

Skills Conditionality - Scotland

Overview

1. Jobseeker's Allowance (JSA) and Employment and Support Allowance (ESA) claimants in the Work Related Activity Group (WRAG) who have a skills need which is the main barrier to them moving into work should be mandated to skills provision to address these needs.
2. Skills Conditionality will not apply to referrals to Initial Provider Interviews or Careers Advice. These will remain non-mandatory referrals.
3. Once a provider has confirmed suitability and offered a place the claimant will be mandated to attend, take part and complete the provision and Skills Conditionality will apply.
4. Where a claimant fails to attend, take part or complete the provision they risk having sanctions applied to their benefit.
5. Skills Conditionality applies to claimants attending provision on a full time or part time basis.
6. At present in Scotland Skills Conditionality only applies to the Employability Fund. Other types of provision may be included in the future.

JSA claimants

7. Skills Conditionality applies to those claimants 18 and over claiming Jobseeker's Allowance including credits only and those in joint claims.

ESA WRAG claimants

8. ESA WRAG claimants are expected to take reasonable steps to prepare for work. Any work-related activity must be reasonable and take into account the individual's circumstances and their health condition. Where it is considered appropriate for the individual, addressing the skills need is treated as a Work Related Activity. Existing ESA conditions of entitlement apply while participating in training.

Identifying Skills Needs

9. Skills Screenings are an integral part of any Work Focused Interview.
10. Full details of how to conduct Skills Screenings are available in The Skills Guide.
11. Skills Development Scotland provides careers advice via their web-site, telephone and face-to-face services which can assist in identifying potential skills needs.

Claimants with clear skills need

12. Where a clear skills need is identified, either as part of a Work Focused Interview with a Jobcentre Plus adviser or through feedback from the Skills Development Scotland as the main barrier to them gaining employment they should be referred to a skills training provider for an Initial Provider Interview.
13. Claimants who have a skills need identified but other issues are the main barrier to them gaining employment (for example, where a drug or alcohol

issue is the main barrier) the main barrier should be addressed prior to any referral under Skills Conditionality.

Claimants with no skills need

14. Where a claimant does not have a skills need as their main barrier to them gaining employment but they wish to attend provision to upskill, they should be referred or signposted as appropriate using the information available on the District Provision Tool and/or LMS.

15. Where advisers are not sure about a claimant's skills needs they should refer or signpost the claimant to Skills Development Scotland careers advice.

Identifying Provision

Provision included in Skills Conditionality

16. In Scotland Skills Conditionality currently applies to claimants referred to The Employability Fund (EF) provision.

Identifying Provision

17. Details of provision available to claimants in each District are available in the District Provision Tool (DPT) and LMS.

18. When identifying suitable provision Advisers should consider whether:

- The claimant is eligible to take part in provision;
- It is likely to result in the claimant moving into employment;
- The claimant is likely to benefit from the programme;
- What is being asked of the claimant is reasonable with regard to their individual circumstances and any health conditions;
- There are any restrictions on a claimant's hours of work or patterns of work agreed by an adviser;
- Existing flexibilities and safeguards for lone parents and others with caring responsibilities are in place, if they are, ensure that training does not contravene these arrangements;
- Public Transport is available (where required);
- (In the case of vulnerable claimants) whether there is a need to consult with any other professional, eg Work Psychologist, Probation Officer.

Initial Provider Interview

Referral to the Initial Provider Interview

Employability Fund

19. Skills Conditionality will not apply to referrals to Initial Provider Interviews with Employability Fund (Skills Conditionality will apply once a provider confirms suitability of a place for the claimant).

20. When referring a claimant to Employability Fund advisers should:

- Follow the suitability considerations as outlined in the Employability Fund Guide - Eligibility;
- Explain and discuss the referral with the claimant, highlighting the importance of addressing skills needs;
- Identify which stage is the appropriate entry stage for Employability Fund

- Annotate the claimant's Action Plan/Jobseeker's Agreement with details of the referral;
- Record referral on LMS using the appropriate Training for Work opportunity type;
- Book a follow up appointment;
- Complete the EF-EC Form (Eligibility Confirmation Form) detailed in The Employability Fund [EF] - The Referral Process; (these forms are held electronically by jobcentres.)
- Print and issue the non-mandatory referral letter to the claimant.
- Retain a photocopy of the EF-EC Form and send a copy to the appropriate provider.

Follow Up/Pre-Entry Interview

Referral to The Employability Fund

21. Where a provider has confirmed a suitable place for the claimant Skills Conditionality will apply to the referral to that provision. Attendance, participation and completion of the provision is mandatory.

