickness, take the following actions:

Step	Action
1	Confirm the claimant's identity as per existing procedures.
2	On the LMS 'View referral/decision details' screen create a new referral using **AR code JSA 719A**. See the LMS User Guide for further information
3	Take a statement of the reasons for FTPSD using the Decision and Referral Template system (DART)
4	Check the statement does not indicate there are any availability or ASE doubts, if there are refer to Availability or Actively Seeking Employment doubt for further information
5	Use the Treat as Straightforward (TaS) filter on DART, to determine whether or not the claimant can be TaS.
6	If the case can be TaS: • on the LMS 'View referral/decision details' screen amend the 'Ref To' field to [N/A – Straightforward] and in 'Notes' enter the reason why the claimant can be TaS; • refer the details to the Team Leader or nominated officer for confirmation of TaS.
7	If the case does not fall within the TaS criteria: • send a submission to the LMDM using DART for a good reason decision; • copy the information from DART into the LMS Decision Notes box for the relevant decision to ensure that details of the referral are maintained for reconsideration or appeal purposes. • input dialogue JA210: Maintain Suspension and Decision Details

	into JSAPS using AR code JSA/719A, for the day of FTPSD only.
8	If the claimant has not provided a signed declaration for the period in doubt, ask them to attend the office as soon as possible to provide evidence that they were available and actively seeking employment. However, if the claimant has provided a signed declaration for the period in doubt then no further action is required.

16. When the claimant actually attends the office:

Step	Action
1	Confirm the claimant's identity as per existing procedures.
2	Confirm that the claimant was available and actively seeking employment and take a signature on form ES24 for the full fortnight up to the benefit week ending day.
3	Input dialogue JA470: Attendance where the claimant has FTPSD on their normal day;

Contact made face to face and claimant declares any other reason for FTPSD

17. If the claimant states that they have FTPSD for any reason, other than sickness, take the following actions:

Step	Action
1	Confirm the claimant's identity as per existing procedures.
2	take a signature on form ES24 for the full fortnight up to the benefit week ending day, if appropriate.
3	On the LMS 'View referral/decision details' screen create a new referral using **AR code JSA 719A**. See the LMS User Guide for further information
4	Take a statement of the reasons for FTPSD using the Decision and Referral Template system (DART)
5	check the statement does not indicate there are any availability or ASE doubts, if there are refer to Availability or Actively Seeking Employment doubt for further information
6	Use the Treat as Straightforward (TaS) filter on DART, to determine whether or not the claimant can be TaS.
7	If the case can be TaS: - on the LMS 'View referral/decision details' screen amend the 'Ref To' field to [N/A – Straightforward] and in 'Notes' enter the reason why the claimant can be TaS; - refer the details to the Team Leader or nominated officer for confirmation of TaS.
8	If the case does not fall within the TaS criteria: - send a submission to the LMDM using DART for a good reason decision; - copy the information from DART into the LMS Decision Notes box

	for the relevant decision to ensure that details of the referral are maintained for reconsideration or appeal purposes. • input dialogue JA210: Maintain Suspension and Decision Details into JSAPS using AR code JSA/719A, for the day of FTPSD only.
9	input dialogue JA470: Attendance where the claimant has FTPSD on their normal day;

Claimant wishes to cease claiming JSA prior to the day of FTPSD

18. If the Claimant wishes to cease claiming JSA prior to the day they FTPSD, ask them to complete and return their ES40.

19. Once the ES40 is received, input the termination reason and date to JSAPS in dialogue JA099: Record Claim Termination Details; this triggers a Work Available Report JA72539 to the BDC to terminate the claim on JSAPS.

Contact not made within 5 working days

20. If the claimant does not make contact within 5 working days, or a signed postal declaration is not returned within 5 working days of the required date, the claim must be terminated:

Step	Action
1	enter this information on LMS and make the record inactive
2	input dialogue JA060: Register Claim/Event to JSAPS to register a change of circumstances
3	input dialogue JA099: Record Claim Termination Details to inform the BDD to complete termination action.

21. The termination date should be the day after the last date for which the claimant provided evidence that they were entitled to JSA. This could be the last day they provided a signed declaration, or the last day they attended an adviser interview and the labour market conditions were satisfied and recorded as such on LMS.

