

## **Claimants engaged in other activities**

### **Introduction**

1. This guidance contains information about other activities that claimants may be involved in. They may already be participating in one of these activities or they may ask what would happen if they were to become involved in such an activity.

### **Community self-build schemes**

2. There are a number of home self build schemes which involve participation from individuals wishing to buy or rent the home they are helping to build. These schemes may be run by housing associations or privately.
3. There are no special provisions under the JSA regulations for people participating in self build schemes. Claimants who are participating in the scheme must be available for, and actively seeking, employment.
4. The claimant's availability for work can be accepted while they are involved in the self build scheme provided they are willing and able to rearrange the hours they participate in the scheme to take up paid employment.
5. Refer any doubts to the Labour Market Decision Maker (LMDM).

### **Community service orders**

6. Community service orders are imposed by a court of law on individuals. By law they must complete the number of hours of community service the order requires them to do.
7. The orders take into account that a claimant must be allowed time to seek work, to attend an interview or to take up a job opportunity. Claimants who are carrying out a community service order can be considered in the same way as claimants who are providing a service.
8. If completion of a community service order requires the claimant to be absent from the home area, ask the claimant to provide full details. Complete form **ES674CJP** and attach to the front of the LMU.
9. Accept a claimant's availability for work while they are carrying out a community service order provided:
  - they can be notified of a vacancy or interview promptly; and
  - they are willing to rearrange their community service to take up work or attend an interview on being given not less than 24 hours' notice.
10. Refer any availability or actively seeking employment doubts to the LMDM.

### **Attendance centres**

11. Offenders under the age of 21 may be ordered to attend a specified attendance centre for a specified number of hours in accordance with instructions given by the officer in charge of the centre.

12. The maximum duration of each daily attendance is 3 hours. The maximum total of hours of attendance is 24 for offenders under 17 years of age and 36 hours for offenders aged 17 to 20.
13. Accept a claimant's availability for work while they are at an attendance centre provided;
  - the claimant has made arrangements to be notified of any job opportunities or interviews;
  - the officer in charge of the centre would release the claimant promptly in order to attend an interview or start a job;
  - any future attendance's at the centre could be arranged to fit in with any work the claimant might get.
14. Claimants at an attendance centre are not entitled to 24 hours' notice to make themselves available for work as they are not providing a service.
15. Refer any availability or actively seeking employment doubts to the LMDM.

### **Probation Service programmes**

16. An ex-offender may be instructed to participate in a Probation Service Programme as part of a community sentence or direct order from the courts.
17. These programmes may involve the claimant in courses designed to assist their rehabilitation. Some activities may be specifically geared towards improving the claimant's employability. If the claimant fails to attend one of these courses they may be re-imprisoned.
18. There are no special arrangements for these claimants. Participants will normally be able to satisfy the labour market conditions.
19. Programmes can usually be rearranged to accommodate any employment obtained by the claimant.
20. If a court imposes an order that requires an offender to attend a particular programme, for example drug rehabilitation course, there is less flexibility.
21. Offenders who are subject to mandatory post release supervision may also have additional conditions imposed on them. Any non-attendance on these programmes could result in the offender being imprisoned. The length of these courses varies according to the individual.
22. Each case is considered individually and referred to the LMDM where a doubt arises.

### **Attendance at court or tribunal**

23. Claimants may be required to attend court or a tribunal for a variety of reasons. These include:
  - to do jury service;
  - as a defendant; or
  - as a witness.
24. Claimants who attend court for any of these reasons can be treated as available and actively seeking employment for up to 8 weeks from the first date of attendance in court.
25. They will still have the option of claiming Income Support and closing their JSA claim, or JSA(C) only, claiming for any loss of benefit from the court.

They would only be expected to take this course of action if the court had advised them that their involvement in the proceedings would last longer than 8 weeks.

26. Evidence of attendance is required before the claimant can be treated as available and actively seeking employment.

27. Explain to the claimant:

- they can be treated as available and actively seeking work for up to 8 weeks;
- they can choose to close their JSA claim and claim Income Support or loss of benefit from the court;
- if they close their claim, they will need to make a new claim as soon as the court/tribunal proceedings end, and make an application for National Insurance Contribution Credits for the time they were in court;
- they must attend the Jobcentre as soon as they are no longer required by the court.