22. A Pre-Entry Interview must be conducted before the start date.

23. In addition to the activities detailed in The Employability fund advisers should also:

- Inform the claimant of the details of the provision;
- Explain that it is mandatory that they attend, take part and complete the provision and that failure to do so may result in their benefit being sanctioned;
- Explain what the local arrangements are if the claimant feels the training is not benefiting them or they have an issue with the quality of the training provision, or any learning support needs;
- Explain that if their circumstance change for any reason they must inform Jobcentre Plus immediately;
- Annotate the Action Plan/Jobseeker's Agreement to show the details of the training;
- Issue Skills Conditionality referral letter (SC03 ESA Skills Conditionality Letter, SC04 JSA Skills Conditionality Letter) to the claimant;
- For JSA claimants obtain claimant's signature on the ES80A to confirm receipt of the referral letter, for ESA claimants obtain confirmation of receipt on the Skills Conditionality Notification Acknowledgement Slip;
- Retain a copy of the notification letter in the claimant's file (as the SC03/SC04 letters are issued advisers are not required to issue any LMS referral letters to claimants);
- Input the referral on LMS under the relevant Skills Conditionality opportunity type;
- Note in conversations that the claimant has been mandated to attend provision under Skills Conditionality.
- Complete ES88X where appropriate.

Confirming Attendance on Provision

Employability Fund

24. Providers confirm attendance on The Employability Fund by completing the EF-EC form and the Starter/Leaver notification form EF-SL then sending it to Jobcentre Plus.

Claimant starts provision

25. Start notification is received via the EF-SL form. Actions to take upon receipt are as follows:

- Record the start on LMS under the relevant Skills Conditionality LMS opportunity; and
- Record the start on the relevant Training for Work opportunity;
- Activate any allowance payments where appropriate, as described in the Employability Fund Guide

Claimant completes provision

26. Completion notification is received via the EF-SL Form. Actions to take upon receipt are:

- Update the relevant LMS Skills Conditionality opportunity to show that the training is complete;
- Update the LMS Training for Work opportunity to show that the training is complete;
- End any allowance payments (where they were put in payment) as described in the Allowance Payments Guide.

Claimant fails to start provision

27. Jobcentre Plus is notified that the claimant fails to start the provision via the EF-SL Form. Actions to take upon receipt are as follows:

- Record that the claimant did not start provision on LMS under the relevant Skills Conditionality opportunity type;
- Issue SC-FTP-01 letter to claimant to give them the opportunity to show good cause for failing to participate.
- Give the claimant 5 working days to respond;
- Discuss any feedback received from provider with claimant.

28. Where the Adviser determines that a good cause for the failure to start can be established they should consider whether re-engagement is possible/suitable.

29. Advisers can decide whether a claimant shows good reason for not attending but this should only be used in **very occasional and exceptional circumstances**.

30. Where good reason for the failure to start the provision is not established the adviser **must** refer the case to a Decision Maker.

Claimant fails to complete provision

31. Providers can raise a doubt as to whether a claimant has failed to comply with a Skills Conditionality referral by completing the usual attendance notification paperwork and in some cases returning the Skills 11 form to Jobcentre Plus.

32. Where Jobcentre Plus is notified or where the Adviser is led to believe that the claimant has failed to complete the provision through misconduct or failure to attend:

- End any allowance payments which are in payment (from confirmed end date);
- Issue SC-FTP-01 letter to claimant to give them the opportunity to show good cause for failing to participate.
- Give the claimant 5 working days to respond;
- Discuss any feedback received from provider with claimant.

33. Advisers can decide whether a claimant shows good reason for not attending but this should only be used in **very occasional and exceptional circumstances**.

34. Where the Adviser determines that a good reason for the failure to start can be established they should consider whether re-engagement is possible/suitable and make relevant arrangements and re-issue the Skills Conditionality referral letter (SC03 ESA Skills Conditionality Letter, SC04 JSA Skills Conditionality Letter) including new dates where claimant re-engages.

35. Where good reason for the failure to start the provision is not established the adviser must refer the case to a Decision Maker.

Re-engagement with Provision

36. Existing processes for re-engagement and re-referral to the Employability Fund should be followed as described in the Employability Fund Guidance.

37. And make relevant arrangements and re-issue the Skills Conditionality referral letter (SC03 ESA Skills Conditionality Letter, SC04 JSA Skills Conditionality Letter) including new dates where claimant re-engages.