22. If a claimant makes contact after dialogue JA099: Record Claim Termination Details has been input for FTPSD, and wishes to continue to claim JSA, the claimant must reclaim JSA using the JSA STP Reclaim gather process and the JSA4RR.

23. For claimants who have been disallowed for FTPSD, it is preferred that the Jobcentre manage this process without referring to the Contact Centre.

Treated as Straightforward

24. This provision enables claimants to be treated as having good reason for FTPSD, without a referral to a LMDM.

25. The TaS filter on DART will be used to identify those claimants who could be treated as straightforward. However prior to TaS being applied, a team leader or other designated officer must confirm that TaS is appropriate. The designated officer should be Band B or above and adjudged by the Manager to be competent and experienced enough to make the determination.

26. Only cases where the reason for FTPSD falls clearly within the guidelines can be TaS. However, in all such cases, the 'treat as available' conditions or any other relevant action must be applied before considering TaS.

27. Where a doubt still exists, the case must be submitted to a LMDM for a decision on good reason.

Consideration of Treat as Straightforward

28. The Treat as Straightforward considerations are:

If the reason given for FTA is:	Consider:	Y/N	Action
Voluntary work/caring responsibilities	Was the claimant given at least 48 hours notice of the requirement to attend?	Y N	Refer to LMDM TaS
Providing a service	Was the claimant given at least 24 hours notice of the requirement to attend?	Y N	Refer to LMDM TaS
Attending a residential work camp	Has the claimant been treated as available?	Y N	TaS Refer to LMDM
Taking a child or young person abroad for medical treatment	Has the claimant been treated as available?	Y N	TaS Refer to LMDM
Manning a lifeboat/ p/t fire-fighter/working for the benefits of others in an emergency	Has the claimant been treated as available?	Y N	TaS Refer to LMDM
Member of couple and needed to care for child while usual carer is abroad	Has the claimant been treated as available?	Y N	TaS Refer to LMDM
Attending Open University residential course	Has the claimant been treated as available?	Y N	TaS Refer to LMDM
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	Has the claimant been treated as available?	Y N	TaS Refer to LMDM
Suffering a temporary period of sickness	Has the claimant been treated as available/actively seeking employment ?	Y N	TaS Refer to LMDM
A domestic emergency (including serious illness,	Has the claimant been treated as available?	Y	TaS

death, funeral or emergency affecting a relative or close friend or death of someone the claimant is caring for		N	Refer to LMDM
Claimant was detained in police custody for 96 hours or less then released	Has the claimant been treated as available	Y	TaS
		N	Refer to LMDM
Claimant was required to attend court, or tribunal for up to 8 weeks	Has the claimant been treated as available	Y	TaS
		N	Refer to LMDM
Claimant was participating in annual continuous training as a member of the reserve forces	Has the claimant been treated as available	Y	TaS
		N	Refer to LMDM
Although the following can be TaS they are not circumstances to which Treated as Available/ASE would apply			
Claimant has attended a job interview and can provide sufficient evidence for example, letter from employer / name of interviewer	Could the claimant have reasonably been expected to attend at the time on his ES40 / ND6 /invitation letter/telephone call?	N	TaS
		Y	Refer to LMDM
Claimant declares part time work which does not result in claim termination	Could the claimant have reasonably been expected to attend?	N	TaS
		Y	Refer to LMDM
Adverse weather conditions	Are the local conditions such that the claimant could not reasonably be expected to attend?	Y	TaS
		N	Refer to LMDM
Additional TaS for parents			
Claimant is caring for a child and is subject to a parenting order or a parenting contract. The child may be excluded from school	Was it reasonable for the claimant to be unable to attend?	Y	TaS
		N	Refer to LMDM
Claimant is caring for a child because of school holidays and they can not obtain affordable and appropriate childcare	Have they been treated as available and actively seeking employment	Y	TaS
		N	Refer to LMDM

Team Leader can Treated as Straightforward

29. If the team leader or designated officer agrees with the TaS decision, on the LMS 'View referral/decision details' screen record in 'Notes' 'TaS Authorised' and the team leader or designated officer name and date.