28. Record the claimant's choice with a copy of the evidence provided.

### **Claimant wishes to continue claiming JSA**

29. If the claimant wishes to continue with their claim for JSA:

Step	Action
1	complete form ES673JP, indicating in the relevant box, the reason they are being treated as available and actively seeking employment;
2	attach the form to the labour market unit to avoid the claim being closed as failed to attend;
3	notify the JSA processor to ensure payments continue.

### **Claimant wishes to close their JSA claim**

30. If the claimant decides to terminate their JSA claim:

Step	Action
1	ask them to complete their ES40;
2	access <a href="#">dialogue JA099: Record Claim Termination Details</a> to terminate the claim from the first day of the court attendance using code [17];
3	remind them of the need to make a new claim for JSA if they are still unemployed after their court/tribunal attendance.

### **Joint Claims**

31. If a member of a joint claim is required to attend court/tribunal, they can apply for an exemption. However, if a member of a joint claim is already exempt, the other partner must be treated as available and actively seeking employment for a maximum of 8 weeks. Only one member of a joint claim can be exempt at any one time.

## **Claimant detained in custody**

- 32. JSA regulations allow claimants detained in police custody for 96 hours or less to be treated as available and actively seeking employment.
- 33. When a claimant attends and states they were unable to attend their fortnightly attendance or an advisory interview because they were detained in custody ask them to complete a statement giving the dates and times when they were taken into custody and released.
- 34. Make sure they were available and actively seeking employment for any periods outside the time in custody. Check they were in custody for 96 hours or less.
- 35. Ask them to sign their fortnightly declaration and arrange payment.
- 36. If they were detained in police custody for more than 96 hours take appropriate action as their availability will be in doubt and they can only be treated as available and actively seeking employment for the first 96 hours.
- 37. If the claimant states they were released from police custody on the day they were due to attend the Jobcentre but still failed to attend, they should not be treated as available and actively seeking employment. This is because they were able to attend on the assigned day and failed to do so. Take action to refer to the LMDM on an availability doubt

## **Home Detention Curfews**

- 38. Home Detention Curfews (Electronic Monitoring) allow prisoners serving a sentence of less than 4 years to be released early if they are electronically tagged.
- 39. Curfews involve detaining the offender at home for a minimum of 9 hours a day for a period of up to 2 months. They will usually be imposed for 12 hours a day during nighttime hours.
- 40. However, they will vary according to the individual's circumstances. This means that there may be offenders who, due to the terms of their curfew and local labour market circumstances, may have difficulty in satisfying the labour market conditions for the receipt of JSA.
- 41. An offender can apply to have the terms of their curfew varied to take account of any change in circumstances or, for example enable them to take up an offer of employment.
- 42. Refer any doubts to the LMDM in the usual way.

## **Court ordered curfews or Restriction of Liberty Orders**

- 43. A court can order a curfew enforced by electronic tagging instead of a custodial sentence. Offenders will have a copy of the order showing the hours of their curfew.
- 44. These orders should avoid interference with the times the offender normally works. However, the legislation that governs the making of these orders does not mention availability for work or actively seeking employment. Courts will have sought the views of the probation service who will have taken these factors into account.

- 45. Curfews can be for a maximum of 12 hours a day up to a maximum of 6 months. The hours can vary and will reflect the reason for sentencing, for example offenders with a history of violence at football matches may have a curfew on Saturday afternoon.
- 46. An offender can apply to the court to vary the curfew order.
- 47. Refer any doubts to the LMDM.

