

# **Training schemes and employment programmes**

## **Responsibilities**

1. The training scheme or employment programme place offered to the claimant must be one that they could do and which would help to enhance their job prospects.
2. It would not be in the claimant's or Jobcentre Plus' interest to submit claimants to an inappropriate training scheme or employment programme.
3. Referral to training schemes and employment programmes and subsequent cases of refusal, failure, giving up, misconduct or neglect may arise from any intervention that takes place with the claimant.
4. This means action on refusal, failure, giving up, misconduct or neglect may be an appropriate outcome for any intervention that covers jobsearch activity.

## **Implications of a claimant's actions**

5. It must be made clear to the claimant, at the time they are formally notified of a place on a training scheme or employment programme, that their:
  - refusal;
  - failure;
  - giving up;
  - misconduct; or
  - neglect;

may result in loss of JSA. This ensures that the claimant can make their decision in the full knowledge of the consequences.

## **Notifying the claimant of the place**

6. In refusal and failure to apply cases the place on the training scheme or employment programme must be notified to the claimant by an Employment Officer.
7. In neglect to avail employment cases the job must be offered by the qualifying former employer, however, the claimant can be notified of a training scheme or employment programme by any training provider and neglect to avail can still apply.
8. Only the reasonable opportunity of a place need exist, not necessarily an actual place. This place does not need to be offered by an Employment Officer for neglect to avail to apply.
9. For example, a claimant may be advised, either by an Employment Officer or someone else, about an opportunity of a place on a course or programme which is to be filled on a first come first served basis. If the claimant does not attend and all the available places are subsequently taken up, the claimant may have neglected to avail themselves of an opportunity of a place.

## **Claimant's behaviour**

10. A sanction may be appropriate if the claimant behaves in such a way that they lose the chance of a place. Examples of such conduct are where the claimant:

- arrives late or does not turn up for an interview;
  - arrives at the wrong place through their own negligence;
  - imposes unreasonable conditions on acceptance of a place;
  - behaves in such a manner at an interview that the provider decides not to offer them a place;
  - delays acceptance of a place until it has been taken by somebody else;
  - accepts a place but then fails to start on the agreed day.
11. If a provider makes it known to Jobcentre Plus that such conduct has occurred, the claimant's behaviour may amount to refusal, failure or neglect. If you are not sure of which question is to be decided, check with your LM Decision Maker.
12. If it becomes apparent that a claimant may be deliberately avoiding the chance of a place, for example on receipt of information from a provider or at an intervention:

Step	Action
1	prepare a written report on ES589 and/or ES195T which details: <ul style="list-style-type: none"> <li>• the facts of the case; and</li> <li>• details of the claimant's comments and/or actions/inactions;</li> </ul>
2	link the report with the Jobseeker's Agreement (JSaG);
3	consider whether the evidence provided raises a doubt on additional questions, for example: <ul style="list-style-type: none"> <li>• availability; and</li> <li>• actively seeking;</li> </ul>
4	submit the case to the L M DM on: <ul style="list-style-type: none"> <li>• refusal;</li> <li>• failure; or</li> <li>• neglect.</li> </ul>

### **When refusal or failure action is not appropriate**

13. Refusal or failure to apply action is not appropriate when the:
- training scheme is not deemed appropriate as described in the Responsibilities paragraph above;
  - place has not been notified to the claimant by an Employment Officer.
14. Although a sanction is not appropriate, still look at the reason given by the claimant for their refusal or failure. Where the reason(s) given cast doubt on the claimant's availability, refer the case to the LMDM.

### **When neglect to avail action is not appropriate**

15. Neglect to avail action is not appropriate when the:
- training scheme is not deemed appropriate as described in the Responsibilities paragraph above;
16. Although a sanction is not appropriate, still look at the reason given by the claimant for their refusal or failure. Where the reason(s) given cast doubt on the claimant's availability, refer the case to the LMDM.