Team Leader cannot Treated as Straightforward

30. If the team leader or designated officer cannot TaS:

Step	Action
1	Send a submission to the LMDM using DART for a good reason decision.
2	On the LMS 'View referral/decision details' screen amend the 'Ref To' field to [LM DMA Office] and in 'Notes' enter the reason why TaS was not applicable.
3	Input dialogue JA210: Maintain Suspension and Decision Details into JSAPS using AR code JSA/719A, for the day of FTPSD only.
4	Copy the information from DART into the LMS Decision Notes box for the relevant decision to ensure that details of the referral are maintained for reconsideration or appeal purposes.
5	Provide feedback to the person who identified possible TaS to confirm why TaS was not applicable.

Submission action

31. 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

32. A submission to the LMDM for an opinion decision must not be made for 'credits only' claimants who FTPSD. However, Jobcentres should check the reasons claimants give for FTPSD 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.
33. 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 FTPSD 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

34. If a claimant in receipt of JSA failed to provide a signed declaration, and cannot be treated as straightforward, the case must be referred to a LMDM for a good reason decision.
35. Access LMS and check the 'View Referral / Decision Details' screen.

36. To ensure that details of the referral are maintained for reconsideration or appeal purposes, ensure that all of the information from the DART referral has been copied into the LMS notes box for the relevant decision.
37. Check the submission is complete, then send the details to the LMDM using DART to enable them to make a good reason decision. See the DMA Referrals Guide for further information on what must be included in the submission.
38. Explain to the claimant that a decision will be made on whether they had sufficiently good reasons for FTPSD. Inform them that if it is decided that their reasons were not sufficient, their entitlement to JSA will end and their claim will be terminated.

Decision made by Labour Market Decision Maker

39. 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.
40. The LMDM will email their decision notification direct to the JSA Maintenance team 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.

Disallowed and Claimant wishes to reclaim JSA

41. If the claimant states they wish to continue with their JSA claim do not make the LMS record inactive. If the LMS record is made inactive, when the new claim is registered, LMS will set a new claim date and this will make it difficult to identify claimant's eligibility for programmes.
42. Take Rapid Reclaim action in the Jobcentre by issuing a JSA4RR. For benefit processing purposes this will mean that the claimant has made a new claim. The Benefit Delivery Centre can then complete the termination action on the same day so the new claim can be registered the following day.

Backdated claims and FTPSD decisions

43. If a Claimant is disallowed and wishes to make a backdated claim for any days that have not been paid, they must complete a JSA5.
44. Included on the JSA5 must be the date of the day they were disallowed, this will allow for the circumstance of the LMDM later revising the FTPSD decision.
45. If the claim has been closed because the Claimant did not make contact within 5 days, the claimant may wish to backdate their claim to the last date they were paid. In these cases the JSA5 should be issued and an explanation given that by making a backdated claim the closure of the previous claim can be reconsidered. This can only apply if the claimant makes contact within 1 month of the decision being made.

Additional Information

Availability or actively seeking employment doubt

46. It is not necessary to ask a claimant to prove that they were available and ASE, if they sign form ES24 or ES24P (the Postal labour Market Declaration). However, if the reason for FTPSD raises a doubt on the claimants availability or ASE, a referral to the LMDM must be made, unless they can be treated as available and/or ASE.
47. See the Availability and Actively Seeking Employment and the Treated as Available and Actively Seeking Employment chapters for further information.

Evidence gathering

48. When taking a statement from the claimant care must be taken not to lead them into answers that would be acceptable reasons for the case to be TaS or the LMDM to allow good reason.
49. Ask the claimant what caused them to be late and tell them to provide as much information as possible for the LMDM. The claimant only has 5 working days from the date they FTPSD to show the LMDM they have good reason.
50. Any evidence the claimant supplies to the LMDM after 5 working days cannot be taken into account.

FTPSD and credits only claimants

51. Credit regulations do not support the disallowance of credits solely because a claimant failed to provide a signed declaration. 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.
52. Therefore, a submission to the LMDM for an opinion decision must not be made for 'credits only' claimants who FTPSD.
53. However, Jobcentres should check the reasons claimants give for FTPSD 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.