## **Drug Treatment and Testing Orders**

- 48. Drug Treatment and Testing Orders (DTTO) were introduced as a new community sentence under the Crime and Disorder Act 1998. They are targeted at serious drug misusing offenders aged 16 and over. They are in response to the evidence of a growing link between drug problems and other crimes.
- 49. Their aim is both to treat the drug misuse and reduce the amount of linked crime. The DTTO may involve elements of attendance at a prescribed place, ongoing testing and treatment and court reviews.
- 50. For example an order which is imposed for 12 months may include attendance of 20 hours per week for at least 3 months and daily contact thereafter. They will undertake a range of treatment, counselling, complementary therapies, lifestyle development and offence focused work.
- 51. If a claimant states they are the subject of a DTTO ask them to supply as much detail as possible. If they have a letter setting out the conditions of the DTTO a copy should be taken.
- 52. There has been no change in JSA regulations for this group of people. Therefore it will be necessary to decide from the details of the DTTO how the claimant can continue to satisfy the conditions for the receipt of JSA and also complete the DTTO successfully.
- 53. Failure to complete a DTTO may result in a prison sentence being imposed instead.
- 54. Once the details are known consider which course of action is most appropriate for the claimant's circumstances.
- 55. For example, a claimant who has to undergo a course of treatment which prevents him taking up full time employment may be able to restrict their availability under the provision for people who have a physical or mental health problem.
- 56. This enables them to restrict their availability in any way. The actively seeking employment condition would be satisfied if there was an element of jobsearch in the DTTO or the claimant had time in which to actively seek employment.
- 57. It could be possible that the DTTO is limited to a two week period of attendance in which case employment related training provisions should be considered.
- 58. Because the details of the DTTO will vary from claimant to claimant it is not possible to give more detailed guidance. Please keep in mind that Jobcentre Plus should be assisting the Home Office and Probation Service to ensure this group of claimant do not re offend and receive successful treatment.

## **Demonstrations, marches and rallies**

- 59. Claimants involved in demonstrations, marches or rallies must continue to satisfy the availability and actively seeking employment conditions. If the demonstration march or rally requires the claimant to be absent from home, take a statement of the details.
- 60. If the claimant is available and actively seeking employment complete **ES674CJP** and attach to the front of the LMU. Refer doubts to the LMDM.
- 61. Where the march involves several people from your area or will be passing through other areas further advice should be sought from the policy section in Head Office.

## **Laid off and short time workers**

- 62. See the Temporary Stopped Guidance for further information on laid off and short time workers and Labour Market Conditionality.

## **Mariners**

- 63. A mariner is a person who is, or has been, in employment under a contract of service in any capacity on board a ship.
- 64. The end of a voyage may be before the end of a contract and the mariner would be entitled to paid leave until the end of the contract. If the employment is terminated and the mariner claims JSA the claimant is not treated as available for any day they are on paid leave.

## **Religious holidays and festivals**

- 65. Some claimants have sincerely held religious beliefs that may affect their availability. This should be taken into account when considering what is reasonable when advising claimants, especially on or during religious festivals.
- 66. A sensitive approach should be taken when dealing with claimants in these situations, as clearly they would be penalised because they may not be available for work on occasional days because of their religious beliefs.
- 67. A Jobseekers Agreement (JSAg) will have been drawn up at the **New Jobseeker Interview**. This will reflect the pattern of availability of the claimant taking into account any religious reasons for not wanting to work on specific days in a week.
- 68. For any other days they will not be available due to a religious holiday they should give advance notice.
- 69. If the claimant notifies you in advance they will not be available on a particular day(s) they should be advised to vary their JSAg for that week only, but they must remain available for 40 hours in the week and have reasonable prospects of finding work within the hours specified.
- 70. Where large numbers of claimants are involved in a particular Jobcentre the Manager may use some discretion. Claimants may be excused from varying their JSAs where, for reasons not specific to the claimant, it would be impractical to deal with the numbers involved.

71. This practice should only be used in exceptional circumstances to avoid the risk of abuse and/or undermining of the JSA conditions of entitlement.
72. The claimant's day of attendance can be changed to avoid attendance on a religious holiday. They will need to be told that their JSA payment may be delayed because of late attendance.
73. There will be occasions when it will not be possible to vary the JSAg, for example where the claimant does not notify the religious holiday in advance. In these circumstances if the claimant later states they have not been available they should be told that it will affect their entitlement to JSA for the whole benefit week.
74. If the claimant does not notify non-attendance in advance, failure to attend action will be necessary. Refer doubts to the LMDM.

### **Member of the reserve forces**

75. The territorial or reserve forces are:
- Royal Fleet Reserve;
  - Royal Naval Reserve;
  - Royal Marines Reserve;
  - Army Reserves (which includes members of the Royal Irish Regiment);
  - Royal Air Force Reserve; and
  - Royal Auxiliary Air Force.
76. Depending on what unit they are a member of, the minimum training commitment for a member of the reserve forces could be 19 or 27 days a year, which comprises some midweek evenings, some weekends, and an annual two week training camp.
77. The majority of training that a reservist is required to undertake takes place at weekends or in the evenings, therefore a reservist can combine their commitment as a volunteer with employment.
78. Most members of the reserve forces will be able to agree a pattern of availability of at least 40 hours per week, subject to any agreed availability restrictions.
79. When considering whether or not a claimant has fulfilled the ASE condition, take into account any time they spend in training as a member of the reserve forces.