### **Identification of doubt**

17. In cases of:

- refusal; or
  - failure to apply;
- the doubt will be identified during the advisor interview.
18. Cases where the claimant;

- fails to attend;
  - neglects to avail;
  - gives up; or
  - loses a place through misconduct;
- will be identified from information sent to Jobcentre Plus by the provider.

### **Providers' Information**

19. All providers are contracted to tell Jobcentre Plus when claimants:

- neglect to avail;
  - fail to attend;
  - give up; or
  - lose a place through misconduct;
- on a mandatory training scheme or employment programme.  
The information supplied by the provider will depend on which training scheme or employment programme the claimant attended.

### **Action when a doubt has been identified**

#### **Claimant refuses or neglects to avail**

20. Where a claimant has been notified by an Employment Officer about a training scheme or an employment programme place, and they subsequently refuse or neglect to avail themselves of a place offered by a provider, notify them of this on form ES195(RE/NTA).
21. Form ES195(RE/NTA) is a clerical form. The front is completed from the provider/adviser and LMS Opportunity screen, or after obtaining details of the training scheme or an employment programme from the provider/adviser.
22. The reverse provides space for the claimant to give reasons for their refusal, failure or neglect.

#### **Additional information required to complete ES195(RE/NTA)**

23. In the majority of training scheme or employment programme refusal or neglect cases, the information required for completing ES195(RE/NTA) can be extracted from LMS 'View Opportunity' window. However, some additional information is also required for the submission.
24. Where the claimant refuses, fails or neglects a training scheme or employment programme, input the doubt to LMS by selecting the appropriate question. This determines the wording on the Referral Notification Letter ES48S.
25. The question options available include:
- Refuse Trg;
  - Refuse Emp Prog;
  - FTA - Trg;
  - FTA - Emp Prog;
  - Neg to Avail - Trg;

- Neg to Avail - Emp Prog;
  - Give up - Trg;
  - Give up Emp Prog;
  - Misc Trg;
  - Misc Emp Prog.
26. Having selected the appropriate question option, record the following information in the relevant LMS screen:
- the date the training scheme or employment programme was notified to the claimant and by whom;
  - the reasons the claimant gave the provider and/or you for refusing, failing or neglecting to take the training scheme or employment programme place.
27. With this information, ES195(RE/NTA) can be completed. Also, when the question is submitted for a decision, a copy of LMS Opportunity and LMS Notes screens will be included with the submission.

**Completing ES195(RE/NTA) when the training scheme or employment programme is not on LMS View Opportunity' window**

28. A provider may advise that the claimant has neglected to avail themselves of a training scheme or employment programme place.
29. When discussing such cases with the provider, establish the same amount of information had the training scheme or employment programme been advertised by Jobcentre Plus.
30. Where the claimant then refuses, fails or neglects the training scheme or employment programme place, input the doubt to LMS by selecting the appropriate question option and completing form ES195T using information obtained from the provider.
31. Form ES195T is retained in the labour market unit (LMU) pending return of ES195(RE/NTA) by the claimant. Also, where applicable, any additional information received after ES195(RE/NTA) has been issued is to be recorded in LMS DMA Notes.

**Claimant has failed to attend, given up or lost a place through misconduct**

32. In order to decide whether the claimant has good reason for failing to attend or giving up a place on a training scheme or employment programme the LM Decision Maker needs information from both the provider and the claimant.
33. If the provider has indicated, during follow up action that the claimant failed to start Work Based Training For Young People (WBTFYP) or Modern Apprenticeship (MA), issue form ES86(T) to the claimant.
34. This form gives them the opportunity to explain why they gave up the place. Record the issue of form ES86(T). In failure to attend cases, also complete ES195T.
35. Where the provider has indicated that the claimant gave up the place and gave the provider specific reasons, or was asked to leave because of absence issue form ES86(T) to the claimant.
36. Ensure that the reasons the claimant gave the provider/advisor for giving up the place are copied onto ES86(T). Record the issue of ES86(T).

37. If the claimant was asked to leave because of misconduct do not issue ES86(T). Misconduct, and any other doubts relating to the termination by the provider, are decided by the LMDM.