38. Where re-engagement with the provision is not a viable option advisers should consider other suitable provision:

- Where this provision is outside the scope for Skills Conditionality the claimant will not be mandated.
- Where no other suitable provision is available locally this should be noted on LMS. Advisers should review this position at later Work Focussed Interviews and refer as appropriate.

Referral to Decision Maker

39. Where good reason can not be established for the failure to comply with the mandation to provision the case **must** be referred to a Decision Maker, and Good Reason details recorded on LMS via the decn button.

JSA Claimants

40. For clerical referral to Decision Makers:

- Complete SC DMA 5 referral stencil;
- Follow procedure detailed in the JSA DMA Referral Guide.

ESA Claimants

41. For clerical referral to Decision Makers complete SC DMA 5 referral stencil and send to DMA including:

- Skills 11 Form completed by provider (where appropriate);
- Any relevant paperwork received from the provider;

- LMS Reference ID;
 - Referring officer contact details. This will help decision makers clear any queries quickly by telephone.
 - Details of any fixed sanction periods in the previous 12 months.
42. This list is not exclusive and information should be included as necessary to reflect particular aspects of individual cases.

Skills Conditionality AR Codes

43. Two Adjudication Review (AR) codes will be used for Skills Conditionality:
- JSA/811 & JSA/811/O – FTP Skills Conditionality (JSA Claimants)
 - ESAJSA/340 - SC Failed to Undertake WRA (ESA WRAG Claimants)

Claimant signs off when a doubt is raised

44. Where a doubt arises (through failure to attend or misconduct) but the claimant signs off before a referral to DMA is made advisers should:
- Retain the paperwork (Skills 11, Ref2/SL2/EF-SL,EF-EC) for the period of the potential sanction (4 or 13 weeks depending on any previous sanctions);
 - Record that a doubt exists in LMS conversations;

Claimant makes Rapid Reclaim

45. If the claimant makes a Rapid Reclaim within the period of a possible sanction (4 or 13 weeks from the doubt arising, depending on any previous sanctions) a referral to DMA must be made.

46. Advisers should consider re-referral or re-engagement.

Skills Conditionality Sanctions

JSA Sanctions

47. If a claimant fails to attend or participate (without a good reason) in the skills training they may lose their Jobseeker's Allowance and National Insurance credits.
48. Their Jobseeker's Allowance and National Insurance credits will not be paid (or will be paid at a reduced rate, depending on their circumstances) for:
- four weeks, or
 - 13 weeks if the claimant has been sanctioned because they failed to comply with any of the requirements listed below, within 52 weeks (but not within 2 weeks) of their last failure.
49. The failures referred to are:
- fail to attend an adviser interview
 - fail to take part in a particular employment programme
 - do not take the opportunity of a place on an employment programme or training scheme
 - refuse or fail to apply for or accept a place on such a programme or scheme notified by an adviser

- fail to attend or give up a place or through their own misconduct lose a place on such a programme or scheme
- fail to comply with a Jobseeker's Direction.

ESA Sanctions

50. ESA WRAG claimants who fail to attend, participate or complete the provision to which they have been referred will have their:

ESA payments may be reduced by the amount of the personal allowance component until training is attended and participated in (or other activities agreed and notified to the claimant). After that, ESA be reduced for:

- One week, or
- Two weeks if benefit has already been reduced for failure to undertake work related activity or attend and take part in a work focused interview in the previous 52 weeks
- Four weeks if benefit has been reduced for those reasons more than once, with the most recent previous failure being within 52 weeks of the current failure.

Note: These sanction periods came into force on 3 December 2012.

51. If Employment and Support Allowance is reduced, Hardship payments may be available.

Skills Conditionality LMS Opportunity Types

52. The following LMS opportunity type should be used for referrals under Skills Conditionality:

- **Skills Cond – Occupational Training**

Change of Provision requirements after start

53. The attendance and participation requirement may be removed where a claimant is mandated to attend provision and the provider decides partway through the course that it:

- is not suitable for the claimant; or
- is not the most suitable course of action; or
- that they need something different first (e.g. support with basic skills or non-skills support such as to address dependency).

54. Local arrangements should be in place for providers to inform Jobcentre Plus of this decision.

55. Advisers should update the referral on LMS to show the changes.

Travel Expenses

Claimants will be expected to pay the first £3 of any travel expenses and the provider will refund the rest.

The claimant can claim the first £3 back through the flexible support fund.

Change of Circumstances

Should a claimant change EF stage or report a change of circumstances to the provider, the provider will notify Jobcentre plus on form EF.COC