### **Annual training camp**

80. The Jobseeker's Allowance (Members of the Reserve Forces) Amendment Regulations 2015 comes into force on 6 April 2015. **From this date**, claimants can be treated as available for employment, for a maximum of 43 days in that year if they are engaged in their first year of training (the year begins with their first day of training) and for a maximum of 15 days if they are engaged in annual continuous training in any calendar after their first year of training regardless of whether the training is in GB or abroad.
81. Consequently, members of the reserve forces will be able to attend their annual continuous training without the need to terminate their claim to JSA.

82. A claimant, who is a member of the reserve forces, should be excused attendance during any period that they are treated as available for employment due to attending their first training/annual continuous training.

83. See the treated as available/actively seeking employment chapter of the Labour Market Conditions Guide for further details regarding the actions to take when a claimant notifies that are going to go on their annual continuous training.

## **Share fishermen**

84. A share fisherman ;

- is a master or member of a crew of a fishing boat, which is crewed by more than one person; and
- usually works in the fishing industry; and
- is self employed; and
- is paid for the work wholly or partly by a share of the profits or gross earnings of the fishing boat.

85. Or they could be

- a person who has retired from being a master or member of a crew of a fishing boat because of age or ill health; and
- a person usually working ashore in Great Britain as self -employed performing services necessary to keep the boat working, such as maintaining the nets; and
- paid for their work wholly or partly by a share of the profits or gross earnings of the fishing boat.

86. During their permitted period a share fishermen:

- may restrict their jobsearch to work as a share fisherman;
- must be available for work as a share fisherman **and** for any employed earner's employment in the fishing industry.

87. Once the permitted period has ended share fishermen must be available for, and actively seek, different types of work. They cannot restrict their jobsearch to work only as a share fisherman. In other words, the same rules apply to share fishermen as to other claimants.

## **Volunteering**

88. A volunteer is defined as a person who:

- is engaged in voluntary activity for someone who is not a member of the claimant's family; and
- receives only payments to refund expenses reasonably incurred by them in connection with their volunteering.

89. Most volunteering will be undertaken with organisations whose activities are not for profit, for example national and local charities, but it can also be carried out in any business including the public sector.

90. When a claimant declares they or their partner are participating in volunteering:



Step	Action
1	ask them to complete form Volwork 1;
2	when the partner is the volunteer ask them to return the completed Volwork1 to the Jobcentre so you can check all questions are complete before sending to the Benefit Centre;
2	record on LMS that the claimant is doing volunteering;
3	It may also be useful to note the Jobseeker's Agreement;
4	ensure ALL the questions on form Volwork 1 are completed;
5	check whether <ul style="list-style-type: none"> <li>• the claimant is still available for work; and</li> <li>• the claimant is still actively seeking work;</li> </ul> if there are doubts on any of these questions refer to a LMDM;
6	complete the official use box on form Volwork1 to show whether or not the volunteering will affect availability or actively seeking work;
7	send a copy of the Volwork 1 to the Benefit Centre;
8	do not give an opinion on whether the claimant's JSA will be affected by volunteering. Explain that he will hear from the Benefit Centre if his benefit will be affected by volunteering.

## Meaning of family

91. A family is:

- a couple
- a couple and any child or young person who is
  - a member of the same household **and**
  - the responsibility of either or both members of the couple
- a person who is not a member of a couple (this will usually be a lone parent) and any child or young person who is
  - a member of the same household **and**
  - the responsibility of that person.

92. In the case of a polygamous marriage, the claimant's family includes:

- any partner and
- any child or young person who is
  - a member of the claimant's household **and**
  - treated as the responsibility of the claimant or one of the partners.