## Preparing the submission

38. In cases where JSA is payable and the claimant is still attending:

Step	Action
1	input the doubt to LMS selecting the appropriate question option and corresponding AR Code: <ul style="list-style-type: none"> <li>• JSA/713 Giving up a place;</li> <li>• JSA/714 Losing a place through misconduct;</li> <li>• JSA/715 Refusal or failure to apply;</li> <li>• JSA/716 Neglect; or</li> <li>• JSA/717 Failure to attend;</li> </ul>
2	complete form ES195(RE/NTA)/ES86(T) using the: <ul style="list-style-type: none"> <li>• information in LMS 'View Opportunity' window;</li> <li>• LMS Notes;</li> <li>• information supplied by the provider; or</li> <li>• ES195T;</li> </ul>
3	open the LMS 'Notes' screen and record: <ul style="list-style-type: none"> <li>• the date of issue of ES195(RE/NTA)/ES86(T);</li> <li>• whether ES195(RE/NTA)/S86(T) was issued by hand or post;</li> <li>• initial and date the entry;</li> </ul>
4	print a Sector Referral form (ES567) from LMS;
5	Issue: <ul style="list-style-type: none"> <li>• ES195(RE/NTA)/ES86(T);</li> <li>• ES48S; and</li> <li>• leaflet ESL48;</li> </ul> as soon as possible. Where refusal arises at a Jobcentre Plus interview, this action is to be carried out before the interview with the claimant has ended;
6	where ES195(RE/NTA)/ES86(T) is not completed during the adviser's interview; <ul style="list-style-type: none"> <li>• input a workflow for 7 days from the date of issue.</li> </ul>
7	advise the claimant that: <ul style="list-style-type: none"> <li>• the case will be referred to a Decision Maker, either: <ul style="list-style-type: none"> <li>◦ on the day they return ES195(RE/NTA)/ES86(T); or</li> <li>◦ 7 days from now, whichever is earlier; and</li> </ul> </li> <li>• during that time JSA will continue to be paid and, if a sanction is imposed, they may wish to apply for a hardship payment.</li> </ul>

## Action on return of ES195(RE/NTA)/ES86(T)

39. Claimants are allowed, by law, 1 week to return form ES195(RE/NTA)/ES86(T).

40. On its return:

Step	Action
1	link it with the labour market unit (LMU);
2	select the appropriate LMS screen and record receipt of ES195(RE/NTA)/ES86(T) in the Notes area;
3	pass the LMU and ES195(RE/NTA)/ES86(T) to the Team Leader;
4	ensure that all relevant information is gathered for the submission;
5	refer to the LMDM as soon as possible.

### **Action when ES195(RE/NTA)/ES86(T) is not returned 1 week after issue and claimant is still attending**

41. If the claimant has not returned ES195(RE/NTA)/ES86(T) after 1 week:

Step	Action
1	obtain the LMU;
2	select the appropriate LMS screen and in 'Notes' enter [ES195(RE/NTA)/ES86(T) Not Returned];
3	initial and date the entry;
4	pass the LMU to the Team Leader;
5	ensure that all relevant information is gathered for the submission;
6	refer to the LMDM as soon as possible.

### **Action when ES195(RE/NTA)/ES86(T) is not returned within one week of issue and claimant is no longer attending**

42. If the claimant has not returned form ES195(RE/NTA)/ES86(T) after one week and they are no longer attending:

Step	Action
1	select the appropriate LMS screen and in 'Notes' enter [ES195(RE/NTA)/ES86(T) Not Returned];
2	initial and date the entry;
3	note the Labour Market Unit for DMA action to be resumed if a further claim is made within the 4 weeks, 13 weeks for New Deal, after the day following the last day for which JSA has been paid.

## **Submission to the Labour Market Decision Maker**

### **Credits only claimants**

43. 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.

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

45. 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 LV or Misconduct doubt to [N/A – Lifted]
2	in the 'Notes' field enter the reason why the doubt has been lifted as Credits only claim.

### **Proof required by the LM Decision Maker for refusal, giving up or neglect**

46. Before the Decision Maker can decide a sanction is appropriate for refusal, failure, giving up or neglect, they must be satisfied:

- That the claimant was notified of a prescribed training scheme or employment programme place by an employment officer; and
- That the claimant:
  - refused;
  - failed to apply for;
  - failed to accept;
  - neglected to avail themselves of the place when it was offered or made known to them;
  - failed to attend after agreeing to start; or
  - gave up the place.

### **Proof required by the LM Decision Maker for misconduct.**

47. In misconduct cases, the LMDM will need to be satisfied that:

- the training scheme or employment programme was prescribed;
- the claimant acted or failed to act as alleged;
- these acts or omissions amounted to misconduct; and
- the claimant lost their place on the training scheme or employment programme as a result.

### **Submitting the case**

48. The case must be referred to the LMDM as soon as possible, preferably on the day the doubt arose. This is vital as delays in obtaining a decision can cause problems in imposing a sanction. The claimant's details must be entered on form ES66.

49. The following forms and information are to be submitted to the LMDM:

- Sector Referral Form (ES567) with clerical entries made where applicable under DMA Details and Additional Information;
- on the Sector Referral Form (ES567) record in the Additional Information section, details of sanctions imposed in the last 13 months. This information can be accessed through LMS List of DMA Actions screen. Send a copy of the referral form to the benefit processing section;
- where the submission relates to a training scheme or employment programme notified by Jobcentre Plus, include a print of the associated LMS 'View Opportunity' window;
- ES195T and, if returned, ES195(RE/NTA)/ES86(T);
- the latest JSAg. This will assist the LMDM in deciding whether the claimant has placed restrictions on the hours they are willing to work;

- and to establish the claimant's usual occupation and the permitted period;
- the latest ES2 if appropriate;
- the associated LMS Client Conversation screen where entries relate to the submission;
- details, if any, of the training opportunity the claimant previously undertook with the provider; and
- evidence, comments and/or cross references to any simultaneous submissions to back up statements made on ES195(RE/NTA)/ES86(T) and/or ES195T to the SDM as soon as possible.

### **Decision made by the Labour Market Decision Maker**

50. 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.

51. 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.

52. If a claimant refuses, neglects to avail themselves, fails to attend, gives up or loses a place through misconduct on or after 22 October they will receive a lower level sanction of either 4 or 13 weeks. Further information around the new sanctions regime is available within the Sanctions and DMA Guidance.

### **Hardship**

53. 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**

54. 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.

55. 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.

56. There is no input to JSAPS for reserved decisions.

57. 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.

58. 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.



## Forms

The following forms may be used during the DMA process:

Form	Usage
ES85(Y)	despatched clerically whenever a claimant indicates on the JSA claim form that they have left/completed either WBTfYP or a Modern Apprenticeship scheme. This form is used in conjunction with form ES86(T).
ES86(T)	issued by the adviser to the claimant. It is used in cases where the claimant either failed to attend, gave up the place or was asked to leave because of poor attendance. It gives the claimant the opportunity to give their comments. The form must be amended as appropriate. If the provider/advisor has supplied reasons on other form that the claimant gave for giving up a place these must be copied <b>exactly</b> into the relevant space on ES86(T).
ES195(NTA)	issued by the adviser to the claimant so that they can give any reasons for neglecting to avail themselves of a place on a training scheme or employment programme. It is used in conjunction with form ES195T. As the form is also used for neglecting to avail employment, ensure that it is suitably amended.
ES195(RE)	issued by the adviser to the claimant so that they can give any reasons for refusing a training scheme or employment programme. As the form is also used for refusal of employment, ensure that it is suitably amended. It is used in conjunction with form ES195T.
ES195T	used in cases of refusal or failure to apply, failure to attend and neglect to avail and is a record of information about the training scheme or employment programme and the claimant's comments. It must accompany all submission to the Decision Maker on these doubts. This form is used in conjunction with forms ES195(RE), ES195(NTA) and ES86(T).
SL2	this is a referral and notification of start to the relevant training scheme or programme.