## Volunteering and availability

93. A claimant who wishes to undertake volunteering must be available for work of at least 40 hours each week, unless they have restricted their availability for some other reason, for example caring responsibilities. Availability can be accepted providing the claimant is willing and able to:

- attend a job interview on being given 48 hours notice; or
- start work on being given a weeks notice; or

- rearrange or give up their volunteering to start a job if it overlaps with their pattern of availability ; or
  - attend an interview in connection with their jobsearch;
94. You do not need to take the type of work or hours spent on volunteering into account when considering their availability.
95. If the claimant's agreed pattern of availability does not overlap with any of the hours they are engaged in volunteering their availability for work can be accepted provided they are willing and able to give up or re arrange the hours in which they are engaged in volunteering, on being given one weeks notice to start work and 48 hours notice to attend a job interview.
96. The claimant may be participating in training as part of a volunteer's programme, for example, working towards an NVQ. See [Training Courses](#) within the Full and Part Time Study chapter for further information.
97. The claimant must remain available and actively seeking employment and attend fortnightly wherever possible. In exceptional circumstances postal declarations may be appropriate.

### **Volunteering and actively seeking employment**

98. Claimants must take steps to seek work in any benefit week in which they are undertaking volunteering. The activity undertaken through volunteering can enhance a claimant's prospects of securing suitable employment although, by itself, it may not constitute an actively seeking 'step' into paid work.
99. When deciding whether the steps a claimant has taken in a week are sufficient to meet the actively seeking employment condition, you should take into account any time during which they were doing volunteering and the extent to which it may have improved their prospects of securing employment.
100. For example, a claimant who has undertaken volunteering on 3 days every alternate week must take sufficient steps to find work in each week. However, it would be acceptable for them to take fewer steps during the weeks in which they are engaged in volunteering than during weeks when they are not.

### **Service Users**

101. A Service User is someone who is consulted by a public body regarding their experience of using the public service/s provided. Some examples of public bodies are: NHS Trusts, Primary Care Trusts, Social Services Departments, Local Authorities, patient forums, Education Trusts, Housing Associations).
102. Service Users may be involved on a voluntary basis or receive payment for their participation. For further information on the treatment of Service Users, see the Gathering Evidence section of JSA procedural guidance.

### **Work Experience**

103. Work experience may be undertaken by claimants providing it is reasonable for them to be providing their services free of charge. Each case

must be considered on its own merits and the claimant must remain available and actively seeking employment.

## **Prince's Trust - Team Programme**

104. The Prince's Trust Team Programme is a 12-week personal development course, offering work experience, qualifications, practical skills, community projects and a residential week.
105. During the 12 week programme, Team members:
  - Spend a week away at a residential activity centre
  - Undertake a project based in their local community
  - Complete a work placement
  - Participate in a team challenge, involving caring for others
  - Stage a team presentation, during which they recount their experiences
106. Further information around the Team Programme is available via the Prince's Trust website.
107. The training element to the Team Programme when averaged out over the 12 weeks totals 10 hours per week. Therefore if a claimant participates in the Team Programme a referral to a LM Decision Maker will not be required, as long as the claimant provides assurances that they will continue to be available for and actively seeking work and that they will leave the programme if a suitable job opportunity arises.
108. Claimants that participate in the Team Programme should be asked to complete form Volwork1 form and it should be noted 'Princes Trust - Team Programme'.
109. Any weeks where the claimant is participating in the residential activity could be treated as if they are participating in an employment related course. Therefore, as long as the employment related course concession applies the claimant can be excused attendance and treated as available and ASE.

## **Retained Fire fighters**

110. A retained fire fighter is a person who is a part-time fire fighter employed by a fire and rescue authority or a joint fire and rescue board.
111. Some retained fire fighters will have a contract with the fire service but this should specify that they are contracted as a part-time fire fighter.
112. A retained fire fighter needs to be available for employment and actively seeking employment to be eligible for JSA but you can take account of the time engaged in fire fighting duties when deciding whether a claimant who is a fire fighter has satisfied these conditions in any week.

## **Availability**

113. A retained fire fighter can be treated as available for employment during any time they are engaged in their fire brigade duties. As well as fighting fires and dealing with other emergencies this can include any activity at the fire station, for example maintaining the fire appliances or being on-duty between calls and off-site activity such as giving fire prevention advice to the public.

- 114. Unlike other claimants a retained fire fighter is not required to be immediately available for employment.
- 115. Anyone who provides a service, with or without payment, is required to be willing and able to take up employment on being given 24 hours notice.

**Actively seeking employment**

- 116. When deciding whether a retained fire fighter has taken sufficient steps to seek employment in any week, you must take account of any time spent in performing duties as a fire fighter.
- 117. This means that a retained fire fighter can be excused from actively seeking work during the time spent undertaking fire fighter duties.